

***GUIDE FOR PROCUREMENT AND  
EVALUATION PROCEDURES  
UNDER JAPANESE ODA LOANS***

Procurement of Goods and Services  
(except Consulting Services)



***Japan International Cooperation Agency  
(JICA)***

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## **Preface**

This Guide for Procurement and Evaluation Procedures under Japanese ODA Loans (hereinafter referred to as “Guide”) has been prepared by the Japan International Cooperation Agency, hereinafter and throughout this document referred to as JICA, for use by the Borrowers of Japanese ODA Loans (The term “Borrower” used in this document also refers to the Executing Agency of a project financed by Japanese ODA Loans.) in the procurement of Goods and Services, except consulting services, in accordance with the provisions of the Guidelines for Procurement under Japanese ODA Loans, April 2012 (hereinafter referred to as “Procurement Guidelines”).

This Guide is intended specifically for assisting the Borrowers in the process of prequalification and bidding through International Competitive Bidding. It is a reference document; therefore, in case of ambiguities or discrepancies between the provisions in the Guide and those in the Procurement Guidelines or in the Prequalification/Bidding Document, the provisions of the Procurement Guidelines or the actual Prequalification/Bidding Document will prevail over the Guide.

## Abbreviations and Terms

Abbreviation/Term	Full Terminology/Definition
Applicant	A firm or a Joint Venture that submits an Application in response to an invitation for prequalification.
Application	A document submitted by an Applicant in response to an invitation for prequalification.
Bid	An offer submitted by a Bidder, in response to an invitation for Bids to provide the required Goods and Services.
Bidder	A firm or a Joint Venture that submits a Bid for Goods and Services in response to an invitation for Bids.
Bidding Document	A document to be prepared by the Borrower in carrying out a bidding for the procurement of Goods and Services, based on the Standard Bidding Document.
Borrower/Executing Agency	The government, government agency or other entity that signs the Loan Agreement with JICA, implements the project and signs the contract for the Goods and Services with the selected Bidder. The words “Borrower” and “Executing Agency” are used synonymously in this Guide.
Goods and Services	Goods and/or services other than consulting services to be financed out of the proceeds of the Loan.
Joint Venture (JV)	Any combination of two or more firms in the form of a joint venture, consortium, association or other unincorporated grouping under an existing agreement or with the intention to enter into such an agreement supported by a formal letter of intent.
ODA	Official Development Assistance
Prequalification	The shortlisting process which can be used prior to inviting for Bids in the procurement of Goods and Services.
Prequalification Document (PQ Document)	A document to be prepared by the Borrower in carrying out a prequalification for the procurement of Goods and Services, based on the Standard Prequalification Document.
Standard Bidding Document (SBD)	A standard bidding document issued by JICA to be used by Borrowers for the procurement of Goods and Service under Japanese ODA Loans.
Standard Prequalification Document (SPD)	A standard prequalification document issued by JICA to be used by Borrowers for the procurement of Goods and Service under Japanese ODA Loans.

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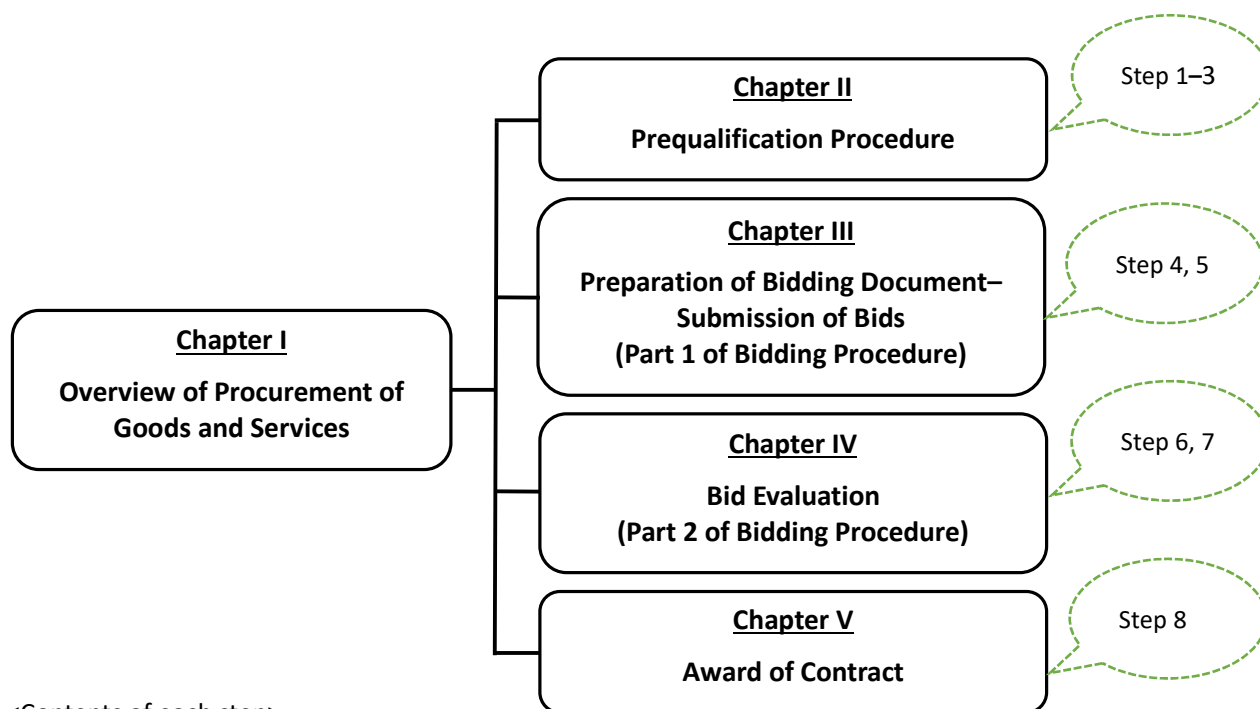
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## COMPOSITION AND PURPOSE OF THIS GUIDE

The main purpose of this Guide is to provide a supplementary explanation to assist Borrowers in fully understanding the application of the Procurement Guidelines, Standard Prequalification Document, October 2019 (SPD) and Standard Bidding Documents (SBDs) stated in clause 1.1.4<sup>1</sup>. To ensure that procurement of Goods and Services is undertaken smoothly and properly, JICA recommends the Borrowers to refer to this Guide in proceeding procurement procedures.<sup>2</sup> The Borrowers are also encouraged to study the Guide at the stage of project preparation, in order to properly assess the managerial and administrative capacity needed for the implementation of prequalification and bidding.

The Guide, including the attached examples of evaluation reports, provides typical organizational structures and step-by-step procedures in the process of prequalification and bidding through International Competitive Bidding (ICB). The composition of this Guide is summarized below:



<Contents of each step>

Step 1: Preparation of Prequalification Document

Step 2: Advertising–Submission of Applications

Step 3: Evaluation of Applications

Step 4: Preparation of Bidding Document

Step 5: Invitation for Bids–Submission of Bids

Step 6: Evaluation of Technical Bids

Step 7: Evaluation of Price Bids

Step 8: Award of Contract

<sup>1</sup> The relevant clauses in the Procurement Guidelines, the SPD, and the SBD are shown in ( ) in the Guide.

<sup>2</sup> In all instances, the procedures of prequalification and bidding, including evaluation, shall follow the provisions of the actual Prequalification Document or Bidding Document used.

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# CHAPTER I. OVERVIEW OF PROCUREMENT OF GOODS AND SERVICES

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## 1.1 General Considerations

### 1.1.1 General Provisions

The procurement of Goods and Services under projects financed by ODA Loans from JICA needs to be carried out in accordance with the general principles and procedures laid down in the Guidelines for Procurement under Japanese ODA Loans.<sup>3</sup>

JICA does not finance expenditures for Goods and Services which, in the opinion of JICA, have not been procured in accordance with the agreed procedures, and JICA may cancel that portion of the Loan allocated to such Goods and Services that have been misprocured.

JICA may review the Borrower's procurement procedures, documents and decisions to determine whether or not the procurement of the Borrower is/was made in accordance with the agreed procedures. The Loan Agreement will specify the extent to which review procedures will apply in respect of Goods and Services to be financed out of the proceeds of the Loan. [*Procurement Guidelines, 1.05*]

Borrower's procurement must be strictly conducted on a basis of fairness and impartiality, with due attention to considerations of "economy", "efficiency", "transparency" and "non-discrimination among eligible Bidders", which are general principles laid down in the Procurement Guidelines. [*Procurement Guidelines, 1.01 (3)*]

### 1.1.2 Domestic Preference [*Procurement Guidelines, 1.01, Note 6*]

There may be some Borrowers who wish to employ the so-called "Preferential Margin" or "Domestic Preference" measures, which is to give preference to domestic firms in the Borrower's country (e.g., a certain percentage for customs duties and so on is added to Bid Prices of foreign firms so that domestic firms are awarded the contract when comparing Bids, or more than a certain ratio of goods produced in the Borrower's country is required, etc.) with a view to promoting or favouring domestic businesses. However, such preferential measures to domestic firms are not permitted by JICA with due consideration to non-discrimination among eligible Bidders.

### 1.1.3 Disclosure of Estimated Price [*Procurement Guidelines, 1.01, Note 7*]

The disclosure of the estimated price for the contract before the bidding is accepted in some Borrowers' countries and international financial institutions in view of transparency. However, JICA, in principle, does not accept it, since the competition may be reduced and a Bidder whose Bid is with a low price but a poor quality tends to be awarded as the estimated price being a referential for the Bid Price.

Moreover, JICA does not accept any procedure under which Bids above or below a predetermined value are automatically disqualified. This is because the Bid Price is considered to be the market price so long as the competitiveness is/was assured throughout the bidding process. [*Procurement Guidelines, 5.06 (5)*]

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<sup>3</sup> The version of the guidelines that applies to a particular Loan is specified in the Loan Agreement. The provisions of this Guide are based on the latest version of the guidelines which was issued in April 2012.

### 1.1.4 Standard Bidding Documents

JICA has issued Standard Prequalification Document (SPD) and some Standard Bidding Documents (SBDs) which shall be used by the Borrowers in conducting prequalification and ICB procedures under Japanese ODA Loans. The latest version of the SPD and the SBDs shall be used with minimum changes acceptable to JICA, as necessary to address project-specific conditions. [*Procurement Guidelines, 4.01 (2)*]

The following SPD and SBDs are currently available<sup>4</sup>:

- (a) Standard Prequalification Document (SPD);
- (b) Standard Bidding Document-Procurement of Works (hereinafter referred to as “SBD for Works”);
- (c) Standard Bidding Document-Procurement of Electrical and Mechanical Plant, and for Building and Engineering Works, Designed by the Contractor (hereinafter referred to as “SBD for Design Build”);
- (d) Standard Bidding Document-Supply and Installation of Plant and Equipment (hereinafter referred to as “SBD for Plant”);
- (e) Standard Bidding Document-Procurement of Goods (hereinafter referred to as “SBD for Goods”); and
- (f) Standard Bidding Document-Procurement of Small Works (hereinafter referred to as “SBD for Small Works”)

The procurement procedures stipulated in this Guide are based on the ITA in the SPD and the ITB in the SBDs, basically that of the SBD for Works, version 2.1, issued in October, 2019. The SBD applied to each bidding must be agreed upon by JICA and the Borrower at the appraisal of the Loan.

### 1.1.5 Eligibility

#### 1.1.5.1 Eligibility of a Contractor

A prospective contractor of projects financed by Japanese ODA Loans must be “eligible”. The general conditions that apply to eligibility of a contractor are stipulated in Section 1.04 “Eligibility”, 1.06 “Corrupt or Fraudulent Practices” and 1.07 “Conflict of Interest” of the Procurement Guidelines.

An Applicant/Bidder shall be from an eligible source country as stipulated in the Loan Agreement. In case of a Joint Venture (JV), all members in the JV must be also from an eligible source country. [*Procurement Guidelines, 1.04 (1) (a) / SPD, ITA 4.4 / SBD for Works, ITB 4.3*]

Also, as mentioned in Section 1.04(1)(b) of the Procurement Guidelines, a Contractor shall be a firm selected based on its own capability, not based on experience or financial position of any affiliated entities (such as the parent company(ies), group company(ies), subsidiary(ies) or other affiliate(s)). [*Procurement Guidelines, 1.04 /SPD, ITA 22.2/ SBD for Works, ITB 30.2*]

If a company integrates with or separates from another company, the Executing Agency should confirm the necessary evidence that the concerned business section of the company is succeeded appropriately in terms of finance, human resource and experience etc.

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<sup>4</sup> Standard Request for Proposals (SRFP) is also available for employment of consultants under Japanese ODA Loans.

**1.1.5.2 Corrupt and Fraudulent Practices** [*Procurement Guidelines, Section 1.06, SPD, ITA 4.5 / SBD for Works, ITB 3.1 (c) and 4.4*]

It is JICA's policy to require that the bidders and Contractors, 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 will:

- (a) reject a proposals if it determines that the bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question;
- (b) recognize a Contractor 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 Contractor has engaged in corrupt or fraudulent practices in competing for, or in executing, another contract funded with Japanese ODA Loans or other Japanese ODA; and
- (c) recognize a Contractor as ineligible to be awarded a contract funded with Japanese ODA Loans if the Contractor or subcontractor, who has a direct contract with the Contractor, is debarred under the cross debarment decisions by the Multilateral Development Banks. Such period of ineligibility shall not exceed three (3) years from (and including) the date on which the cross debarment is imposed. The Borrower shall confirm the eligibility of bidders from this point of view.

The Borrower shall require bidders to include in their Bids and contract documents a letter of acknowledgement to declare that the Contractor is eligible in accordance with the applicable Procurement Guidelines as Form ACK in the SPD and the SBD for Works. Even when Direct Contracting is used for the procurement method, the Borrower shall require Contractor to submit the letter.

If the Borrower determines, based on reasonable evidence, that any bidder has engaged in any corrupt and fraudulent practice, the Borrower may disqualify such bidder after notifying the ground of such disqualification.

**1.1.5.3 Conflict of Interest** [*Procurement Guidelines, Section 1.07, SPD, ITA 4.2, 4.3 / SBD for Works, ITB 4.2*]

A Contractor shall not have a conflict of interest. A Contractor shall not be employed under any of the circumstances set forth below, where it is determined to have a conflict of interest throughout the bidding/selection process and/or the execution of the contract unless the conflict has been resolved in a manner acceptable to JICA. The subcontractors proposed by the Bidders shall have no conflict of interest in accordance with ITB 4.

- (a) Conflict between consulting activities and procurement of goods or non-consulting services

A firm shall be disqualified from providing goods or non-consulting services resulting from or directly related to consulting services for the preparation or implementation of a project that it provided or were provided by any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm.

- (b) Relationship with Borrower's staff

A firm that has a close business relationship with the Borrower's professional personnel who are directly or indirectly involved in any part of: (i) the preparation of the bidding documents for the contract, (ii) the bid evaluation, or (iii) the supervision of such contract, shall be disqualified.



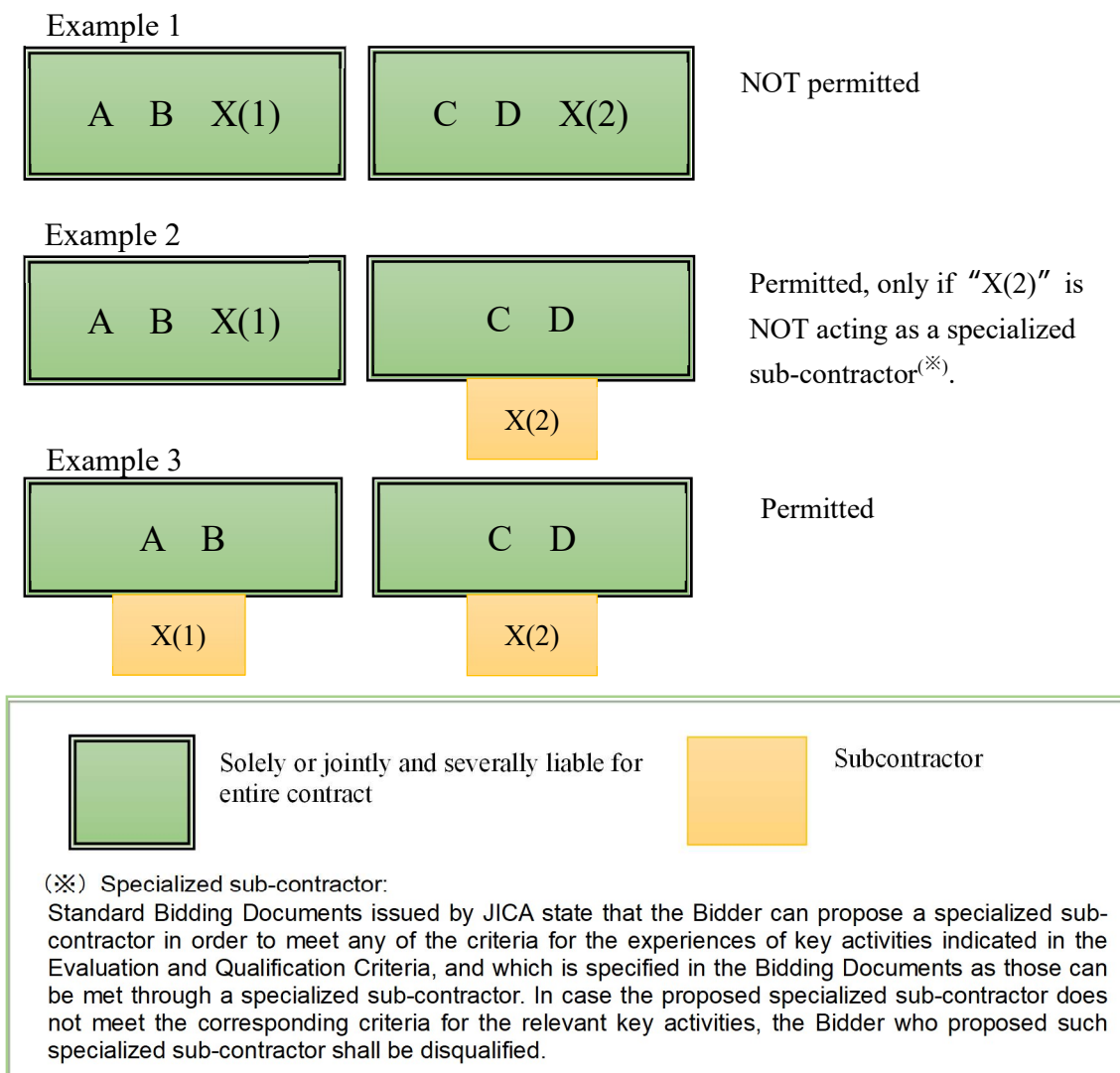
Therefore, a firm and/or a state-owned companies that have any affiliate that directly or indirectly controls, is controlled by, or is under common control with the Borrower may be disqualified, if they have exchange of personnel in a form of secondment, other personal connection and/or a close business relationship with the Borrower. For example, if the board member of the Borrower is currently serving as a board member of the Consultant, this is a case of disqualification.

(c) Based on the “One Bid Per Bidder” principle

To ensure fair competition, a firm and any affiliate that directly or indirectly control, are controlled by or are under common control with that firm shall not be allowed to submit more than one Bid in the same bidding process, either individually or as a member of a JV. A Bidder (a firm including its affiliate) who submits, or participates in, more than one Bid will cause all the Bids in which the Bidder has participated to be disqualified. However, this does not limit a firm (including its affiliate) participating in one Bid individually or as a member of a JV and at the same time, the firm (including its affiliate) participating in other Bids as a subcontractor but NOT acting as a specialized subcontractor (refer to clause 2.3.2.4). A firm (including its affiliate) acting as a specialized subcontractor or as a subcontractor in any Bid may participate in other Bids as a specialized subcontractor or as a subcontractor. [*Procurement Guidelines, 1.07(3), Notes 3 / SBD for Works, ITB 4.2(c)*]

In the prequalification process, a firm and any of its affiliates (that directly or indirectly control, are controlled by or are under common control with that firm) may submit their applications for prequalification either individually, as a member of a JV or as a subcontractor among them for the same contract, but once prequalified, only one prequalified applicant among them will be allowed to bid for the same contract based on the “One Bid Per Bidder” principle, as stated above. [*SPD, ITA 4.3*]

The diagram (Figure 1.1.5.3) shows the principle of “One Bid Per Bidder” stipulated above. “X(1)” and “X(2)” in the diagram stand for the same firm or the affiliates.



**Figure 1.1.5.3 “One Bid Per Bidder” Principle**

[Procurement Guidelines, 1.07(3), Notes 3]

(d) A firm any other form of conflict of interest other than (a) through (c) shall be disqualified.

**1.1.5.4 Eligibility of Goods and Services**

All Goods and Services to be supplied under contracts financed by Japanese ODA Loans shall originate from eligible source countries as defined in the relevant Loan Agreement. [SBD for Works, ITB 5.1]

**1.1.6 Procurement Method [Procurement Guidelines, 1.02 and 1.03]**

JICA normally requires Borrowers to obtain Goods and Services through International Competitive Bidding (ICB) as the ICB is considered the best method for satisfying the principles in procurement of Goods and Services for projects under Japanese ODA Loans (i.e., economy, efficiency, transparency and non-discrimination among eligible Bidders) in most cases. Only

under special circumstances in which the ICB may not be appropriate, alternative methods such as Limited International Bidding (LIB), International Shopping, Direct Contracting or Local Competitive Bidding (LCB) may be accepted.

The special circumstances in which ICB may not be appropriate, and JICA may consider alternative procedures acceptable in cases of the following:

- (a) Where the Borrower wishes to maintain reasonable standardization of its equipment or spare parts in the interests of compatibility with existing equipment.
- (b) Where the Borrower wishes to maintain continuity of services related to Goods and Services provided under an existing contract awarded in accordance with procedures acceptable to JICA.
- (c) Where the number of qualified contractors, suppliers or manufacturers is limited.
- (d) Where the amount involved in the procurement is so small that foreign firms clearly would not be interested, or that the advantages of the ICB would be outweighed by the administrative burden involved.
- (e) Where, in addition to cases (a), (b), (c) and (d) above, JICA deems it inappropriate to follow ICB procedures, e.g., in the case of emergency procurement.

The Borrower should note that, even in case of Direct Contracting, a Bidding Document is normally prepared and such document shall require JICA's review and concurrence in accordance with the Loan Agreement.

The procurement method applied to a particular bidding must be agreed upon by JICA and the Borrower at the appraisal of the Loan.

### **1.1.7 Bidding Procedures under International Competitive Bidding** [*Procurement Guidelines, 2.03*]

Two (2) bidding procedures under the ICB which may be selected by the Borrower to suit the nature of the particular procurement are stipulated in the Procurement Guidelines: (a) "Single-Stage: Two-Envelope" and (b) "Two-Stage: One-Envelope". In addition to these procedures, (c) "Single-Stage: One-Envelope" bidding procedure is included in SBD for Works as another option. Each of the procedures is summarized in the table below.

In principle, "Single-Stage: Two-Envelope" bidding procedure, which is most suitable for works, machinery and equipment for which complete technical specifications are prepared in advance, should be applied. Under this procedure, bidders will be invited to submit technical and financial bids simultaneously in two separate envelopes (refer to the table below).

(b)"Two-Stage: One-Envelope" bidding procedure, on the other hand, may be adopted in the case of turnkey contracts or contracts for large and complex plants or procurement of equipment which is subject to rapid technological advances, such as major computer systems, for which it may be undesirable or impractical to prepare complete technical specifications in advance. The advantage of the two-stage bidding procedure is that the Borrower can exchange opinions with the Bidders on the technical side through evaluation on First Stage Bids. However, it should be noted that the application of this bidding procedure is relatively rare because it is very difficult in terms of how to amend the Bidding Document in consideration of the First Stage Bids of Bidders which include various proposals.

(a)"Single-Stage: Two-Envelope" and (c)"Single-Stage: One-Envelope" procedures are stipulated as alternatives in the SBD for Works, and (a)"Single-Stage: Two-Envelope" and (b)"Two-Stage: One-Envelope" procedures are stipulated as alternatives in the SBD for Plant and

the SBD for Design Build. In the SBD for Goods and the SBD for Small Works, only (c) "Single Stage: One-Envelope" procedure is adopted for the reason that, in general, the technical requirements are simple in these procurements, and thus, there is not much difference among the Technical Bids of Bidders.

Bidding procedures applied to a particular bidding must be agreed upon by JICA and the Borrower at the appraisal of the Loan.

<b>Single-Stage: Two-Envelope</b>
<p>(i) Bidders submit Technical and Price Bids simultaneously in two separate envelopes.</p> <p>(ii) Only the Technical Bids are opened in public first and reviewed to determine whether they are substantially responsive to the requirements of the Bidding Document. The Price Bids remain sealed and are held in custody by the Borrower. The evaluation result is subject to review and concurrence by JICA in accordance with the Loan Agreement.</p> <p>(iii) Price Bids of the Bidders who have submitted substantially responsive Technical Bids and who have been determined as being qualified for award are opened in public and then evaluated. Following review and concurrence by JICA in accordance with the Loan Agreement, the notification of award is made to the successful Bidder.</p>

### 1.1.8 Assessment of Qualifications

The Borrower shall assess qualifications of potential contractors to determine whether they have the capability and resources to carry out the contract concerned effectively in one of the following manners: (i) Prequalification, (ii) qualification evaluation conducted as a part of evaluation of Technical Bids, or (iii) Postqualification (conducted at the end of evaluation of Bids to the Bidder whose Price Bid has been evaluated as the lowest).

A prequalification procedure is, in principle required for selecting potential contractors and suppliers for large or complex works and, exceptionally, for custom-designed equipment and specialized services under Japanese ODA Loans<sup>5</sup>. Prequalification may also be required when participation of numerous bidder is expected. [*Procurement Guidelines, 3.02 (1)*]

The objectives of prequalification are:

- (a) to ensure that invitations for Bids are extended only to those who are technically and financially capable, and to avoid awarding a contract to unqualified Bidders because of insufficient and/or superficial evaluation;
- (b) to enable prospective Bidders, who may be insufficiently qualified on their own, to avoid the expense of bidding, or to form a JV that may give a better chance of success; and
- (c) to limit the number of Bidders, in advance, to a manageable size for the Borrower in conducting bidding procedure and evaluation, when a large number of Bidders are expected to participate.

The prequalification procedure may be omitted even in large-scale contracts, when it is obvious that the number of the prospective Bidders are very limited. In such cases, the assessment of qualifications should be conducted to all Bidders as a part of evaluation of Technical Bids. The postqualification, on the other hand, is suitable for use in the procurement of goods of small value and small works contracts. [*Procurement Guidelines, 5.07 Notes 1*]

<sup>5</sup> Procurement amounting to more than 1 billion yen is considered as large-scale contract in this context. [*Procurement Guidelines, 3.02 Notes 1 (02)*]

In all instances, the assessment of qualifications of potential contractors should be conducted strictly in order to secure quality in the procurement.

### **1.1.9 Evaluation Organization**

The Borrower is expected to set up evaluation organizations for the evaluation work in the prequalification and bidding process. As an example, the organization may consist of three (3) tiers: (i) the responsible department in charge at the Executing Agency, (ii) an authorized Evaluation Committee set up within or outside of the Executing Agency, and (iii) a higher government authority, if necessary. The establishment and authority of evaluation organizations, however, must be in full accordance with laws and regulations of the Borrower's country.

Members of the Evaluation Committee usually include, but not limited to, the representative of the Executing Agency and the relevant authorities. It is highly recommended that the consultants involved in the evaluation work also be included in the members of the committee.

The details of the Evaluation Committee members, i.e., each member's name, position in the committee, the name of company/institution they originally belong to, and so forth, should be provided in the evaluation report.

The roles and responsibilities taken by each party of the Executing Agency, the Evaluation Committee and the higher authority, and also of the consultants involved in the evaluation work, should be clearly defined in advance.

### **1.1.10 Role of Consultant**

JICA encourages the employment of experienced consultants to assist in evaluations for procurement of large and/or complex contracts. Cost for employing the consultants can be borne by part of Japanese ODA Loan funds, if agreed so in the Loan Agreement.

When a consultant is employed for the purpose of assisting the Borrower in evaluation of prequalification and bidding, the Borrower is required to maintain sufficient communication with the consultant during evaluation process. If an evaluation report is prepared by the consultant, it should be fully understood by members of Evaluation Committee, and a clarification should be made by the consultant to the Evaluation Committee members, if requested. For this purpose, it is strongly recommended for the consultant to be present at the Evaluation Committee.

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, in accordance with Section 2.02 (3) of Guidelines for the Employment of Consultants under Japanese ODA Loans, April 2012.

## 1.2 Outline of Procurement Procedures

A flow chart of procurement procedures, in case of Single-Stage: Two-Envelope procedure following prequalification, is presented in Figure 1.2 below.

If prequalification is not conducted, qualification of Bidders should be assessed as a part of evaluation of Technical Bids, or after completion of “Evaluation of Price Bids” in case of postqualification, as stipulated in clause 1.1.8 above.

The detailed procedures, including prequalification and bidding, are described step-by-step in the following chapters, dividing the series of procedures up to the award of contact into eight (8) steps.

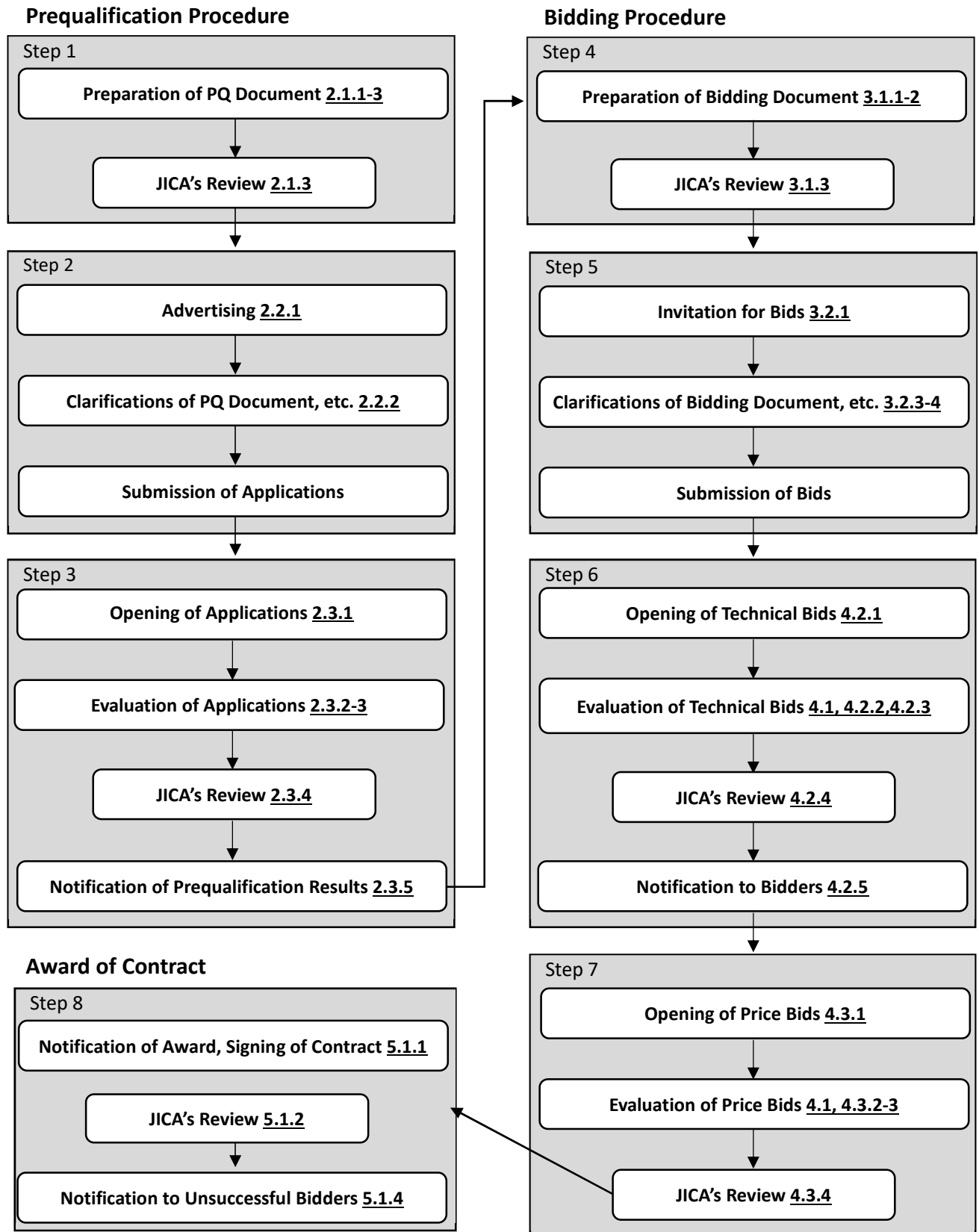
The following are some points to be noted in terms of procurement schedules:

- (a) The time interval between advertisement and submission of Applications for prequalification should be sufficient for Applicants to gather all the information required, which is preferably eight (8) weeks, but in any case not less than six (6) weeks;
- (b) The Borrower should inform Applicants of the result of their Application usually within sixty (60) days after the date of submission of Applications. [*Procurement Guidelines, 3.02 Notes 7*];
- (c) The time interval between invitation and submission of Bids shall be not less than forty-five (45) days for general contracts and not less than ninety (90) days for large works contracts. [*Procurement Guidelines, 5.01*]; and
- (d) The Borrower should complete the evaluation of Bids within the Bid validity period stipulated in the Bidding Document. [*Procurement Guidelines, 5.06 Notes 7*] The Bid validity period should be sufficient to evaluate the Bids, obtain internal approvals and JICA’s concurrence on the evaluation results, and send a notification of award, while such period should normally not exceed one hundred and twenty (120) days in case of Works contracts. [*SBD for Works, ITB 18.1*]

**Figure 1.2 Flow Chart of Procurement Procedures and JICA's Review and Concurrence (Single-Stage: Two-Envelope Procedure Following Prequalification)**

\* Underlined numbers are the relevant clauses in the Guide.

\* The timing of JICA's Review and Concurrence below is for the contract more than 1 billion JPY.



## CHAPTER II. PREQUALIFICATION



### 2.1 Step 1: Preparation of Prequalification Document

#### 2.1.1 Contents of Prequalification Document

The Borrowers are required to prepare a Prequalification Document (PQ Document) using the Standard Prequalification Document (SPD) issued by JICA for the prequalification process of contracts for the Goods and Services to be procured through International Competitive Bidding (ICB), as mentioned in the previous chapter. The Prequalification Document should be prepared in accordance with the instruction notes indicated in the SPD. The composition of the SPD and general points to be noted are summarized below.

Section	Contents	Points to be noted
Invitation for Prequalification (IFP)	A form of “Invitation for Prequalification” to be used for the advertisement of prequalification.	-Not part of the PQ Document -Consistent with the information contained in the PDS.
I. Instructions to Applicants (ITA)	The procedures to be followed by the Applicants when preparing and submitting their Applications, information on the opening and evaluation of Applications.	- Used <b>without modification</b>
II. Prequalification Data Sheet (PDS)	Information and provisions that are specific to each prequalification and that supplement the ITA.	-All information shall be provided, no clause shall be left blank (To be stated “N/A” if not applicable.)
III. Qualification Criteria	The methods and criteria to determine the qualification of the Applicants to perform the contract.	-All information shall be provided as indicated. (See also clause 2.1.2 below.)
IV. Application Forms	Forms to be completed by the Applicants and submitted as part of their Applications.	-All information shall be provided as indicated.
V. Eligible Source Countries of Japanese ODA Loans	Information on eligible source countries applicable to the Applicants, and to the Goods and Services to be supplied.	-All relevant information in accordance with the Loan Agreement shall be inserted.
VI. Works Requirements	A description of the project including expected work execution period, and information on the site and other relevant data.	-All relevant information shall be provided in sufficient detail so that a prospective Applicant can decide whether it will need to use subcontractors for specific parts of the Works, and/or form a JV, for example.



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### **2.1.2 Evaluation Criteria of Prequalification**

In the prequalification process, the Borrower requires the Applicants to be qualified by meeting pre-defined, precise minimum requirements. The method entails setting pass-fail criteria, which, if not met by the Applicant, result in disqualification. Clear-cut, pass-fail qualification criteria need to be defined and indicated in the Prequalification Document to enable the Applicants to make an informed decision whether to pursue a specific contract and, if so, whether to pursue it as a single firm or as a JV. The criteria adopted must relate to characteristics that are essential to ensure satisfactory execution of the contract, and must be stated in clear terms. The SPD sets the qualification criteria in four (4) factors: (i) Eligibility, (ii) Historical Contract Non-Performance and Litigation, (iii) Financial Situation and Capabilities, and (iv) Experience. (Refer to clause 2.3.2.3 for details of each criterion.)

The level of the qualification requirements must be set up carefully for each procurement. The criteria should not be so strict as to limit participation to specific firms only. However, it is important to set the criteria so that only fully competent firms will submit Bids, in view of the “emphasis on quality.” Arbitrary relaxation of criteria in order to allow specific firms to participate in the bidding is never allowed. [*Procurement Guidelines, 3.02 Notes 2 (03)*]

### **2.1.3 JICA’s Review and Concurrence**

The complete set of the draft Prequalification Document prepared by the Borrower shall be submitted to JICA, for its review and concurrence in accordance with the Loan Agreement concerned, before its issuance.



## **2.2 Step 2: From Advertising to Submission of Applications**

### **2.2.1 Advertising [Procurement Guidelines, 3.01]**

The invitation for prequalification should be issued directly to the public. In all cases of ICB contract, it shall be advertised in at least one newspaper of general circulation in the country of the Borrower. The Borrower should promptly send a copy of the advertisement to JICA.

### **2.2.2 Clarifications of and Amendments to the Prequalification Document**

The Applicants may require clarification of the Prequalification Document in writing, and the Borrower will respond to any request for clarification provided that such request is received no later than fourteen (14) days prior to the deadline for submission of Applications. The Borrower shall forward copies of its response to all Applicants who have acquired the Prequalification Document. [SPD, ITA 6.1]

The Borrower may amend the Prequalification Document if necessary, by issuing addenda at any time prior to the deadline for submission of Applications. The copies of such addendum shall be forwarded to all Applicants who have acquired the Prequalification Document. To give the Applicants reasonable time to take an addendum into account in preparing their Applications, the Borrower may extend the deadline for the submission of Applications, if the change is considered to be major/substantial. [SPD, ITA 7.1, 7.2, 7.3 and 15.2]

A pre-application meeting may also be held during this period. The Borrower should stipulate the relevant information in the Prequalification Document. [SPD, ITA 6.2]



## **2.3 Step 3: Evaluation of Applications**

### **2.3.1 Opening of Applications**

The Borrower shall open all Applications received by the deadline, at the date, time and place specified in the Prequalification Document. The Borrower shall prepare a record of the opening of Applications to include, as a minimum, the name of the Applicants. A copy of the record shall be promptly distributed to all Applicants who submitted Applications in time, and to JICA. [SPD, ITA 17]

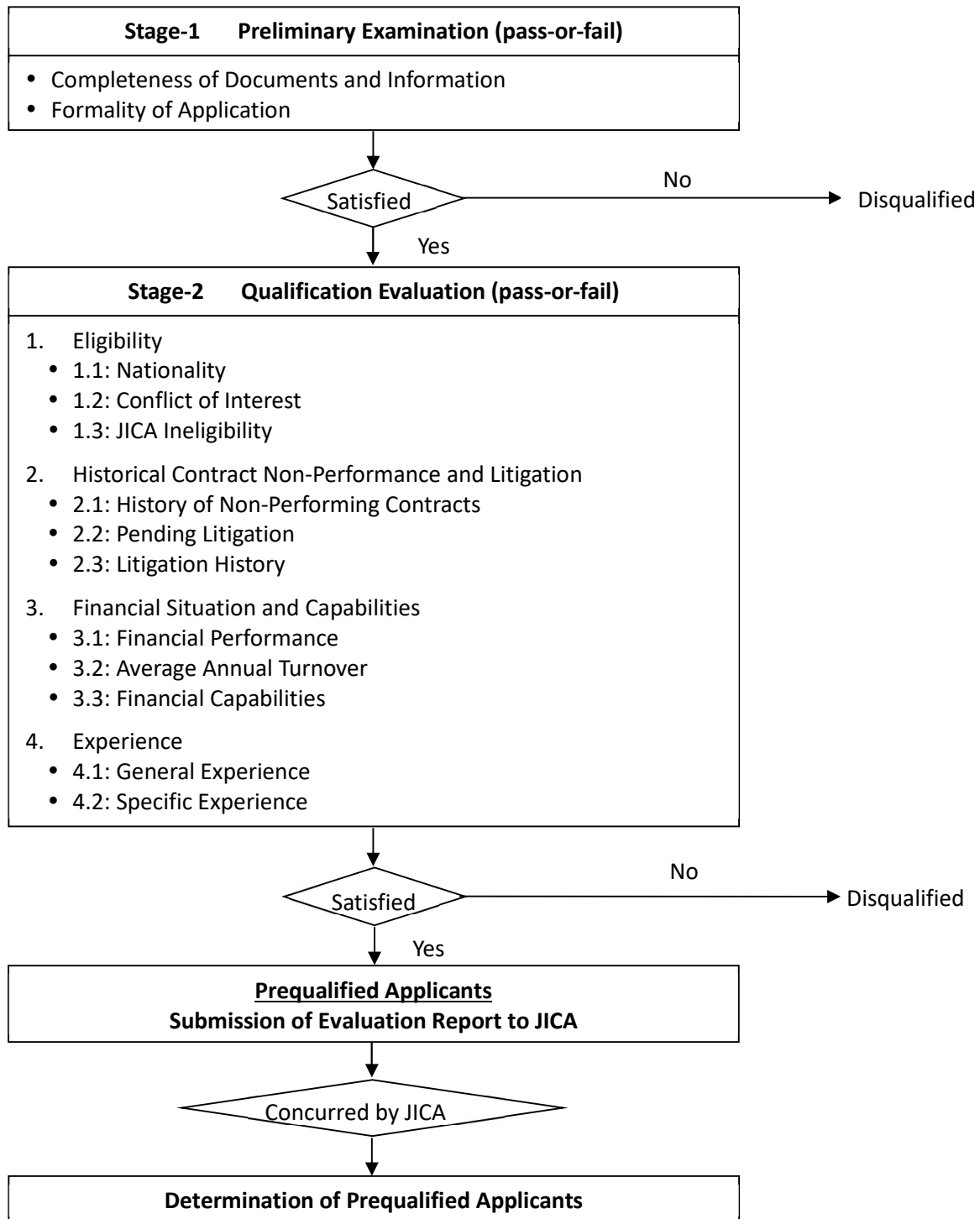
➤ *An example of the record of opening of Applications is provided in Appendix 3 of Annex I.*

### **2.3.2 Evaluation of Applications**

#### **2.3.2.1 Evaluation Procedure**

A flow chart of evaluation procedure of Applications is presented in Figure 2.3 below.

**Figure 2.3 Prequalification Evaluation Procedure for Contracts under Japanese ODA Loans**



Stage-1, “Preliminary Examination” is to assess the completeness and the formality of Applications, for each Applicant with pass-or-fail criteria. It is necessary to confirm one by one, whether all the documents and information required have been provided and the formality of documents and/or Applications is in conformity with the requirements of the Prequalification Document.

Stage-2, “Qualification Evaluation” is to examine submitted documents and information to determine whether the Applicant meets the qualification requirements by using pass-or-fail criteria. For the purpose of this determination, only the qualification of the legal entity(ies) comprising the Applicant shall be considered, and the qualifications of affiliated entities, such as the parent company(ies), group companies or subsidiaries, shall not be considered. The evaluation work must be carried out by following the prequalification criteria set up beforehand, and the method must be based on absolute evaluation, not by comparative evaluation.

During the evaluation process, the Borrower may, at its discretion, ask any Applicant for a clarification of its Application, giving a reasonable time for a response. The Borrower’s request for clarification and the Applicant’s response shall be made in writing. If an Applicant does not provide clarifications of its Application by the date and time set in the Borrower’s request for clarification, its Application may be rejected. [*SPD, ITA 19*]

### 2.3.2.2 Preliminary Examination

The completeness of documents and information, and the formality of Applications, including the following, shall be examined.

- (a) Whether all of the documents and essential information requested are provided. Major deviations to the requirements such as no presentation of financial statements, or failure to present sufficient information on financial means to meet the specified requirement regarding financial capabilities may result in failure.
- (b) Whether an Application is signed by a person duly authorized to sign on behalf of the Applicant accompanied by a Power of Attorney.
- (c) In case of a JV:
  - (i) whether an Application is signed by an authorized representative of the JV accompanied by a Power of Attorney from each member of the JV giving that authorized representative the power to sign on their behalf; and
  - (ii) whether a copy of the JV Agreement or a formal letter of intent to enter into a JV in the event of a successful Bid, signed by all members, is submitted.

### 2.3.2.3 Qualification Evaluation

The qualification requirements set forth in the SPD are as below. An Applicant who does not satisfy any of the qualification requirements should be disqualified, as a failure in one area cannot be covered by capability in other areas. [*Procurement Guidelines, 3.02 Notes 2 (05)*]

<b>1. Eligibility</b>
<b>1.1: Nationality</b> The Applicant shall be from an eligible source country, in accordance with ITA 4.4 of the SPD.
<b>1.2: Conflict of Interest</b> The Applicant shall not have a conflict of interest, in accordance with ITA 4.2 and 4.3 of the SPD. <ul style="list-style-type: none"> <li>• This requirement also applies to subcontractors if proposed by the Applicant under sub-factor 4.2 (b).</li> </ul>

<p><b>1.3: JICA Ineligibility</b></p> <p>The Applicant shall not have been declared ineligible by JICA, in accordance with ITA 4.5 of the SPD.</p> <ul style="list-style-type: none"> <li>• This requirement also applies to subcontractors if proposed by the Applicant under sub-factor 4.2 (b).</li> </ul>
<p><b>2. Historical Contract Non-Performance and Litigation</b></p>
<p><b>2.1: History of Non-Performing Contracts</b></p> <p>Non-performance of a contract did not occur as a result of contractor's default, within the last number of years specified in the PQ Document (usually five (5) years) prior to the Application submission deadline.</p> <ul style="list-style-type: none"> <li>• Non-performance, as decided by the Employer, shall include all contracts: <ul style="list-style-type: none"> <li>(i) where non-performance was not challenged by the contractor, including through referral to the dispute resolution mechanism under the respective contract, and</li> <li>(ii) that were so challenged but fully settled against the contractor.</li> </ul> </li> <li>• Non-performance shall not include contracts where Employer's decision was overruled by the dispute resolution mechanism.</li> <li>• Non-performance must be based on all information on fully settled disputes or litigation, i.e. dispute or litigation that has been resolved in accordance with the dispute resolution mechanism under the respective contract and where all appeal instances available to the Applicant have been exhausted.</li> </ul>
<p><b>2.2: Pending Litigation</b></p> <p>Applicant's financial position and prospective long-term profitability shall be still sound according to the criterion established in sub-factor 3.1, assuming that all pending litigation will be resolved against the Applicant.</p>
<p><b>2.3: Litigation History</b></p> <p>The Applicant shall not have a consistent history of court orders against the Applicant or any member of a JV, for the last number of years specified in the PQ Document (usually five (5) years) prior to the Application submission deadline.</p> <ul style="list-style-type: none"> <li>• The evaluation should be made by comprehensive judgment, not by the number of litigations, as the number tends to increase in proportion with the number of contracts.</li> </ul>
<p><b>3. Financial Situation and Capabilities</b></p>
<p><b>3.1: Financial Performance</b></p> <p>The Applicant shall submit financial statements acceptable to the Borrower, for the last number of years specified in the PQ Document (usually five (5) years), to demonstrate the current soundness of the Applicant's financial position and its prospective long term profitability. As the minimum requirement, an Applicant's net worth calculated as the difference between total assets and total liabilities should be positive.</p> <ul style="list-style-type: none"> <li>• The time period may be reduced, in agreement with JICA, to three (3) years minimum under special country circumstances, such as to provide opportunity for a newly privatized construction industry with limited period of existence, but with suitable experience.</li> <li>• Financial statements that reflect the financial situation of the legal entity(ies) comprising the Applicant, and not of the affiliated entities (such as parent company(ies), group companies or subsidiaries) of the Applicant should be provided, unless they are parties to the Applicant under a JV.[SPD, Form FIN-1:2(a)]</li> <li>• Using a financial ratio for the evaluation based on pass/fail criteria should be avoided since such a ratio may vary depending on accounting procedures, rules, and methods used in different countries. [Procurement Guidelines, 3.02 Notes 2 (02)]</li> </ul>
<p><b>3.2: Average Annual Turnover</b></p> <p>Average annual turnover of the Applicant, calculated as total certified payments received for contracts in progress and/or completed within the last number of years specified in the PQ Document (normally five (5) years or more) and divided by the same number of years, shall be the minimum amount specified in the PQ Document or more.</p> <ul style="list-style-type: none"> <li>• The minimum amount required should normally not be less than twice the estimated annual turnover in the proposed contract (based on a straight-line projection of the Borrower's estimated contract value, including contingencies, over the contract duration). The multiplier of 2 may be reduced for very large contracts but in any case, should not be less than 1.5.</li> <li>• The time period may be reduced to not less than three (3) years, in agreement with JICA, under special country</li> </ul>

circumstances, such as to provide opportunities for a newly privatized construction industry with only a short record of experience.

- The JV must meet the requirement as a whole. In addition to that:
  - (i) at least one member of the JV must meet a particular percentage of the requirement specified in the PQ Document (usually not less than 40%); and
  - (ii) the other members of the JV must meet a particular percentage of the requirement specified in the PQ Document (usually not less than 25%).
- The minimum requirement for award of multiple lots will be the sum of the minimum requirements for respective individual lots or any other reasonable requirements set by the Borrower.

### 3.3: Financial Capabilities

The Applicant shall currently have access to, or have available, liquid assets, unencumbered real assets, lines of credit, and other financial means (independent of any contractual advance payment) sufficient to meet the construction cash flow requirement estimated for the subject contract(s) net of the Applicant's all other commitments, both current and future.

- The Borrower shall indicate in the PQ Document the amount of the construction cash flow requirement for a number of months, determined as the total time needed by the Borrower to pay a contractor's invoice, allowing for (i) the actual time consumed for construction, from the beginning of the month invoiced, (ii) the time needed by the Engineer / Project Manager to issue the monthly payment certificate, (iii) the time needed by the Borrower to pay the amount certified, and (iv) a contingency period of one (1) month to allow for unforeseen delays. The total period should not exceed six (6) months. The assessment of the monthly amount should be based on a straight-line projection of the estimated cash flow requirement over the particular contract period, neglecting the effect of any advance payment and retention monies, but including contingency allowances in the estimated contract cost.

$$\text{Monthly Amount} = \frac{\text{Estimated Contract Value (inclusive of Taxes and Duties)}}{\text{Contract Period in Months}}$$

- The JV must meet the requirement as a whole. The aggregated amount of financial resources of all members should be the required amount or more.
- The minimum requirement for award of multiple lots will be the sum of the minimum requirements for respective individual lots or any other reasonable requirements set by the Borrower.

## 4. Experience

### 4.1: General Experience

The Applicant shall have continuous experience under contracts in construction works and/or in plant and installation services according to the subject contract(s), in the role of prime contractor or subcontractor, for at least the last number of years specified in the PQ Document (usually five (5) years or more).

- The time period may be reduced, in agreement with JICA, to not less than three (3) years under special country circumstances, such as to provide opportunities for a newly privatized construction industry with only a short record of experience.
- For the purposes of this criterion, a "management contractor", a firm which takes on the role of contract management, should also be considered as a prime contractor. A management contractor does not normally perform directly the construction work(s) associated with the contract. Rather, it manages the work of other (sub) contractors while bearing full responsibility and risk for price, quality, and timely performance of the work contract.

### 4.2: Specific Experience

#### (a) Experience in similar contracts

The Applicant shall have experience exclusively in the role of prime contractor, in at least the number of similar contracts specified in the PQ Document, within the last number of years specified in the PQ Document (usually five (5) years), that have been satisfactorily completed. A contract whose value is the minimum amount specified in the PQ Document or more and that conforms to the similarity specified in the PQ Document shall be considered as similar contracts.

- The number of similar contract required should be one (1) to three (3), depending on the size, value, nature and complexity of the subject contract.

**(b) Experience in key activities**

For the above or other contracts, the Applicant shall have successfully completed the key activities specified in the PQ Document, within the last number of years specified in the PQ Document (same years as that stipulated in sub-factor 4.2 (a)), as prime contractor or subcontractor. Particular activities specified in the PQ Document may be met through a specialized subcontractor (Refer to clause 2.3.2.4 below).

- The JV must meet the requirement as a whole. In determining whether the JV meets the requirement, only the number of contracts completed by each member, whose value is equal to or more than the minimum value required, shall be aggregated.
- In addition to the above, the Borrower may set forth particular activities to be met by one member of the JV, as necessary.

<common to sub-factors 4.2 (a) and (b)>

- The time period may be extended up to a period of ten (10) years for large-scale projects.
- The JV must meet the requirement as a whole. In determining whether the JV meets the requirement, only the number of similar contracts completed by each member, whose value is equal to or more than the minimum value required, shall be aggregated.
- In addition to the above, the Borrower may set forth particular requirements to be met by one member of the JV, as necessary.
- For contracts under which the Applicant participated as a JV member or subcontractor, only the Applicant's share, by value and role, shall be considered to meet this requirement.
- A "management contractor" should also be considered as a prime contractor.
- Completion shall be evidenced by submission of end-user certificates such as Taking-over Certificates and Completion Certificates.
- The minimum experience requirement for award of multiple lots will be the sum of the minimum requirements for respective individual lots.

**2.3.2.4 Specialized Subcontractor [SPD, ITA 21.1]**

The Applicant may propose to subcontract any of the key activities indicated in the Qualification Criteria 4.2 (b) (specialized subcontractor). In such a case,

- (a) the Applicant may list one or more subcontractor(s) against any of the key activities aforementioned;
- (b) the Applicant shall clearly identify the proposed subcontractor(s) in Forms ELI-3 and EXP-2(b) in Section IV, Application Forms and submit the Schedule of Subcontractors, as part of its Application, listing out all subcontractors so proposed; and
- (c) substitution of the proposed subcontractor(s) shall not be allowed.

If the specialized subcontractor proposed in accordance with ITA 21.1 does not meet the corresponding criteria for the key activities specified in Section III Qualification Criteria 4.2(b), the Applicant who proposed such a specialized subcontractor shall be disqualified.

**2.3.2.5 Evaluation for Multiple Lots**

In case of prequalification for multiple lots, Applications may be submitted for multiple lots in any combination, and the Borrower will prequalify each Applicant for the multiple lots in the combination that the Applicant applies for.

The Borrower should set forth the qualification criteria for award of multiple lots for sub-factors 3.2, 3.3, 4.2(a) and 4.2(b) in the Prequalification Document. The Applicants, those who apply for multiple lots but fail to meet the required qualification criteria for multiple lots, may be



prequalified for individual lots among the lots they apply for, provided that the Applicants meet the qualification criteria for the respective lots.

### **2.3.2.6 Strict Application of Prequalification Criteria** [*Procurement Guidelines, 3.02 Notes 2 (04)*]

The prequalification criteria should be applied strictly when prequalification evaluation is carried out. Relaxation of prequalification criteria in favor of specific firms (e.g., an extremely broad interpretation of a “similar experience”) or the relaxation of criteria during prequalification evaluation with justification of ensuring competition is not allowed, in light of the transparency and “emphasis on quality.”

Moreover, no Applicants should be prequalified with conditionality in principle.

### **2.3.3 Proposed Prequalification Decision** [*Procurement Guidelines, 3.02 Notes 3*]

It is not acceptable to set a limit on the number of successful Applicants prior to the evaluation of prequalification. All Applicants meeting the prequalification criteria shall be allowed to bid. However, it is also important to set the criteria so that a reasonable number of Applicants shall be qualified. An excessive number of Applicants taking part in the bidding is not preferable because it will increase the burden of the Borrower when evaluating the Bids.

In case only one Applicant is prequalified as a result of the evaluation, the Borrower should reject this prequalification process because it is of no value to conduct bidding with the only Applicant. Accordingly, the Borrower should initiate another prequalification process with certain modifications of conditions or other appropriate methods based on the basic principles of the Procurement Guidelines.

### **2.3.4 JICA’s Review and Concurrence**

The result of prequalification is subject to review and concurrence by JICA in accordance with the Loan Agreement. An evaluation report stating the detailed process and result of prequalification evaluation shall be submitted to JICA with the authorized signature of the Borrower. For an Application that has failed to be qualified, the reasons must be clearly explained in the evaluation report.

➤ *An example of the prequalification evaluation report is provided in Annex I.*

### **2.3.5 Notification of Prequalification Results** [*SPD, ITA 24*]

The Borrower shall notify all Applicants in writing of the names of those Applicants who have been prequalified. In addition, those Applicants who have been disqualified will be informed separately.

The unsuccessful Applicants may request in writing to the Borrower a debriefing seeking an explanation of the grounds on which their Applications were not selected. The Borrower shall promptly respond in writing to any unsuccessful Applicant who requests a debriefing.

### **2.3.6 Changes in Qualifications of Applicants** [*Procurement Guidelines, 3.02 Notes 4 / SPD, ITA 26*]

Any change in the structure or formation of an Applicant after being prequalified and invited to bid, including any change of J/V member and/or subcontractors proposed for the key activities indicated in the Qualification Criteria 4.2 (b) of the Prequalification Document, shall be subject to

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a written approval of the Borrower. A change in the structure or formation of an Applicant is acceptable provided that all of the following conditions are satisfied:

- (a) the new JV meets the prequalification criteria (the new member is not necessarily limited to only prequalified firms);
- (b) the reason for such a change is acceptable to the Borrower;
- (c) such a change does not distort competition among qualified Bidders;
- (d) such a change is requested to and approved by the Borrower prior to bidding; and
- (e) such a change is not forced by the Borrower but has taken place by the free choice of the firms involved.

Any such changes shall be submitted to the Borrower not later than twenty-eight (28) days before the Bid submission deadline.

## CHAPTER III. PREPARATION OF BIDDING DOCUMENT, INVITATION, PRE-BID MEETING AND SITE VISIT

*The bidding procedure stipulated in Chapters III and IV is based on the Single-Stage: Two-Envelope procedure following prequalification. The referential numbers to the ITB are those in the SBD for Works, Option A – Two-Envelope Bidding unless otherwise specified.*



### 3.1 Step 4: Preparation of Bidding Document

#### 3.1.1 Contents of Bidding Document

The Borrowers are required to prepare a Bidding Document using an appropriate Standard Bidding Document (SBD) issued by JICA for the bidding process of contracts to be procured through International Competitive Bidding (ICB), as mentioned in the previous chapter<sup>6</sup>. The Bidding Document should be prepared in accordance with the instruction notes indicated in the SBD. The composition of the SBD and general points to be noted when preparing it are summarized below.

<SBD for Works>

Section	Contents	Points to be noted
Invitation for Bids (IFB)	A form of “Invitation for Bids” to be used for invitation/ advertisement of bidding. Two forms are included; one for the use with prequalification, the other for without a prequalification.	-Not part of the Bidding Document. -Consistent with the information contained in the BDS.
I. Instructions to Bidders (ITB)	The procedures to be followed by the Bidders when preparing and submitting their Bids, information on the opening, evaluation of Bids and the award of the contract.	-To be used <b>without modification</b> .
II. Bid Data Sheet (BDS)	Information and provisions that are specific to each procurement and that supplement the ITB.	-All information shall be provided; <b>no clause shall be left blank</b> (To be stated “N/A” if not applicable).
III. Evaluation and Qualification Criteria (EQC)	The method and criteria to determine the lowest evaluated Bid and the qualification of the Bidder to perform the contract.	-All information shall be provided. (See also clause 3.1.3 below.)
IV. Bidding Forms	Forms to be completed by the Bidders and submitted as part of their Bids.	- All information shall be provided.

<sup>6</sup> Five (5) different SBDs are currently available, as stipulated in clause 1.1.4.

V. Eligible Source Countries of Japanese ODA Loans	Information on eligible source countries applicable to the Bidders, and to the Goods and Services to be supplied.	-All relevant information in accordance with the Loan Agreement shall be inserted.
VI. Works Requirements	Specification and drawings that describe the Works to be procured, the site data and the supplementary information.	-All relevant information in sufficient detail shall be provided.
VII. General Conditions (GC)	The general clauses to be applied in all contracts. The GC included in the SBD for Works is the MDB Harmonized Edition June 2010 of the Conditions of Contract for Construction, prepared and copyrighted by the International Federation of Consulting Engineers (FIDIC).	-To be used <b>without modification</b> - Any necessary changes, acceptable to JICA, to address specific country and project issues, shall be introduced only through the PC <sup>7</sup> .
VIII. Particular Conditions (PC)	Complement of the GC; Part A-Contract Data, which contains data specific to each contract, and Part B-Specific Provisions (SP), which contains provisions specific to each contract.	-All necessary data and information shall be provided and complete provisions; <b>no clause shall be left blank</b> unless otherwise specified.  -The standard specific provisions prepared by JICA and inserted in the SP shall be used <b>without modification</b> .
IX. Contract Forms	Forms which, once completed, will form part of the contract.	-To be used without modification in principle.

### 3.1.2 Other Points to Be Noted

The following points should be noted, in addition to the above, in preparing a Bidding Document.

(a) Evaluation Factors [*Procurement Guidelines, 4.05 Notes (01)*]

Factors which will be taken into account in evaluating and comparing Bids, in addition to price if any, and methods used to quantify and evaluate those factors should be specified in the Bidding Document, in order to prevent subjective evaluation.

(See also clause 3.1.3 (d) and Column “Design Build Type Contract”).

(b) Duties, Taxes and Levis [*Procurement Guidelines, 4.05 Notes (02) / SBD for Works, ITB 14.7, PC1.16*]

The treatment of duties, taxes and levis for Bidders' setting of Bid Prices should be made clear in the Bidding Document to avoid confusion and the partial comparison of Bids. In addition, treatment of those factors shall be stipulated in the evaluation methods.

The Borrower shall specify clearly the duties, taxes and levies which are exempted and their relevant exemption categories (“No Pay” or “Pay & Reimburse”, as defined below), and those which are paid by the Borrower on behalf of the contractor as defined below, in accordance with the Exchange of Notes between the Borrower’s country and the government of Japan, and under the law of the Borrower’s country in BDS 14.7 and PC 1.16.

In accordance with GC14.1, Contractor’s Equipment, including essential spare parts imported by the Contractor for the sole purpose of executing the Contract shall be exempted from the

<sup>7</sup> In the conditions of contract, risks and liabilities among the parties shall be allocated in a balanced manner, and modification of such allocation in customary general conditions of contract shall be reasonable in view of smooth implementation of the project. [*Procurement Guidelines, 4.04 (2)*]

payment of import duties and taxes upon importation.

There are the following four (4) exemption/payment categories

(i) “No Pay” category:

The contractor shall be entitled to exemption from duties, taxes and levies falling into this category, without having to make any payment arising from or out of or in connection with such liabilities.

(ii) “Pay & Reimburse” category:

The contractor shall be entitled to exemption from duties, taxes and levies, falling into this category, provided that the contractor first makes all payments arising from or out of or in connection with such liabilities and then apply for their reimbursement from the relevant authority, following the procedure prescribed by such authority.

(iii) Paid by the Borrower on behalf of the Contractor

All duties, taxes and levies, other than those which are specified to be exempted or to be paid by the Borrower as above, are payable by the contractor.

(iv) Payable by the Contractor

Unless otherwise provided in BDS 14.7, all duties, taxes, and other levies payable by the contractor under the contract, or for any other cause, as of the date twenty-eight (28) days prior to the deadline for submission of Bids, will be included in the rates and prices and the total Bid Price submitted by the Bidder, in accordance with ITB 14.7.

(See also clause 4.3.2.2 (b) “Duties, Taxes and Other Levies under Civil Works Contracts” below.)

(c) Specifications [*Procurement Guidelines, 4.05 Notes (03) and 4.06*]

Technical specifications shall be clear and precise to avoid confusion among Bidders and various problems in the evaluation stage. In addition, in the context of the ICB, the specification must be drafted to permit the widest possible competition. For example, specifying a type of equipment which enables only specific firms or firms in a specific country to submit Bids shall be avoided; and, internationally accepted standards such as the Japan Industrial Standard (JIS) should be used when specifying standards in the Bidding Document. (See also Column “Design Build Type Contract”.)

(d) Provisional Sums [*SBD for Works, ITB 14.8 and Notes for the Employer of Bill of Quantities in Section IV. Bidding Forms*]

The following provisional sums are set forth in the SBD for Works. The Borrower shall consider whether each of them be included in the contract price and specify the relevant information in the Bidding Document.

Specified Provisional Sums:

The estimated cost of: (i) specialized work to be carried out, or special goods to be supplied by a nominated subcontractor<sup>8</sup>; or (ii) work or service which is known to be required and the scope of which can be defined but cannot be completely designed or specified in detail; should

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<sup>8</sup> A subcontractor selected in advance by the Borrower to execute specific elements of the Works. [*SBD for Works, ITB 16.2*]

be specified in the relevant part of the Bill of Quantities (i.e. “Schedule of Specified Provisional Sums<sup>9</sup>”) as a Specified Provisional Sum with an appropriate brief description.

The Provisional sum for the cost of a Dispute Board (DB) is one such Specified Provisional Sum which falls into the category of (ii) above. Its “Regular Cost” and the Borrower’s share (one-half) of its “Non-Regular Cost”<sup>10</sup> should be included in this provisional sum, if applicable.

Provisional Sum for the Daywork:

A “Schedule of Daywork Rates<sup>9</sup>” should be included if the probability of work of a minor or incidental nature, outside the items included in the Bill of Quantities, is relatively high. The Borrower may include nominal quantities against the items in said schedule most likely to be used, and to carry the sum of the extended amounts forward into the Bid Summary (“Grand Summary<sup>9</sup>”) in order to make the basic Schedule of Daywork Rates competitive. The total amount assigned to such competitive daywork is regarded as a provisional sum.

Contingency Allowance:

Contingency allowance is an allowance for additional costs which may arise during the implementation of the project due to unforeseen circumstances. Allocation of this contingency allowance will make the resulting Bid Price a more realistic final contract value and thereby facilitate budgetary approval by avoiding the need to obtain supplementary approvals as the future need arises. When determining the value of this contingency allowance, the effect of price escalations (if allowed under the price adjustment provisions indicated (e) below) on the estimated contract value, should be taken into account so that it can cover not only quantity and work contingencies but also price contingencies.

Contingency allowance shall be usually calculated by multiplication of the predetermined percentage indicated by the Borrower in the Bidding Document and the base cost (the total amount of the Bills plus the aforementioned Provisional Sums (if applicable), to be derived by the Bidder in its Price Bid). As an alternative to this percentage addition, a fixed amount can be predetermined by the Borrower, based on the estimated contract value, and inserted as a figure (common to each Bidder) in the Bidding Document.

(e) Price Adjustment Provisions [*Procurement Guidelines, 4.12 / SBD for Works, ITB 14.5*]

Bidding Documents shall state clearly whether the prices quoted by the Bidder are subject to adjustment or fixed during the performance of the contract. It is generally recommended that price adjustment provisions be included for contracts with longer duration than eighteen (18) months or even for contracts of shorter duration if fluctuation of prices in payment currency(ies) is expected.

In the case of adjustable price contract, the form of “Schedule of Adjustment Data<sup>9</sup>” indicating the necessary information shall be included in the Bidding Document.

(See also clause 4.3.2.2 (a) “Provision for Price Adjustment” below.)

(f) Alternative Bids [*SBD for Works, ITB 13.2*]

If the Borrower permits in BDS 13.2, the Bidder may offer an alternative bid to the Bid Requirements in addition to the substantially responsive bid (“Base Bid”). The alternative bid shall be complete with all information necessary for a complete evaluation of the alternative

<sup>9</sup> A form is included in Section IV. Bidding Forms of the SBD for Works.

<sup>10</sup> For allocation of the various fees and expenses of the DB between the Regular Cost and Non-Regular Cost, refer to the relevant table in Notes for the Employer of Bill of Quantities in Section IV. Bidding Forms.

by the Borrower including drawings, design calculations, technical specifications, breakdown of prices, proposed construction methodology and other relevant details. Only the alternative bids, if any, submitted by the Bidder whose Base Bid is determined to be the lowest evaluated Bid under ITB 36.1 shall be considered by the Borrower.

### 3.1.3 Evaluation and Qualification Criteria

The Borrower shall prepare the EQC in the SBD, taking into account the following. The consideration points for evaluation of the Design-Build type contract is provided in “Column” in page 29.

(a) Personnel [*SBD for Works, EQC 1.1.1*]

The evaluation of the Technical Bids includes the assessment of personnel for the key positions. The Borrower shall specify the key positions to be evaluated and their minimum requirements. It should be noted that:

- (i) The position listed shall be limited to senior positions that are essential to the proper and timely execution of the Works, such as Project Manager, Chief Engineer(s) or Section Manager(s) - responsible for major activities. The number of positions shall be kept to a minimum required for that purpose;
- (ii) One of the key positions shall be a Health and Safety Manager; and
- (iii) Requirements for award of multiple lots need to be specified, if applicable.

(b) Construction Equipment [*SBD for Works, EQC 1.1.2*]

The evaluation of the Technical Bids should include the assessment of key construction equipment. The Borrower shall specify the key construction equipment to be evaluated and their minimum requirements. It should be noted that:

- (i) The items listed shall be limited to major items of construction equipment that are essential to the proper and timely execution of the Works, and items that Bidders may not readily be able to purchase, hire, or lease in the required time frame; and
- (ii) Requirements for award of multiple lots need to be specified, if applicable.

(c) Award Criteria for Multiple Lots [*SBD for Works, ITB 35.3 and EQC 1.2.2*]

In the case of bidding for multiple lots, where Bids are invited for a number of lots and Bidders are allowed to quote prices for more than one lot, the lowest evaluated price of the lot(s) shall be determined as specified in the EQC.

According to the provisions in the SBD for Works, the Bidders have the option to bid for multiple lots in any combination, and the Borrower shall select the optimum combination of awards on the basis of the least total cost, subject to the selected Bidder(s) meeting the required qualification criteria for the award of such multiple lots. The Borrower should be aware that the combination of lots of the discounts offered conditionally on the simultaneous award of other lots (cross-discounts) offered by different Bidders may vary, and then Bid evaluation for multiple lots can be quite complicated. The evaluation details of cross-discounts, including the calculations for the determination of the Bidder(s) for contract award should be presented in the evaluation report.

(d) Other Evaluation Criteria [*SBD for Works, EQC 1.2.1*]

The Bid Price shall be adjusted, for comparison purpose only, for the additional evaluation factors specified in the EQC. Only the factors, criteria and methods specified in the EQC should be applied.

Such evaluation factors may vary according to the nature and necessity of the contract concerned. The time for completion of the works, stated (d) below, may be considered in civil works contracts, while the following factors and others may be considered in “Design Build Type Contract”:

- (i) Time schedule;
- (ii) Operating and maintenance costs (Life Cycle Cost);
- (iii) Functional guarantees of the plant and installation services; and
- (iv) Costs of work, services, facilities, etc., to be provided by the Borrower.<sup>11</sup>

In case some factors other than price have been converted to monetary terms, the method used in evaluation of these factors should be precisely described in the Bid evaluation report.

(See also Column “Design Build Type Contract”.)

(e) Alternative Time for Completion [*SBD for Works, ITB 13.1 and EQC 1.3*]

If alternative times for completion will be permitted under ITB13.1, the method of evaluating different times for completion shall be specified in the EQC 1.3. The Bid Price shall be adjusted, for comparison purpose only.

### 3.1.4 Merit Point System [*Procurement Guidelines, 5.06 Note 5*]

Under Japanese ODA Loans, the use of the Merit Point System (point system evaluation, scoring system evaluation or rated type criteria), according to which price and technical factors are given relative weights (e.g., price: technical= 50:50 or 30:70) and the Bid that obtains the highest point total is selected, is not acceptable in principle. Evaluation using Merit Point System tends to be subjective since no objective or impartial rule has been established for the allocation of weights to price and technical factors. JICA’s Procurement Guidelines require the Borrowers to set clear technical specifications and to compare bids which conform to the technical specifications on the basis of their evaluated cost in order to secure the transparent evaluation. The Merit Point System does not conform to this requirement.

### 3.1.5 JICA’s Review and Concurrence

The complete set of the draft Bidding Document prepared by the Borrower shall be submitted to JICA, for its review and concurrence in accordance with the Loan Agreement concerned, before its issuance to the prospective Bidders.

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<sup>11</sup> For details of each factor, refer to EQC 1.2.2 in the SBD for Plant (Option A).



### **Column “Design Build Type Contract”**

In Design Build type contract, the Contractors design and construct (build), thus the Contractors are responsible for the design and the achievement of the required performance (“fit for purpose”) set by the Employer in the Bidding Document. Therefore, the required information at the time of Bidding, Evaluation and Qualification Criteria and the Conditions of Contract are not same as the one in the SBD for Works. In case, the contract applies the Design Build type contract which use SBD for Design Build or SBD for Plant, the following points should be considered in preparing the Bidding Document in order to evaluate the bids in fair manner.

#### **1. Subcontractor for Major Items of the Works** [*SBD for Design Build and SBD for Plant, ITB 16.3, 31.3 and EQC1.1.3* ]

As same as the Standard P/Q/SBD for Works, the Applicant/ Bidder can propose to subcontract any of the key activities indicated in the Qualification Criteria 4.2 (b)/Evaluation and Qualification Criteria 2.4.2 (b) as the specialized subcontractor. If the proposed specialized subcontractor does not meet the corresponding criteria for the key activities, the Applicant/ Bidder who proposed such a specialized subcontractor shall be disqualified as stated in clause 2.3.2.4 of this Guide. In addition, in case of SBD for Design Build and SBD for Plant, the Bidder may also propose to subcontract major items of the Works as listed by the Employer in Section III, EQC 1.1.3, other than the specialized subcontractor. In such a case, if a manufacturer or subcontractor proposed for this EQC 1.1.3 is determined to be unacceptable, the Bid will not be rejected, but the Bidder will be required to substitute an acceptable manufacturer or subcontractor without any change to the Bid price.

The requirement to the Subcontractor for Major Items of the Works is as follows:

- (a) the Bidder may list one or more subcontractor(s) against Subcontractor for major items of the Works, if the Employer specified in EQC 1.1.3;
- (b) the Bidder shall clearly identify the proposed subcontractor(s) in Forms ELI-3 and Form MAN in Section IV, Bidding Forms and submit the Schedule of Subcontractors, as part of its Bid, listing out all subcontractors so proposed; and
- (c) if the evaluation of Price Bids is directly adjusted by the subcontractor’s qualifications, services and/ or product(s) in Section III. Evaluation and Qualification Criteria (e.g. the Price Bid is adjusted by a performance of subcontractor’s Plant), only one subcontractor or combination of subcontractors shall be proposed. (Refer to clause 3.3 of this Column)

#### **2. Spare Parts**

Spare parts of the equipment which are incorporated to plant or permanent works are generally required in the Bid Document of Design Build type work. There are two types of spare parts, Mandatory Spare Parts and Recommended Spare Parts in SBD for Design Build and SBD for Plant.

##### **(a) Mandatory Spare Parts**

- (i) The Employer specifies the contents of the spare parts in Form of Price Schedule and the period the spare parts necessary to be supplied. The Bidder propose the price of the spare parts in the Form. [*SBD for Design Build, ITB16.2(b), Price Schedule No.6 and SBD for Plant, ITB16.2(b), Price Schedule No.5* ]
- (ii) The price will be evaluated in the bidding and included in the Contract Price at the time of contract signing.
- (iii) The spare parts will be delivered by Taking Over/Operational Acceptance. [*SBD for Design Build, SP7.9 and SBD for Plant, GC7.3*]

##### **(b) Recommended Spare Parts**

- (i) The Employer only specifies the period the spare parts necessary to be supplied. The Bidder proposes the Recommended Spare Parts which are not included in the Mandatory Spare Parts but the Bidder considers necessary. [*SBD for Design Build, ITB16.2(b), Price Schedule No.7 and SBD for Plant, ITB16.2(b), Price Schedule No.6*]
- (ii) Since the proposed Recommended Spare Parts will be varied, the price will not be evaluated in the bidding to ensure fair evaluation and will not be included in the Contract Price at the time of contract signing.
- (iii) The quantities and the price are discussed between the parties after award and will be agreed and delivered by the time of Taking Over/Operational Acceptance. [*SBD for Design Build, SP7.9 and SBD for Plant, GC7.3*]

### **3. Non-Price Factor for Evaluation of Price Bids** [*Procurement Guidelines, 5.06(2)(b)*]

The bid evaluation may take account of the factors other than price such as time for completion as stipulated in clause 3.1.3(e) of this Guide, performance, efficiency and operating cost. In case of the Design Build type contract, performance or efficiency of the major equipment and/or plant may be as important as initial cost. If the Borrower considers that such non-price factor is necessary to evaluate, the appropriate methodology and formula should be clearly specified in the Evaluation and Qualification Criteria of the Bidding Document, since these factors shall be expressed in monetary terms for the purpose of fair comparison. The evaluation of this non-price factor should be fully consistent with the specified methodology in the Bidding Document. The following items have been listed up in Section III Evaluation and Qualification Criteria of the SBD for Design Build and SBD for Plant. Considering the nature of project, the evaluation formula/method on the following item should be specified in EQC.

#### **3.1 Operating and Maintenance Cost (Life Cycle Cost)** [*SBD for Design Build and SBD for Plant, ITB35.1(d), EQC 1.2.1*]

Since the operating and maintenance costs of the Design Build type contract being procured form a major part of the life cycle cost of the Works, if applicable, these costs will be evaluated according to the principles given hereafter, including the cost of spare parts for the initial period of operation stated below and based on prices furnished by each Bidder in Price Schedules as well as on the past experience of the Employer or other employers similarly placed. Such costs shall be added to the Bid Price for evaluation.

The operating and maintenance costs factors for calculation of the life cycle cost are:

- (i) number of years for life cycle
- (ii) operating costs
- (iii) maintenance costs, including the cost of spare parts for the initial period of operation
- (iv) a rate to be used to discount to present value all annual future costs calculated under (ii) and (iii) above for the period specified in (i).

#### **3.2 Performance Guarantees of the Works/ Plant and Installation Services** [*SBD for Design Build, EQC 1.2.1, GC 9.4 Form Schedule of Guarantees and SBD for Plant, EQC 1.2.1, Form Functional Guarantee*]

The norms and the minimum/ maximum acceptable levels are stated in the Employer's Requirements for functional guarantees and in EQC 1.2.1(b).

For the purposes of evaluation, if the value(s) of the performance guarantee(s) of the proposed Works, as provided by the Bidder in Schedule of Guarantees:

- (i) meet(s) the Norm specified in the table provided in EQC 1.2.1(b), there shall be no adjustment to the Bid Price.
- (ii) is/ are within the range between the Norm and the Minimum/ Maximum Acceptable Level in the table provided in EQC 1.2.1(b), for each percentage point that the value of the performance guarantee is deviated from the Norm, the Bid Price shall be adjusted using the methodology stated in EQC 1.2.1(b).
- (iii) is/are not within the Minimum/ Maximum Acceptable Level in the table provided in EQC 1.2.1(b), the Bid shall be rejected.

### **3.3 Specific Additional Evaluation Criteria**

Efficiency of the major equipment, such as the load loss of the transformer for the transmission line construction project, the net plant output of generator for the power plant construction project and the efficiency of the pump and motor for the irrigation project can be a non-price factor of Price Bid evaluation. The appropriate and clear methodology and formula should be specified in the EQC. In case the non-price factor is directly affected by the subcontractor's service or product, only one subcontractor's service/product should be converted into monetary terms for fair and transparent evaluation, and how to select one subcontractor's service/product and reflect to Price Bid evaluation should be specified in the EQC for clarity, if one or more subcontractor(s) is allowed to propose.

(End)



## 3.2 Step 5: From Invitation for Bids to Submission of Bids

### 3.2.1 Invitation for Bids [*Procurement Guidelines, 3.01*]

The invitation for Bids, subject to prequalification, shall be sent only to firms determined by the Borrower to be qualified in the prequalification procedure<sup>12</sup>. Ideally, it is sent to the qualified Bidders at the time that the prequalification results are announced.

If a fee is charged for the Bidding Document, it shall be reasonable and reflect the cost of its production and shall not be so high as to discourage qualified Bidders. In general, an amount of not more than the equivalent of US\$1,000 is considered appropriate, depending on the size and complexity of the contract and the Bidding Document. [*Procurement Guidelines, 4.01 (3) and Notes 2*]

The Borrower should promptly send a copy of the invitation for Bids to JICA upon its issuance.

### 3.2.2 Bid Validity Period and Bid Security [*Procurement Guidelines, 4.03 / SBD for Works, ITB 18, 19*]

The Bid should be awarded before the expiration of the bid validity period and the bid security is required for an amount and for a period to cover the bid validity as specified in the BDS. Any bid not accompanied by a substantially responsive bid security shall be rejected by the Employer as non-responsive. The security for a Bid submitted by a JV should be in the name of the JV, or in the names of all future members if the JV has not been legally constituted into a legally enforceable JV at the time of Bidding. [*SBD for Works, ITB 19.7*]

Bid validity period should be sufficient to evaluate the bids, obtain JICA's concurrence on the evaluation of bids and bid for award. It is not preferable to extend the initial Bid validity period without any clear justification and necessity. However, if exceptional circumstances occur in which award cannot be made within the validity period, extensions should be requested to Bidders in writing before the expiration date. An extension to the validity of Bid security should also be requested to Bidders in such cases. Bidders have the right to refuse to grant such extension without forfeiting their Bid security. The Borrower is advised to consult with JICA before requesting such extension. Any extensions of Bid validity period should be noted in an appendix of evaluation reports. (Refer to Appendix 3 of Annexes II/III and Appendix 2 of Annex IV in this Guide.)

In addition, the Borrowers should note that, in the case of fixed price contracts, the contract price shall be adjusted in accordance with the relevant clause of the ITB, if the award is delayed by a period exceeding fifty-six (56) days beyond the expiry of the initial Bid validity period, to protect the Bidder/Contractor from the risk of price fluctuation. [*Procurement Guidelines, 4.12 Notes (03) / SBD for Works, ITB 18.3*]

### 3.2.3 Clarifications of and Amendments to the Bidding Document [*Procurement Guidelines, 4.05 (2) / SBD for Works, ITB 7.1, 8*]

<sup>12</sup> If Bids are invited openly from firms without prequalification, the invitation for Bids should be issued directly to the public by advertising it in at least one newspaper of general circulation in the Borrower's country. [*Procurement Guidelines, 3.01*]

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The Bidders may require clarification of the Bidding Document in writing, and the Borrower will respond to any request for clarification provided that such request is received no later than fourteen (14) days prior to the deadline for submission of Bids. The Borrower shall forward copies of its response to all Bidders who have acquired the Bidding Document, including a description of the inquiry but without identifying its source.

The Borrower may amend the Bidding Document if necessary, by issuing addenda at any time prior to the deadline for submission of Bids. To allow the Bidders reasonable time to take an addendum into account in preparing their Bids, the Borrower may extend the Bid submission deadline, if the change is considered to be major/substantial.

#### **3.2.4 Pre-Bid Meeting and Site Visit** [*SBD for Works, ITB 7.2-7.6*]

The Borrower should stipulate in the Bidding Document information on a pre-bid meeting, and information on a site visit conducted by the Borrower if the Borrower organize it. In the case a site visit is not organized by the Borrower, Bidders are advised to visit and examine the site on their own for preparing their Bids, and the Borrower should grant them permission to enter upon its premises and lands for the purpose of such visit. Nonattendance at the pre-bid meeting will not be a cause for disqualification of a Bidder.

Promptly after the pre-bid meeting, the Borrower should prepare and send to all Bidders minutes of the pre-bid meeting, including the text of the questions asked by the Bidders, without identifying the source, and the responses given, together with any responses prepared after the meeting. Any modification to the Bidding Document that may become necessary as a result of the pre-bid meeting shall be made exclusively through the issue of an addendum in accordance with the previous clause, and not through the minutes of the pre-bid meeting.

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## **CHAPTER IV. BID EVALUATION**

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### **4.1 General Considerations**

#### **4.1.1 Purpose of Bid Evaluation**

The purpose of Bid evaluation is to determine the offer which is the lowest evaluated Bid and is substantially responsive to the Bidding Document. The lowest evaluated Bid may not necessarily be the lowest priced Bid. In order to determine accurately the Bid to be awarded in accordance with the provisions specified in the Bidding Document, a systematic evaluation procedure designed to cover all aspects of the evaluation process should be followed.

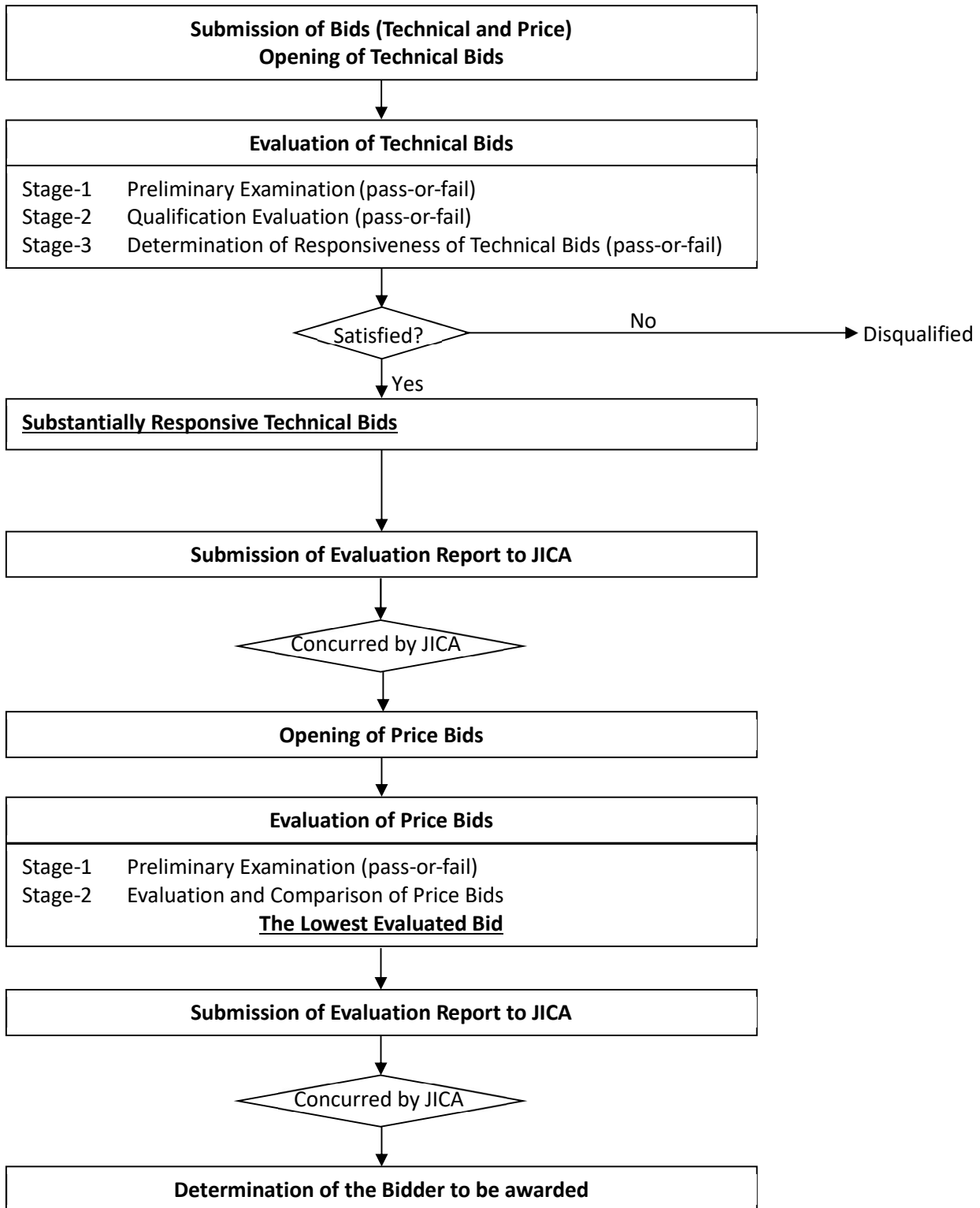
#### **4.1.2 Evaluation Procedure**

Bid evaluation must be conducted in accordance with the methods, criteria and procedure specified in the Bidding Document. The evaluation procedure described in this chapter is adequate for an efficient evaluation of Bids to determine the offer which is the lowest evaluated Bid and is substantially responsive to the Bidding Document, in accordance with the provisions stipulated in the SBD. Moreover, the evaluation procedure, if strictly followed, will provide fairness to all Bidders, as it will produce a transparent, fair and accurate outcome of the bidding. The procedure is described based on that of Single-Stage: Two-Envelope bidding.

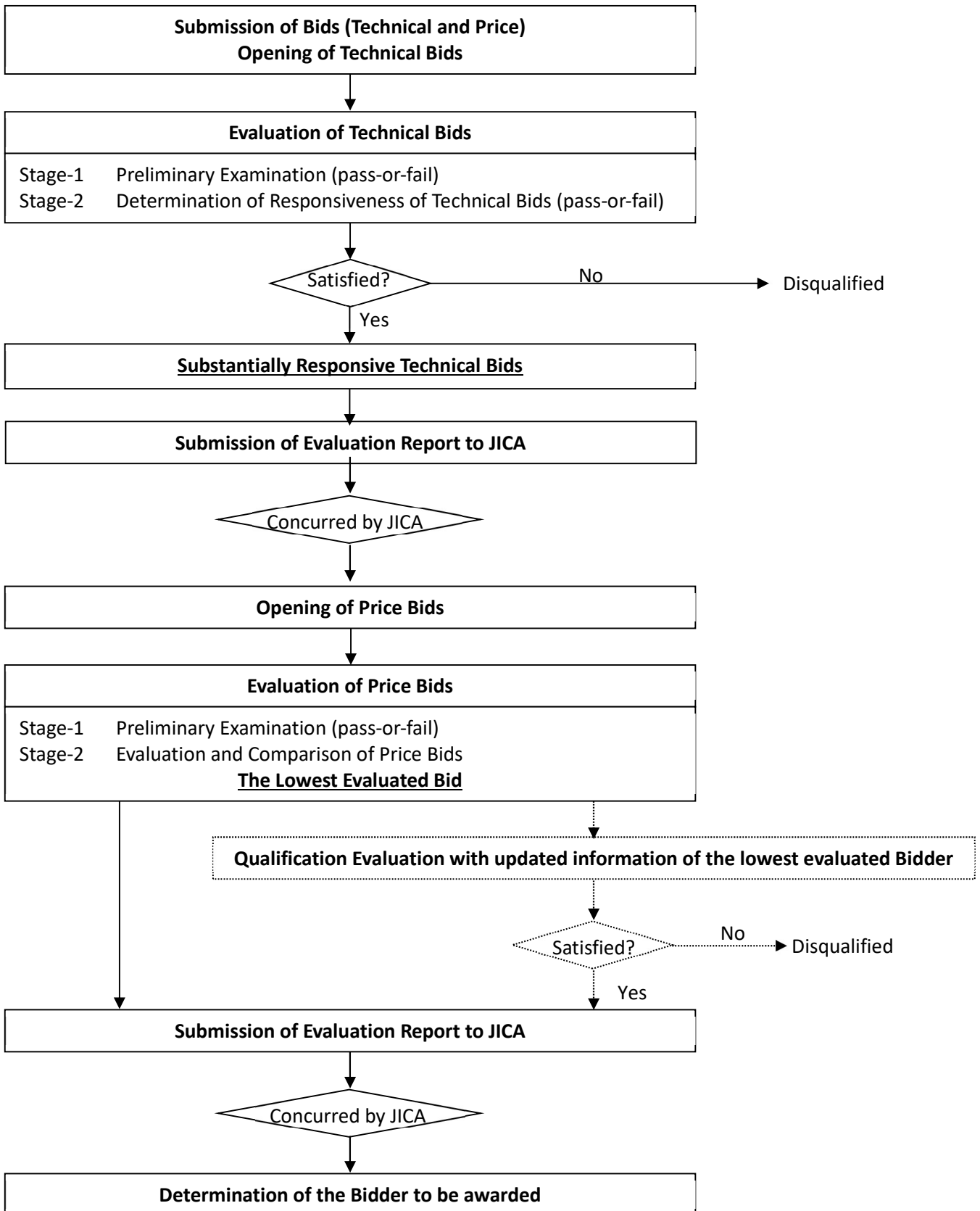
A flow chart of evaluation procedure of Bids is presented in Figure 4.1 below.

**Figure 4.1 Bid Evaluation Procedure for Contracts under Japanese ODA Loans (Single-Stage: Two-Envelope Procedure)**

<Bidding without Prequalification>



<Bidding following Prequalification>





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**4.1.3 Process to be Confidential** [*Procurement Guidelines, 5.04 / SBD for Works, ITB 26*]

After the public opening of Bids, information relating to the examination, clarification, and evaluation of Bids and recommendations concerning awards shall not be disclosed to Bidders or other persons not officially concerned with this process until information on contract award is communicated to all Bidders.

The use by any Bidder of confidential information related to the bidding process may result in the rejection of its Bid. Any attempt by a Bidder to influence the Borrower in the evaluation of the Bids or contract award decisions may also result in the rejection of its Bid. If any Bidder wishes to contact the Borrower on any matter related to the bidding process, from the time of Bid opening to the time of contract award, it shall do so in writing.

**4.1.4 Clarification or Alteration of Bids** [*Procurement Guidelines, 5.03 / SBD for Works, ITB 27.1*]

To assist in the examination, evaluation, and comparison of the Bids, and qualification of the Bidders, the Employer may, at its discretion, ask any Bidder for a clarification of its Bid, giving a reasonable time for a response. Any clarification submitted by a Bidder that is not in response to a request by the Employer shall not be considered. The Borrower's request for clarification and the response shall be in writing. If a Bidder does not provide clarifications of its Bid by the date and time set by the Borrower, its Bid may be rejected.

No Bidder shall be requested or permitted to alter its Bid after the Bids have been opened. The Borrower may ask any Bidder for a clarification of the Bid, but shall not ask any Bidder to change the substance or price of the Bid during Bid evaluation, except to confirm the correction of arithmetical errors discovered by the Bidder in accordance with ITB 33.



## 4.2 Step 6: Evaluation of Technical Bids

### 4.2.1 Opening of Technical Bids [*Procurement Guidelines, 5.02 / SBD for Works, ITB 25.1-6*]

The Borrower shall publicly open all Technical Bids received by the deadline, at the date, time and place specified in the Bidding Document, in the presence of the Bidder's designated representatives who choose to attend. The time for the Bid opening should be the same as that for the deadline for the submission of Bids or promptly thereafter. The Price Bids will remain unopened and will be held in custody of the Borrower until the time of their opening. Bids received after the deadline for submission of Bids shall be returned unopened. If the Technical Bid and Price Bid are submitted together in one envelope, the Employer may reject the entire Bid.

The Borrower shall read out in the Bid opening:

- (a) the name of the Bidder;
- (b) whether there is a withdrawal, substitution, or modification;
- (c) whether there is an alternative Bid;
- (d) the presence or absence of a Bid security; and
- (e) any other details as the Borrower may consider appropriate.

The Borrower shall prepare a record of the Bid opening, including the same information as above, which shall be confirmed and signed by Bidders' representatives who are present at the opening. A copy of the record shall be promptly distributed to all Bidders who submitted Bids in time, and to JICA.

➤ *An example of the record of opening of Technical Bids is provided in Appendix 4 of Annex II and III.*

### 4.2.2 Evaluation of Technical Bids

The evaluation of Technical Bids consists of three (3) stages: Stage-1 "Preliminary Examination", Stage-2 "Qualification of the Bidders" and Stage-3 "Determination of Responsiveness". Only the Technical Bids that have passed a precedent stage should proceed to the next stage. (Stage-2 "Qualification of the Bidders" is to be skipped in the case of "the bidding following prequalification", as stipulated in clause 4.2.2.2 below.)

#### 4.2.2.1 Preliminary Examination of Technical Bids [*SBD for Works, ITB 29*]

The purpose of Preliminary Examination is to confirm whether all documents and information requested in the Bidding Document have been provided in each Technical Bid and whether each Bid basically conforms to the requirements specified in the Bidding Document. The Borrower should prepare a table listing all documents and information required to be submitted by the Bidder in accordance with ITB 11.2 for the checking.

In case any of the following documents or information is missing, the Bid shall be rejected.

- (a) Letter of Technical Bid;
- (b) Power of Attorney to commit the Bidder;
- (c) Bid security; and

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- (d) Technical Proposal in accordance with ITB 16.

The following are examples of nonconformity which may be justifiable grounds for rejection of a Bid, in addition to the above:

- (a) failure to sign the Bid by the authorized person or persons as required in the Bidding Document;
- (b) in the case of a Bid submitted by a JV, failure to submit a JV Agreement, or a formal Letter of Intent to enter into a JV in the event of a successful Bid, as required in the Bidding Document; and
- (c) failure to satisfy the Bid validity period specified in the Bidding Document.

#### **4.2.2.2 Qualification of the Bidders** [*SBD for Works, ITB 30*]

The Bidders shall substantially meet or exceed the specified qualification requirements. In principle, the Borrower shall confirm whether the Bidders meet the qualification criteria specified in the EQC of the Bidding Document following the Preliminary Examination of Technical Bids, in the same manner stipulated in the previous chapter on prequalification.

However, if the prequalification process was carried out prior to the bidding, the Borrower may re-assess whether the Bidder continues to meet the criteria used at the time of prequalification with updated information submitted by the Bidder with its Bid, except for “Experience” criteria only to the Bidder who submitted the lowest evaluated and substantially responsive Bid. Attention should be paid whether the Bidder’s qualifications have since materially deteriorated or the Bidder has since received additional work that overstresses its capacity. If the lowest evaluated Bidder fails in qualification evaluation, its Bid should be rejected, and the next lowest evaluated Bidder shall then be subject to qualification evaluation.

### 4.2.2.3 Determination of Responsiveness of Technical Bids [SBD for Works, ITB 31]

The purpose of evaluation in this stage is to determine whether each Technical Bid is substantially responsive to major technical requirements of the Bidding Document. The scrutiny of Bids for substantial responsiveness to the provisions of the Bidding Document is one of the most important aspects of the evaluation of Bids.

Technical Proposals of Bidders, including a statement of work methods, equipment, personnel, schedule, safety plan and any other information as stipulated in the Bidding Document, furnished as part of their Technical Bids and documentary evidence establishing the eligibility and conformity to the Bidding Document of the Goods and Services offered, shall be assessed for this purpose.

The Bidder's Technical Proposal will be assessed in terms of the following. Based on such assessment, the Borrower will determine whether the Technical Proposal is substantially responsive to the requirements stipulated in Work's Requirements of the Bidding Document.

- (a) Mobilization of key construction equipment and personnel for the execution of the Works.
- (b) Adequately supervising and controlling the execution of the Works by the appropriate allocation of staff.
- (c) Planning and scheduling of all work activities in such a manner that the Works will be completed on time and meet with all contract requirements.
- (d) Execution of the Works fully in accordance with all contract requirements including but not limited to work methods, material sourcing, etc.
- (e) Carrying out all operations for the execution of the Works safely and in an environmental friendly manner<sup>13</sup>.

In the case of the **Design-Build type** contract, the following points are added to the above for assessment.

- (a) Overall completeness and compliance with the Employer's Requirements.
- (b) Conformity of the Works specified performance criteria, including conformity with the specified minimum (or maximum, as the case may be) acceptable levels corresponding to each functional guarantee, as indicated in the Employer's Requirements.
- (c) Suitability of the Works in relation to the environmental and climatic conditions prevailing at the site.
- (d) Quality, function and operation of any process control concept included in the Bid.
- (e) Type, quantity and long-term availability of mandatory and recommended spare parts and maintenance services.

For the purposes of determination of responsiveness of Technical Bids, a substantially responsive Technical Bid is one that meets the requirements of the Bidding Document without

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<sup>13</sup> Health and Safety measures that Bidders propose in their Technical Proposals shall be considered for evaluation. In addition, for the purpose of maintaining the safety of their personnel, Bidders are requested to propose a Health and Safety Manager. The Health and Safety Manager proposed by Bidders are regarded as key personnel and will be evaluated accordingly. [Refer to Clause 3.1.3]

material/major deviation, reservation, or omission<sup>14</sup>. A material/major deviation, reservation, or omission is one that:

- (a) if accepted, would
  - (i) affect in any substantial way the scope, quality, or performance of the works specified in the contract; or
  - (ii) limit in any substantial way, inconsistent with the Bidding Document, the Borrower's rights or the Bidder's obligations under the proposed contract; or
- (b) if rectified, would unfairly affect the competitive position of the other Bidders presenting substantially responsive Bids.

It is the Borrowers who placed the order and should determine whether the nonconformity (deviation, reservation, or omission) is in Bids are within a permissible range. However, in the case that the opinions of the consultant and the Borrower differ, due attention should be paid and a written report may be submitted to JICA in accordance with Section 2.02(3) of the Consultant Guideline. It is not permissible for a Bid with a nonconformity unacceptable to the Borrower to be modified so as to conform to the specifications stipulated in the Bidding Document, even without increasing or decreasing the Bid Price, since, such a practice constitutes an alteration of Bid. [*Procurement Guideline, 5.05 Notes 2, Consultant Guideline, 2.02(3)*]

#### **4.2.2.4 Nonmaterial Nonconformities** [*SBD for Works, ITB 32*]

Provided that a Technical Bid is substantially responsive, the Borrower may waive any nonmaterial/minor nonconformities in the Technical Bid. The nature of such nonconformities varies from contract to contract and depends on the specific requirements of the contract.

Provided that a Technical Bid is substantially responsive, the Borrower may request that the Bidder submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial/minor nonconformities in the Technical Bid related to documentation requirements. Requesting information or documentation on such nonconformities shall not be related to any aspect of the Price Bid. Failure of the Bidder to comply with the request may result in the rejection of its Bid.

Nonmaterial/minor nonconformities that will affect the cost should be expressed in monetary terms and added to the evaluated Bid Price during evaluation of Price Bids as stipulated in clauses 4.3.2.1 (a) and 4.3.2.2 (e) below. Other nonmaterial/minor nonconformities that will not have any effect on price or quality of the goods, civil works and other services offered may be accepted for evaluation purposes without price adjustment.

#### **4.2.3 Preparation of Evaluation Report** [*Procurement Guidelines, 5.08*]

A detailed report on the evaluation and comparison of Bids setting forth the specific reasons on which determination of the lowest evaluated Bid was based shall be prepared by the Borrower or its consultant. Such report should include information, to the satisfaction of JICA, that the bidding and the Bid evaluation were conducted in accordance with the provisions of the Bidding Document.

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<sup>14</sup> "Deviation" is a departure from the requirements specified in the Bidding Document; "Reservation" is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the Bidding Document; and "Omission" is the failure to submit part or all of the information or documentation required in the Bidding Document. [*SBD for Works, ITB 28*]

Examples of evaluation reports attaching a set of appendices recommended to be included in the reports are provided in Annexes II, III and IV of this Guide. The contents of the reports, including the appendices, may be modified to suit specific requirements of the Bidding Document. Cross-referencing should be used extensively, as well as references to relevant clauses in the Bidding Document, for the clarity of document.

#### 4.2.4 JICA's Review and Concurrence

The evaluation report regarding the Technical Bids prepared by the Borrower shall be submitted to JICA, for its review and concurrence in accordance with the Loan Agreement concerned, before notification to Bidders and opening of and evaluation of Price Bids. During JICA's review, the Borrower may be requested to provide additional information and justification for the result of evaluation. The Borrower also may be requested to contact Bidders for necessary clarifications. When JICA is satisfied with the evaluation of bids and the proposed award, a written notice of "concurrence" will be issued by the JICA official designated for such correspondence.

For bid evaluation not subject to prior review of JICA, any doubts about the justification for award should be raised and discussed with JICA prior to giving an award. The Borrower should ensure that all correspondence received from bidders concerning evaluation has been taken into account.

- *Examples of the Technical Bid Evaluation Report are provided in Annex II (following prequalification) and III (without prequalification). As shown in Appendices 5 and 6 (Annex II) / Appendices 5 and 7 (Annex III), the results of Preliminary Examination and Determination of Responsiveness of each Bid should be presented in tables. For a Bid that has failed to pass the evaluations, the reasons shall be clearly explained. The Borrower should include additional tables to present the evaluation results on the specific items of technical requirements (e.g., a table for Personnel, Equipment, and Subcontractors, etc.), as necessary.*

#### 4.2.5 Notification to Bidders [SBD for Works, ITB 25.7, 8]

The Borrower shall invite, in writing, the Bidders who have submitted substantially responsive Technical Bids for the opening of Price Bids. The date, time and location of the opening of the Price Bids will be advised in writing by the Borrower. The opening date should allow sufficient time for the Bidders to make arrangements for attending it. The Borrower will also notify, in writing, the Bidders who have been rejected on the grounds of their Technical Bids being substantially non-responsive to the requirements of the Bidding Document, and return their Price Bids unopened together with the Bid security.



### 4.3 Step 7: Evaluation of Price Bids

#### 4.3.1 Opening of Price Bids [SBD for Works, ITB 25.9-11]

The Borrower shall open Price Bids of all Bidders who submitted substantially responsive Technical Bids, at the date, time and place specified by the Borrower, in the presence of the Bidder's designated representatives who choose to attend. The Borrower shall read out:

- (a) the name of the Bidder;
- (b) whether there is a withdrawal, substitution, or modification (and their critical details, such as price change);
- (c) the total Bid Price, including any discounts and alternative Bids; and in the case of bidding for multiple lots, the total price for each lot together with the sum of the total price for all lots including any discounts; and
- (d) any other details as the Borrower may consider appropriate.

Only Price Bids and Price Bid discounts read out and recorded at the opening of Price Bids shall be considered for evaluation. The Borrower shall neither discuss the merit of any Price Bid nor reject any Price Bid at the Price Bids opening.

The Borrower shall prepare a record of the Bid opening, including the same information as above, which shall be confirmed and signed by Bidders' representatives who are present at the opening. A copy of the record shall be promptly distributed to all Bidders who submitted Bids in time, and to JICA.

➤ *An example of the record of opening of Price Bids is provided in Appendix 3 of Annex IV.*

#### 4.3.2 Evaluation of Price Bids [SBD for Works, ITB 35.1]

The purpose of evaluation of Price Bids is to compare Bids which conform to the technical specifications and are substantially responsive to the Bidding Document on the basis of their evaluated cost. The Bid with the lowest evaluated cost, not necessarily the lowest submitted price shall be selected for award.

At the first stage, the Preliminary Examination of the Price Bids shall be conducted. The Bids should be confirmed whether all documents and information have been provided in accordance with ITB 11.3 and whether they basically conform to the requirements specified in the Bidding Document. If a price Bid is determined not substantially responsive to the Bidding Document, it shall be rejected for further evaluation.

The second stage of the evaluation is the detailed evaluation and comparison of Price Bids. In evaluating a Price Bid, a careful analysis of Bill of Quantities (or Price Schedules in case of a lump sum contract using the SBD for Plant or the SBD for Design Build) should be carried out, and the following factors should be considered in order to evaluate and compare the Bids on a common basis:

- (a) Exclusion of Provisional Sums;
- (b) Corrections for Arithmetical Errors;
- (c) Adjustment for Discounts;
- (d) Adjustment for Additional Evaluation Factors;

- (e) Adjustment due to Quantifiable Nonmaterial Nonconformities; and
- (f) Currency Conversion.

The detail procedure of each factor should refer clause 4.3.2.2.

#### 4.3.2.1 Analysis of Bill of Quantities and Unit Rates

In addition to examining the Bill of Quantities for arithmetical errors, the analysis of prices for components of the Bill of Quantities and for unit rates of a Bid should be carried out for the purposes (a)-(c) below:

- (a) Nonmaterial Nonconformities in the Bill of Quantities [*SBD for Works, ITB 14.2*]

To verify whether the Bill of Quantities is complete. For minor omissions or missing items, provided that the Bid is determined to be substantially responsive, the cost of those missing items should be added to the Bid Price to allow for comparison on an equal basis.

The following provision is included in the SBD and the adjustment of the Bid Price shall be conducted accordingly:

(At the time of Contract) Items against which no rate or price is entered by the Bidder shall be deemed covered by the rates and/or prices for other items in the Bill of Quantities and will not be paid for separately by the Borrower.

(For the purpose of evaluation) Any item against which no rate or price is entered by the Bidder shall be assumed to be not included in the Bid; provided that the Bid is determined to be substantially responsive notwithstanding this omission, the average price of the item quoted by the substantially responsive Bidders will be added to the Bid Price and the total cost of the Bid so determined will be used for price comparison.

- (b) Unbalanced Bids [*Procurement Guidelines, 5.06 Notes 6 / SBD for Works, ITB 36.2*]

To examine whether the unit rates of the Bid are balanced. A Bid is considered unbalanced if the unit rates are substantially higher or lower, in relation to the estimate and the rates quoted by other Bidders. “Front Loaded” is a common case of such unbalanced Bids.

##### Front Loaded:

A Bidder may purposely quote relatively high unit prices for those work elements to be performed early in the contract period so as to increase the up-front payments. The same situation can arise in some supply, delivery and installation contracts. This results in a higher cost for the Borrower (i.e., interest on early payment), and more importantly, the incentives for the contractor to complete the works are considerably reduced since the payments the contractor receives during later phases of the contract will consequently be smaller than the actual costs.

If the Bid, which results in the lowest evaluated Bid Price, is seriously unbalanced or front loaded, the Borrower may require the Bidder to produce detailed price analyses for any or all items of the Bill of Quantities, to demonstrate the internal consistency of those prices with the construction methods and schedule proposed. After evaluation of the price analyses, the Borrower may require that the amount of the performance security be increased at the expense of the Bidder to a level sufficient to protect the Borrower against financial loss in the event of default of the successful Bidder under the Contract. A Bid shall not be rejected solely because the Bid Price exceeds or is lower by a certain percentage of the cost estimate in accordance with Section 5.06(5) of the Procurement Guidelines.

- (c) Abnormally Low Bids [*SBD for Works, ITB 36.3*]



To verify whether the Bid Price is reasonable. An unreasonably low Bid Price may reflect the Bidder's misunderstanding of the specifications and, accordingly, this Bidder may incur substantial financial losses and fail to complete the work satisfactorily if awarded the contract.

If the Bid, which results in the lowest evaluated Bid Price, is identified as a potentially abnormally low Bid, the Borrower shall seek written clarifications from the Bidder, including detailed price analyses of its Bid Price in relation to the subject matter of the contract, scope, proposed methodology, schedule, allocation of risks and responsibilities and any other requirements of the Bidding Documents.. After evaluation of the price analyses, the Borrower may reject the Bid if the Bidder has failed to demonstrate its capability to perform the contract for the offered Bid Price. To determine the reasonableness of a Bid Price, it is necessary to consider all circumstances affecting the Bid. A Bid shall not be rejected solely because the Bid Price exceeds or is lower by a certain percentage of the cost estimate in accordance with Section 5.06(5) of the Procurement Guidelines.

#### 4.3.2.2 Evaluation and Comparison of Price Bids

The following factors (a)-(f) shall be considered in determining the evaluated Bid Price of each Bidder:

(a) Exclusion of Provisional Sums

If the provisional sums and/or contingency allowance are set by the Borrower in the Bidding Document (refer to clause 3.1.2), they should be treated for the evaluation purpose as below:

- (i) The Specified Provisional Sum and the Contingency Allowance, whose amounts are specified by the Borrower in the Bidding Document and thus are not competitive, shall be excluded; and
- (ii) The Provisional Sum for the Daywork, when priced by the Bidder, shall not be excluded and remain in the evaluated Bid Price.

(b) Corrections for Arithmetical Errors [*SBD for Works, ITB 33*]

Provided that the Bid is substantially responsive, the Borrower shall correct arithmetical errors on the following basis:

- (i) where there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected, unless in the opinion of the Borrower there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price shall be corrected;
- (ii) where there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and
- (iii) where there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetical error, in which case the amount in figures shall prevail subject to (i) and (ii) above.

The Bidders shall be requested to accept correction of arithmetical errors. Failure to accept the correction shall result in the rejection of the Bid.

Unusual or large corrections that could affect the comparative ranking of Bids should be explained in the evaluation report. Corrections for arithmetical errors shall be reflected in the contract amount.

(c) Adjustment for Discounts

The Bid Price shall be adjusted due to discounts offered in accordance with ITB 14.4. However, discounts that are conditional on the simultaneous award of other lots, in the case of bidding for multiple lots (cross-discounts), shall not be incorporated until the completion of all other evaluation steps.

(Refer to clause 4.3.2.3 (a) Evaluation for Multiple Lots.)

(d) Adjustment for Additional Evaluation Factors

(Refer to clause 3.1.3 (d) and (e).)

(e) Adjustment due to Quantifiable Nonmaterial Nonconformities

Provided that a Bid is substantially responsive, the Borrower shall rectify any quantifiable nonmaterial nonconformities for the purpose of ensuring fair comparison of Bids. To this effect, the Bid Price shall be adjusted, for comparison purposes only, to reflect the price of a missing or non-conforming item or component in accordance with the provisions in ITB14.2. In the bidding using the SBD for Works, adjustment for the missing items in the Bill of Quantities shall be made as stipulated in clause 4.3.2.1 (a) above. For nonmaterial nonconformities for which the specific method of the price adjustment is not provided, the Borrower shall make its own assessment of the cost of such nonconformities; however, the method should be reasonable and that ensures the fair comparison of Bids.

In case the Bid Price has been adjusted due to the quantifiable nonmaterial nonconformities, the method used in evaluation of each case should be precisely described in the Bid evaluation report.

(f) Currency Conversion [*Procurement Guidelines, 4.10 / SBD for Works, ITB 34*]

The amount resulting from applying factors (a)-(e) above shall be converted to a single currency selected by the Borrower for Bid comparison. The currency, the source and the date for the exchange rates to be used in the conversion must be specified in the ITB of the Bidding Document, as well as in the evaluation report.

The Borrower should also note the following in evaluating and comparing Price Bids.

- Provision for Price Adjustment [*Procurement Guidelines, 5.06 (2) (c) / SBD for Works, ITB 35.2*]

If price adjustment is allowed, the estimated effect of the price adjustment provisions of the Conditions of Contract, applied over the period of execution of the contract, shall not be taken into account in Bid evaluation.

(Refer to clause 3.1.2 (e).)

- Duties, Taxes and Other Levies under Civil Works Contracts [*Procurement Guidelines, 5.06 (4) / SBD for Works, ITB 14.7*]

Where contractors are responsible for all duties, taxes and other levies under civil works contracts, Bidders shall take these factors into account in preparing their Bids. The evaluation and comparison of Bids shall be on this basis.

(Refer to clause 3.1.2 (b).)

### 4.3.2.3 Determination of Award

As a final step to determine the Bidder to be recommended for award and to complete the Bid evaluation, the Borrower shall take into consideration the following factors (a)-(c).

- (a) Evaluation for Multiple Lots

In the case of bidding for multiple lots, cross-discounts offered by the Bidder shall be considered at this point. The final Bid Price comparison to determine the Bidder(s) to be awarded the contract shall be in accordance with the methodology described in the EQC.

(Refer to clause 3.1.3 (c).)

(b) Alternative Bids [*SBD for Works, ITB 13.2*]

If Bidders are allowed to submit alternative Bids, only the alternative Bids of the Bidder whose base Bid is determined to be the lowest evaluated Bid shall be considered. The Borrower shall scrutinize the alternative Bids offered by the Bidder to determine whether it is acceptable. The evaluation details of alternative Bids should be provided in the evaluation report.

(Refer to clause 3.1.2 (f))

(c) Confirmation of Prequalification Information

The Borrower shall confirm the qualification of the Bidder who submitted the lowest evaluated and substantially responsive Bid, in the case that prequalification was made and the reassessment of the qualification criteria was not conducted in the evaluation of Technical Bids.

(Refer to clause 4.2.2.2.)

#### 4.3.3 Proposed Award [*Procurement Guidelines, 5.09, SBD for Works, ITB 38*]

The Borrower shall award the contract to the Bidder whose offer has been determined to be the lowest evaluated Bid and is substantially responsive to the Bidding Document, provided further that the Bidder is determined to be qualified to perform the contract satisfactorily.

The amount of the proposed award shall be the Bid Price as submitted by the selected Bidder and adjusted for corrections for arithmetic errors, any discounts (including cross-discounts), and acceptance by the Borrower of alternative offers from the lowest evaluated Bidder.

The Borrower should note that a Bidder shall not be required, as a condition of award, to undertake responsibilities or work not stipulated in the Bidding Document or otherwise modify the Bid as originally submitted.

#### 4.3.4 JICA's Review and Concurrence

The evaluation report regarding the Price Bids and the proposed award prepared by the Borrower shall be submitted to JICA, for its review and concurrence in accordance with the Loan Agreement concerned, before notification of award to the successful Bidder.

➤ *An example of the Price Bid Evaluation Report is provided in Annex IV. The effect to the evaluated Bid Price of each evaluating factor discussed in clause 4.3.2.2 (a)-(f) should be presented in tables, as shown in Appendix 5 of the example.*

#### 4.3.5 Rejection of Bids [*Procurement Guidelines, 5.10*]

Rejection of all Bids may be justified when (i) the lowest evaluated Bid exceeds the cost estimate by a substantial amount<sup>15</sup>, (ii) no Bid is substantially responsive to the Bidding Document, or (iii) there is a lack of competition. However, all Bids shall not be rejected solely for the purpose

<sup>15</sup> The price expected here may not be an unreasonably low price, determined unilaterally by the Borrower, but should be a price reasonably agreed upon with JICA such as the price obtained from the calculation of the loan amount, result of detailed design, or other proper measures for estimation. [*Procurement Guidelines, 5.10 Notes 1 (02)*]

of obtaining lower prices in the new Bids to be invited on the same specifications. If all Bids are rejected, the Borrower shall review factors that made such rejection necessary and consider either revision of the specifications or modification of the project (or the amounts of work or items in the original invitation of Bids), or both, before inviting new Bids.

In the case (i) above, and where exceptional circumstances in accordance with Notes 3, Section 5.10 of the Procurement Guidelines justify it, the Borrower may, as an alternative to rebidding, negotiate with the lowest evaluated Bidder (or, failing a satisfactory result of such negotiation, with the next-lowest evaluated Bidder) to try to obtain a satisfactory contract. When the Borrower negotiates with the lowest evaluated Bidder, changes in price should accompany a corresponding revision of the specifications or modification of the project, amounts of work, items in the original invitation to Bid, etc. However, a substantial reduction in the scope or modification to the contract documents may require rebidding.

The Borrower shall submit an application to JICA for its review and concurrence on the evaluation result accompanied by the expected action to be taken (negotiation with the lowest evaluated Bidder or re-bidding) and its reason, before taking such action.

#### **4.3.6 Contract Negotiation**

After JICA's review and concurrent on the evaluation result and proposed award, adjustments to the final price and scope of the contract to allow for acceptable omissions and quantity variations may be made through negotiation with the lowest evaluated bidder. Price negotiation is not allowed in view of the purpose of bidding and the need to protect the interests of Bidders as stipulated in Notes 1, Section 5.10 of the Procurement Guidelines. Any points to be confirmed between the Borrower and the lowest evaluated bidder should be recorded as a minutes of contract negotiation.

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## CHAPTER V. AWARD OF CONTRACT

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### 5.1 Step 8: Award of Contract

#### 5.1.1 Notification of Award and Signing of Contract [*Procurement Guidelines, 5.09 Notes 1*]

The Borrower shall notify the award of contract to the successful Bidder by sending a Letter of Acceptance specifying the sum that the Employer will pay to the Contractor in consideration of the Works (“Accepted Contract Amount”). The notification letter should be sent prior to the expiration of Bid validity period as discussed in clause 3.2.2. A contract is interpreted, in general, as being established between the parties when a Bidder is notified that it has been awarded the contract by such notification. Until a formal contract is prepared and executed, the Letter of Acceptance shall constitute a binding Contract. [*SBD for Works, ITB 39.3*]

Upon notification, the Borrower shall promptly send the successful Bidder the Contract Agreement, and the successful Bidder shall sign and return it to the Borrower within twenty-eight (28) days. [*SBD for Works, ITB 40*]

#### 5.1.2 JICA’s Review and Concurrence

Promptly after signing a contract, the Borrower, if required in the Loan Agreement, shall submit to JICA a copy of the contract for JICA’s review and concurrence. JICA will review the contract to determine whether it is consistent with the Bidding Document, Bid evaluation and the Loan Agreement.

The procedure of review and concurrence by JICA concerning the contract is normally taken place after the contract has been signed, unlike other cases where prior concurrence is required. This is because, with regard to the contract, the terms and conditions of the contract are already reviewed when JICA consenting to the Bidding Document concerned. Accordingly, if significant changes<sup>16</sup> are made on the Bidding Document which was reviewed and concurred by JICA, through contract negotiations, etc., JICA’s concurrence should be obtained prior to the signature of the contract according to the L/A.

#### 5.1.3 Performance Security [*SBD for Works, ITB 41*]

Within twenty-eight (28) days of the receipt of the Letter of Acceptance from the Borrower, the successful Bidder shall furnish the Performance Security in accordance with the Conditions of Contract, subject to ITB 36.2, SBD for Works. Failure of the successful Bidder to submit the above-mentioned Performance Security or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the Bid Security. In that event the Borrower may award the Contract to the next lowest evaluated Bidder whose Bid is substantially responsive and is determined by the Borrower to be qualified to perform the Contract satisfactorily.

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<sup>16</sup> Significant changes may be (a) related to the contract conditions, and (b) related to Works Requirements and affecting the contract price and the M/D agreed with JICA.

**5.1.4 Notification to Unsuccessful Bidders and Debriefing** [*Procurement Guidelines, 5.11 / SBD for Works, ITB 42*]

Upon the successful Bidder signing the contract and furnishing a performance security, the Borrower shall promptly notify the other unsuccessful Bidders of the results of the bidding and return the Bid security.

The unsuccessful Bidders, including those rejected on the grounds of their Technical Bids not being substantially responsive, may request in writing to the Borrower a debriefing seeking an explanation of the grounds on which their Bids were not selected. The Borrower shall promptly respond in writing to any unsuccessful Bidder who requests a debriefing.

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## **5.2 Disclosure of Information and Change in Contract**

### **5.2.1 Information to be Made Public** [*Procurement Guidelines, 5.12 / SBD for Works, ITB 39.2*]

After a contract is determined to be eligible for JICA's financing, the following information may be made public by JICA.

- (a) the name of all Bidders who submitted a Bid;
- (b) Bid Prices as read out at Bid opening;
- (c) the name and address of successful Bidder; and
- (d) the signing date and amount of the contract.

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 procurement, such as Bidding Documents and contracts.

Any further information on the Bids or on their evaluation, including the Bid evaluation report, is held in confidence by JICA. In anticipation of any post reviews by JICA, the Borrower should ensure that documents related to the bidding and Bid evaluation are to be securely stored.

### **5.2.2 Change in Contract**

Any important changes to the contract which have been agreed upon by JICA, including but not limit to the change in the contract amount, and cancellation of the contract are subject to prior concurrence by JICA, in accordance with the Loan Agreement. However, in the case of the change of the contract amount based on the terms and conditions of the contract (e.g., amount increase/decrease based on the price adjustment clause, or amount increase/decrease according to the measurement of quantity in the unit-price contract, etc.), post notification to JICA may be required, instead of the prior concurrence. The Borrower should consult with JICA, in case of doubt whether the change is subject to the prior concurrence.

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## ANNEXES

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Annex-I	Example of Prequalification Evaluation Report
Annex-II	Example of Technical Bid Evaluation Report (Single-Stage: Two-Envelope Bidding Procedure following Prequalification)
Annex-III	Example of Technical Bid Evaluation Report (Single-Stage: Two-Envelope Bidding Procedure without Prequalification)
Annex-IV	Example of Price Bid Evaluation Report (Single-Stage: Two-Envelope Bidding Procedure following Prequalification / without Prequalification)