



# UNDERSTANDING GHANA PUBLIC PROCUREMENT

# Outline

**Introduction to Basic Procurement Cycles**

**Procurement Principles and Ethics**

**Legal Framework and Public Procurement Reforms in Ghana Over The Years**

**Procurement Methods**

**Procurement Rules And Methods**

**Offences Relating to Procurement**

PUBLIC PROCUREMENT ACT 663 AS  
AMENDED ACT 914



# WHAT IS PUBLIC PROCUREMENT?

- Public Procurement is the process by which organizations acquire goods, works and services using public funds.
- It includes planning, inviting offers, awarding contracts and managing contracts.
- Public funds include the Consolidated Fund, the Contingency and such other funds as may be established by Parliament.



# LAWS GOVERNING PROCUREMENT IN GHANA

- **Constitution of Ghana**
- **Public Procurement Act, Act 663 of 2003 ( as amended, Act 914 of 2016)**
- **Public Financial Management Act, Act 921 of 2016**
- **Internal Audit Agency Act, Act 658 of 2003**
- **Stores and Inventory management Regulation of 1984.**
- **Donor Procurement Regimes (World Bank. African development Bank, USAID Deliver, UNOPS, etc.)**

# Procurement Reforms in Ghana

- 1996 - Government launched the Public Financial Management Reform Programme
- To improve overall public financial management in Ghana
- PUFMARP identified weaknesses in the procurement system
- 1999 – Government established Public Procurement Oversight Group
- To steer the design of a comprehensive public procurement reform programme
- Drafted a public procurement bill in September 2002.
- Public Procurement Act, 2003 passed into law on 31 December 2003 (Act 663)

## Identified Weaknesses



- No comprehensive public procurement policy
- No central body with technical expertise
- Absence of clearly defined roles, responsibilities and authority for procurement entities
- No comprehensive legal regime to safeguard public procurement

## Objectives of Act 663

- Harmonising public procurement processes in the public service
- Securing judicious, economic and efficient use of state resources
- Ensuring public procurement is fair, transparent and non-discriminatory



# Public Procurement Act

- Establishes the Public Procurement Authority, Tender Committees and Tender Review Committee.
- Specifies outline rules for procurement methods procedures, appeals by tenderers and disposal of stores
- Defines offences and applicable penalties
- Specifies thresholds in Schedules to the Act
- Authorises the issue of Regulations, which are enforceable under the Act

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**STRUCTURE OF THE LEGAL AND  
REGULATORY FRAMEWORK FOR  
PUBLIC PROCUREMENT IN GHANA**

**Minister for Finance**  
Issues Regulations  
Receives PPB Annual Report for submission to Parliament



**Public Procurement Board**

1. Sets procurement policy
2. Monitors compliance by procurement entities
3. Issues standard bidding documents
4. Suspends suppliers and manages bidder appeals
5. Coordinates capacity building & professionalisation in public procurement
6. Manages and disseminates procurement information

**Oversight Bodies**  
Monitor and audit public procurement  
Prosecute breaches of the Act

**Tender Review Boards**  
Responsible for approving procurement activities above the threshold of the Tender Committees  
Include central, ministerial, regional and district Tender Review Boards, with differing levels of authority

**Procurement Entities**

**Head of Entity**  
Awards low value contracts  
Chairs Tender Committee  
Investigates bidder complaints

**Tender Committee**  
Standing committee of senior officials  
Approves procurement plans and invitation documents  
Award contracts within its authority or ensures referral to the appropriate Tender Review Board

**Tender Evaluation Panel**  
Ad hoc committees, which conduct evaluations and prepare an evaluation report.

**Procurement Unit**  
Permanent unit, staffed by procurement professionals  
Manages all procurement activities.  
Head of Unit acts as Secretary to Committee

**End User Departments**  
Existing departments, which initiate requirements and provide technical inputs.

**The Private Sector**  
Prepare tenders, quotations and proposals as bidders  
Implement contracts as providers  
Include providers of goods, works and services

**Public Procurement Act,  
2003 (Act 663)  
As amended**

Passed by Parliament  
Establishes the Public Procurement Authority (PPA) as a regulatory body and specifies functions of Tender Committees and Tender Review Committees in procurement entities  
Specifies outline rules for procurement methods, procedures, appeals by tenderers and disposal of stores  
Defines offences under the Act 663 as amended and applicable penalties  
Specifies thresholds, which require regular updating, in Schedules to the Act  
Authorizes the issue of Regulations, which are enforceable in the same way as the Act 663 as amended

**Public Procurement  
Regulations**

Issued by the Minister for Finance in consultation with PPA  
Contain detailed rules and procedures for all aspects of the procurement system, including the operations of PPA and procurement entities and the conduct of procurement activities

**Standard Tender  
Documents**

Issued by the Public Procurement Authority in accordance with Schedules to Act 663 as amended  
Contain standard invitation and contract documents for procurement of all values from tender documents to Requests for Quotations  
Include separate documents for goods, works and services

**Public Procurement  
Manuals & Contract  
Administration Manuals**

Issued by the Public Procurement Authority  
Provide practical guidance and step-by-step procedures to assist procurement entities to undertake procurement in accordance with the Act 663 as amended

**Guidelines**

Issued by the Public Procurement Authority under Act 663 as amended  
Provide supplementary guidance on specific topics e.g. disposal of stores, single source procurement, margin of preference, disposal of vehicles, sustainable public procurement or framework contracting

# RE-CATEGORIZATION OF ALL ENTITIES

## CATEGORY

**B**

**1. Independent Constitutional Bodies**

**2. Office of the President**

**3. Central Management Agencies**

**4. Ministries**

**5. State Owned Enterprises**

**6. Regional Coordinating Councils**

**7. Statutory Fund Management**

# Rationale for Act 914

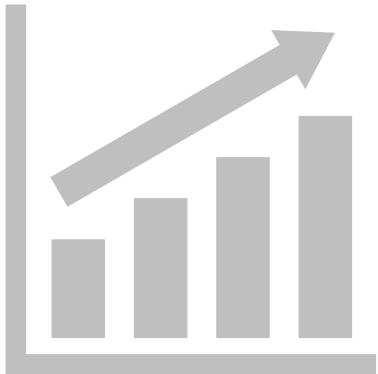
To take into account current international best practices aimed at enhancing the effectiveness in Ghana's public procurement system.

To address the major weaknesses identified in Act 663 in relation to the categorization, membership and functions of entity tender committees.

To cede the functions of the tender review boards to the entity tender committees to ease concurrent approval process.



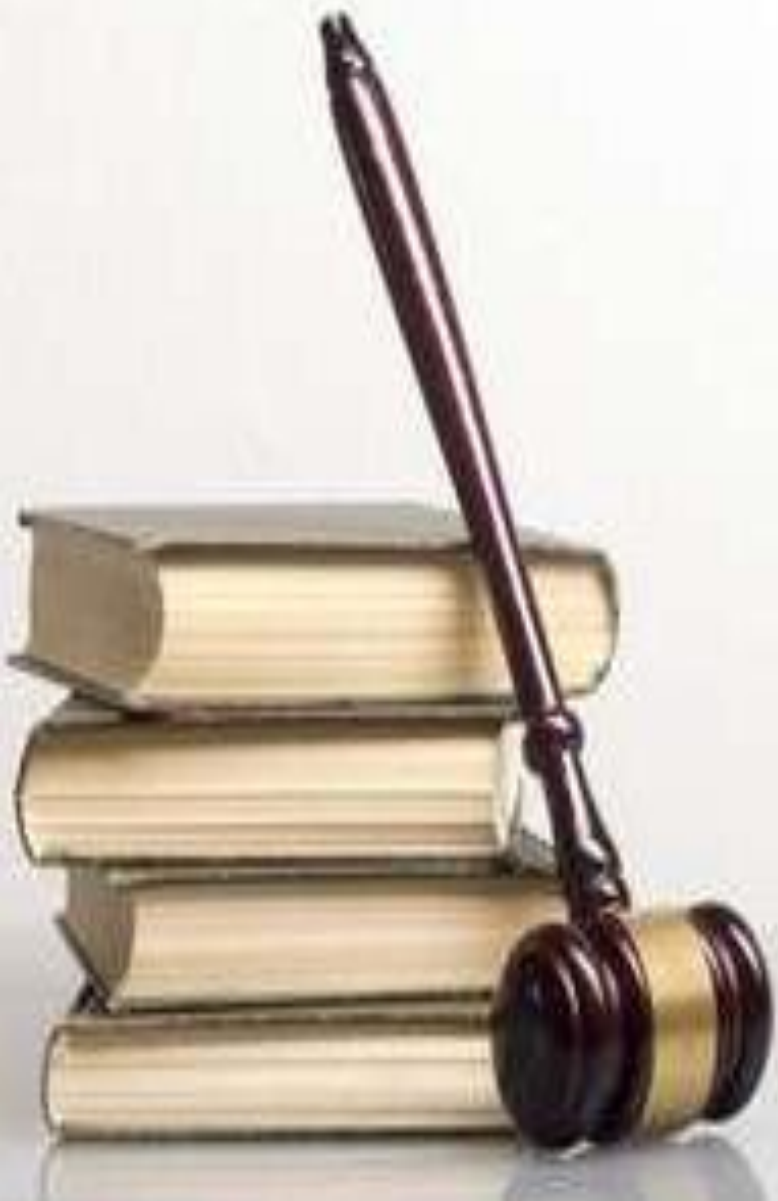
# Rationale for Act 914: Cont



To increase the thresholds for state owned enterprises who are mostly independent from government oversight and have to compete in a private sector.

To also increase threshold for high spending public institutions, eg. BOG, Ministries, Departments and Agencies, Metropolitan, Municipal and District Assemblies etc.

Introduce additional methods of procurement such as Framework Contracting and procurement procedures such as e-procurement.



S. 2 of Act 663 has been amended to include sustainability objectives in the nature of environmentally and socially sustainable objectives. Thus, any procurement should take cognisance of this very important policy objective of public procurement

S. 3 of Act 663 has been amended and MMDAs have been given a special mention under S.3 (I) as one of the bodies to be advised by the PPA.



S.10 of Act 663 has been amended to expand the scope of sources of funds available to the PPA.

S.13 provides a new section i.e. S.13(3) which requires the PPA to submit relevant reports affecting specific MMDAs for these to be debated.

The whole of Part Two of Act 663 which deals with Procurement Structures has been amended.

S.14(3) makes mention of Contract Administration as a critical aspect of Public Procurement



## *Key Sections Amended: Cont.*

S.14(4) provides that the PPA may recommend new methods of procurement to the Minister where required

S.19 of Act 914 provides for a Procurement Unit to be headed by a qualified Procurement Personnel who should serve as the Secretary to ETC.

S.20 of Act 914 provides that ETCs **shall** be constituted in line with the Categories in the First Schedule p.g 42 +

# Key Sections Amended: Cont.

S.20A of Act 914 is a new section which provides for the functions of the ETC

S.20A(2) provides that any delegation by the Chairman and Member of ETC or TRC shall be made in writing

S20B provides for the functions of Central Mgt Agencies, MDAs, Subvented Agencies to include:

- ✓ Approval of procurement plans
- ✓ Review specifications
- ✓ Assist Head of Entities in disposal in line with the Acts

## *Key Sections Amended : Cont.*

S.20C provides for the applicable thresholds limits for ETCs provided for in the 2<sup>nd</sup> & 3<sup>rd</sup> Schedules

S.20D provides that meetings of ETC shall be held at least once every quarter

S.20E provides for the establishment of a Tender Evaluation Panel

S.20F(2) provides that Tender Review Committee for MDAs is the Central Tender Review Committee

S.20F(3) provides that the Tender Review Committee for MMDAs is the Regional Tender Review Committee

T  
E  
N  
D  
E  
R

S.20G (1) provides that a PE or Tenderer aggrieved by the decisions of the ETC can seek a review of this decision from PPA.

S.20G(3) a PE or Tenderer not satisfied with PPA's decision can seek redress in **Court**. This has found expression again under **S.78 (5)**

The words **Description** and **Lot** have found expression under S.21 (a).



# Key Sections Amended : Cont.

S.22(1)(a) has been amended to include professional, technical and environmental qualifications. Once again sustainability has been introduced.

S.22A is a new section which provides for suspension of a supplier or Consultant on grounds of unsatisfactory performance, corruption or debarment

- S 26 has been expanded to include the form of procurement proceeding and only such procedures as provided shall be used during the procurement proceedings
- S.28 has been expanded to include additional subsections o-y
- S.28(4A) is a new section which provides for nondisclosure of records of procurement proceedings particularly with respect to evaluation of tenders

# Key Sections Amended : Cont.

S.28A is a new section which provides under S.28A(1) for reasons for PE cancelling tenders **before** deadline for tender submission.

S.28A(2) provides for reasons that a PE can cancel tenders **after** deadline for tender submission.

S.32A is a new section which provides for confidentiality of procurement proceedings.

S.34A is a new section that has been introduced. It provides for the methods of procurement and in particular, **Framework Contracting**.



## *Key Sections Amended : Cont.*

S.38(2) provides for PPA to charge fees for granting approvals for single source and restricted tendering.

S.38(1)(c) is a new section that has been introduced to add to the reasons giving rise to the use of Restricted Tendering. This focuses on using RT when no tenders are received by the deadline for the receipt of tenders.



## *Key Sections Amended : Cont.*

S.40 (2) is amended to include socio-economic policy after S. 69(2) (c) (i). **To what extent has S.40(2) been applied?**

***S.44 (1) needs to be looked at as “locally registered suppliers and domestic suppliers appear to refer to corporate persons and not individuals as in nationality.***

S.44 (7) has amended the period for submission of tenders from 2 weeks to 6 weeks. This is confirmed by the repeal of **S.53(2)**.

# Key Sections Amended : Cont.

S.47 (1) provides that it is permissible to cause an advert to be published on the PPA's website or Bulletin. Note at a fee to be set by PPA.

S.47(2) ITT to be published in at least 1 daily newspaper of wide national circulation

S.49 has been amended to introduce **electronic procedures (e-procurement)**.

- **S.74(4) is a new subsection that has been introduced. It clarifies the need for financial proposals being opened only subject to approval of technical evaluation results by the entity (ETC).**
- **S.78 (a) improves and expands the wording for review by the inclusion of Complaints or Administrative review**

# *Key Sections Amended : Cont.*



S.83A is a new section which has been expanded to include guidelines for disposal of vehicles . Note that vehicles were not specifically mentioned under S. 83 of Act 663

S.92 increases the penalty for any contravention of the provisions of the Acts from 1000 penalty units to 2500 penal units

S.96 is amended to mandate the PPA to grant prior review or no-objection on such contracts.

The new schedules 1- 6 of Act 914 replaces schedules 1-4 of Act 663.

## **FIRST SCHEDULE –**

- SCHEDULE 1A Categories of Entity Tender Committees pg 42.
- SCHEDULE 1B: Composition of ETC for MDAs pgs 43-47
- SCHEDULE 1B: Composition of ETC for MMDAs pg 48

**SECOND SCHEDULE:** Thresholds for MDAs pg 49

**THIRD SCHEDULE:** Thresholds for MMDAs pg 50

**FOUR SCHEDULE:** Composition of CTC and RTRC pg 51

**FIFTH SCHEDULE:** Thresholds for Procurement Methods pg 52.

**SIXTH SCHEDULE:** STDs/SRPDs



# GROUP PROJECT



## EXERCISE ONE

### THE LAW

# DISCUSSIONS

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- What has been your experience over the years in applying the public procurement law, act 663 of 2003 as amended?
- Has Act 663 as amended promoted Ghana's socio economic development agenda?
  - Yes
  - No
  - Provide reasons -----

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***PROCUREMENT PLANNING***

***SECTION 21 - Act 663 as amended***

# Creating a Procurement Plan

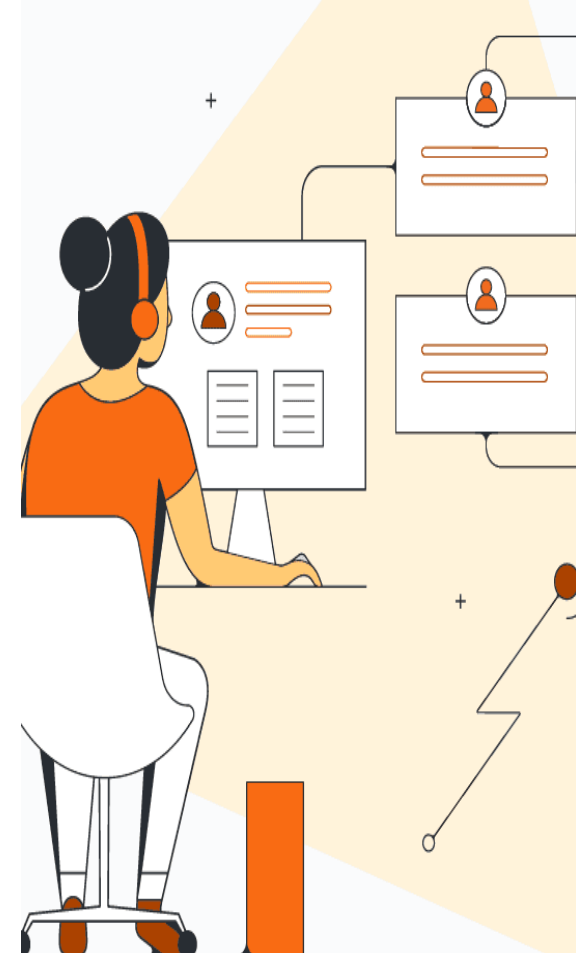




# Arrangement

Determine which one of the following is the right procurement arrangement:

- ✓ World Bank in full
- ✓ Other MDB/bilateral
- ✓ Borrower's own arrangements



# Creating a Procurement Plan Cont'd

## Type

Determine the type of procurement to be used from the following:

- ✓ Request for bid or proposal
- ✓ International/National
- ✓ Pre/Post qualification
- ✓ Special conditions of contract
- ✓ Framework agreements
- ✓ Reverse auctions
- ✓ Competitive dialogue
- ✓ Value engineering
- ✓ Best and final offer
- ✓ Negotiations

# Creating a Procurement Plan Cont'd

## ➤ Bid Cost

How will the bid be costed?

- ✓ Lump sum
- ✓ Target fee
- ✓ Schedule of rates
- ✓ Time-based
- ✓ Performed-based

## ➤ Evaluation

How will the responses be evaluated?

- ✓ Substantially responsive/lowest evaluated cost
- ✓ VfM rated criteria-based



## ➤ Contract Management

What will be the contract management approach?

- ✓ Risk management
- ✓ Monitoring of costs, key performance indicators, milestones, and deliverables
- ✓ Contract variations



# Provisions under section 21

Procurement entity shall prepare a procurement plan to support its approved programs.

Contract packages

Estimated cost for each package

Procurement method approvals needed

Processing steps and timelines

Procurement shall submit the plan to its Entity Tender Committee (ETC) for approval not later than one month to the end of the financial year.

The procurement plan shall be updated and submitted to ETC on an interval basis for approval.

A procurement entity shall not divide a procurement order into parts or lower the value of a procurement order to avoid the application of the procedures.



# Tender Committee Structure

Defined in Schedule 1 of Act – varies depending on type of PE

Head of Entity as chairperson

7 – 9 members depending on type of PE

Head of Procurement Unit is Secretary



## THE ETC (Section 20 of Act 914)

1. Every PE shall establish an ETC in the manner set out in First Schedule of and in accordance with the categories set out in the Schedule 1A of the Act 914.
2. An ETC may co-opt a person to act as Technical Adviser at “a” meeting of the ETC, but the co-opted person shall not vote on a matter for decision before the ETC
3. An ETC shall work within the method thresholds specified in the fifth schedule in the conduct of its duties as regards tender for works, goods or services.



# Tender Evaluation Panel Functions

Section 19 of Act 663  
as amended

Prepare evaluation report for  
each evaluation conducted

Assist Tender Committee  
to evaluate tenders

Make recommendations  
for awards



# Tender Evaluation Panel Membership

Ad hoc body for specific procurement package

Not more than five members

Membership requirements include:

Relevant technical skills

End user representation

Procurement and contracting skills

Financial management and analytical skills

Legal expertise

# Procurement Methods

Parts IV (S. 35-43) and VI (S.66-77) of Act 663, respectively, prescribe the methods and procedures to be used for the **procurement of goods and works**, and the **selection of consultants**.

# Procurement Methods

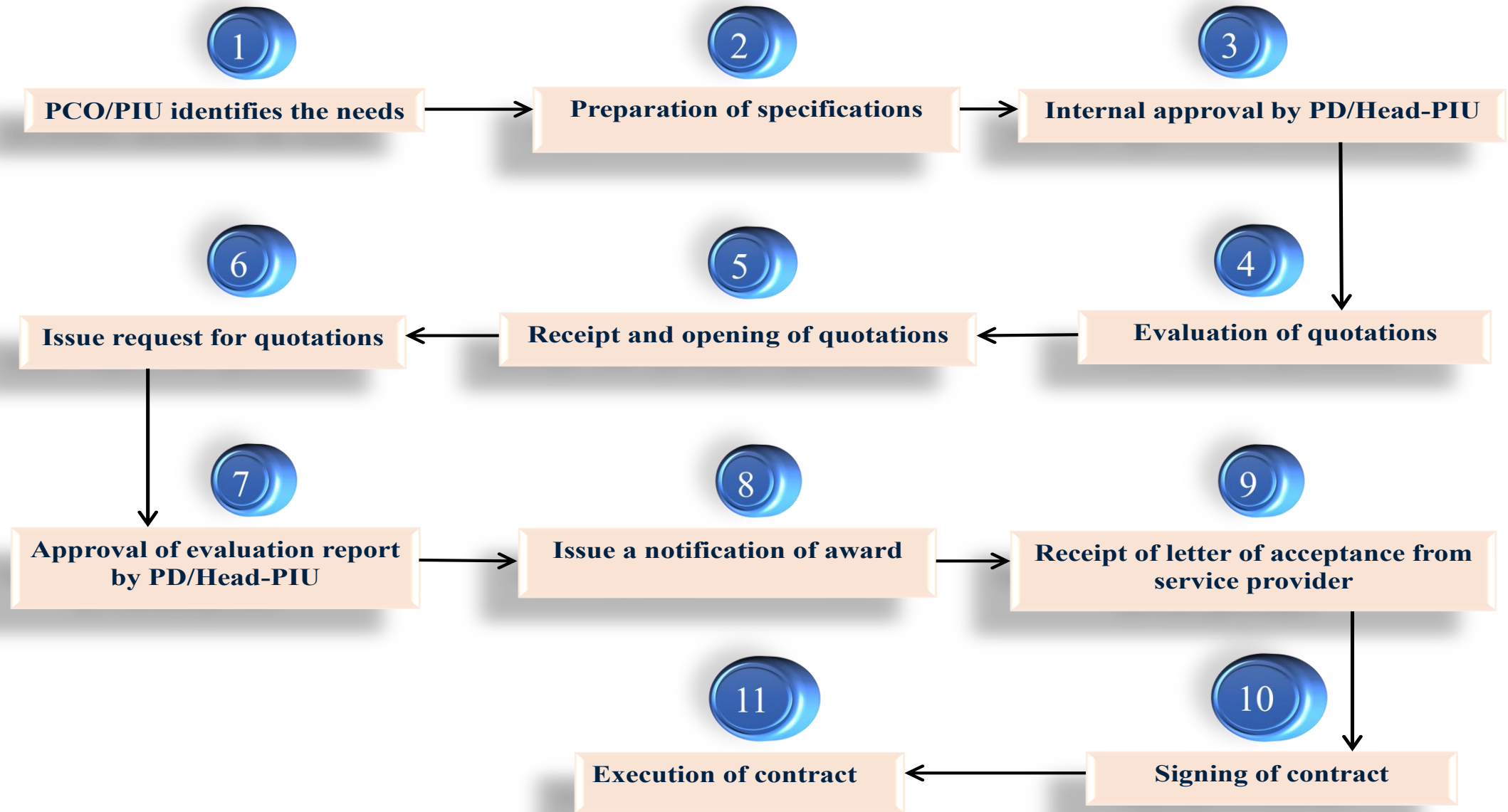
- Procurement methods available are:
- Competitive Tendering (section 35,Part V)
- Restricted Tendering (sections 38-39)
- Two-Stage Tendering (sections 36-37)
- Single Source Procurement (sections 40-41)
- Request for Quotation (RFQ) (sections 42-43)
- Request for Proposal (RFP) for Consultancy Services (sections 66-77)
- **Framework Contracting (Section 34 A—Act 914)**
- **E-Procurement procedures**

# PROCUREMENT METHODS

## Request for quotation

The Entity may engage in procurement by requesting at least three quotations from prospective suppliers of goods, works, providers of services and consultants






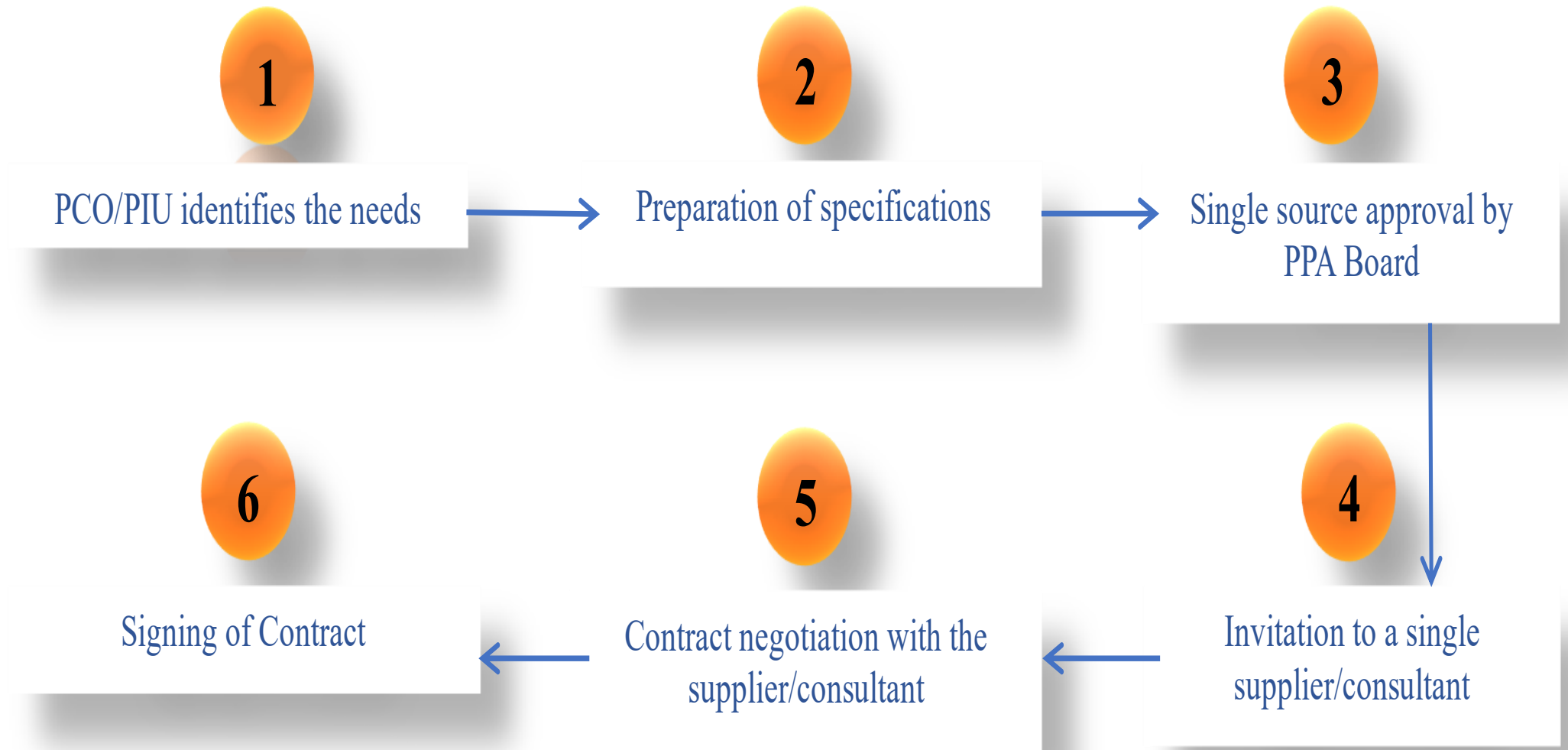
## *Process Flow for Request for Quotation*

# PROCUREMENT METHODS

## Single source procurement

The entity may adopt single-source procurement as per the approved Procurement Plan under the following circumstances and subject to the prior approval of the Public Procurement Authority Board (PPA Board): Five conditions

- **Availability from particular supplier or exclusivity**
  - **Urgency/Time factor**
  - **Security**
  - **research, experiment, study**
  - **promote the local content and participation**
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*Process Flow for Single Source*

# PROCUREMENT METHODS

## Restricted tendering

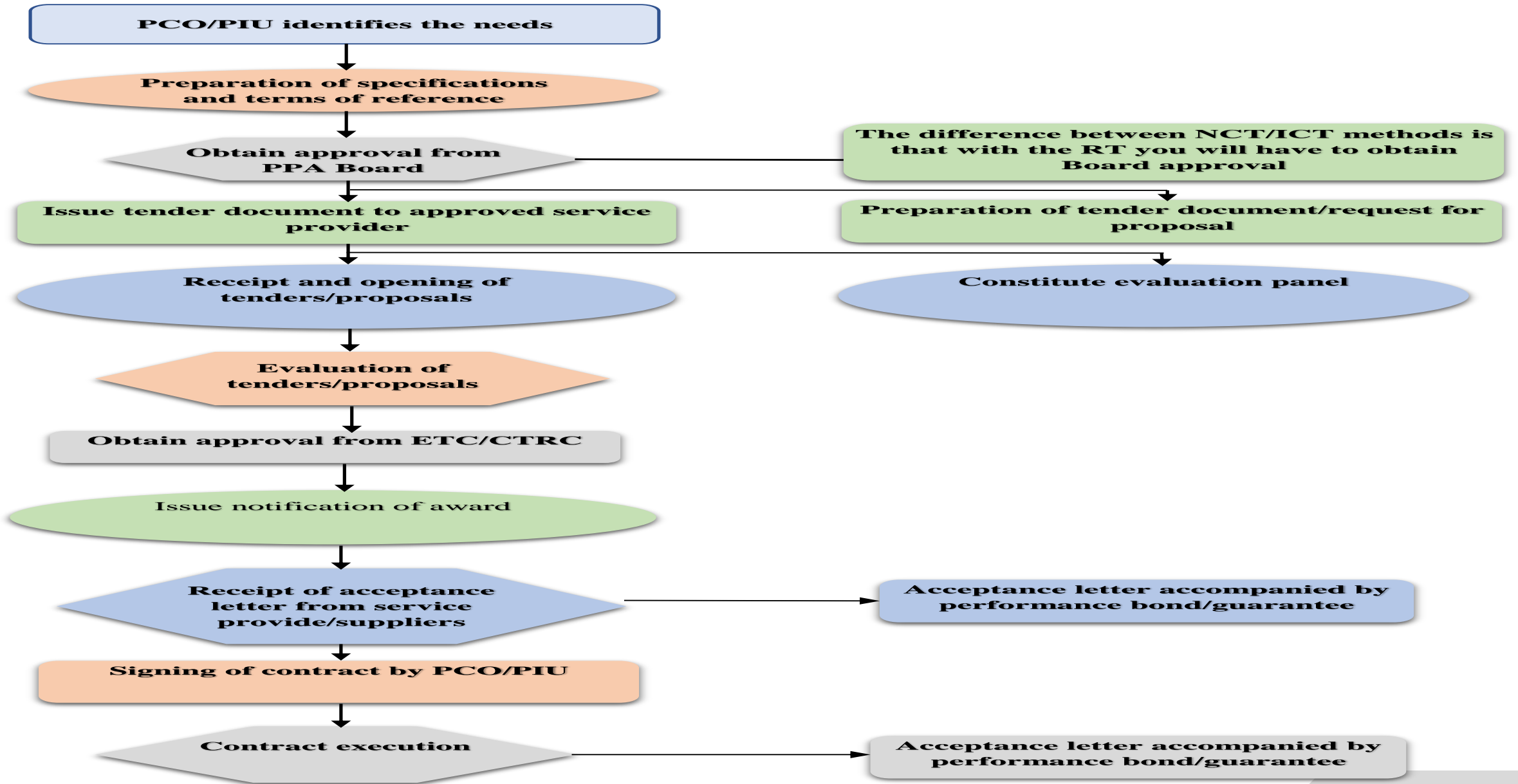
For the purposes of achieving economy, efficiency and expediency

and subject to the approval of Public Procurement Authority Board in accordance with [Section 38](#) of Act 663 as amended, the Entity may engage

in procurement by means of restricted tendering where it deems restricted tendering the most expedient alternative







*Process Flow for Restricted Tendering*

# PROCUREMENT METHODS

## National competitive tendering

In procurement proceedings in which the entity decides that only domestic suppliers, contractors, consultants or service providers may be invited to submit tenders, the entity shall employ national competitive tendering procedures.

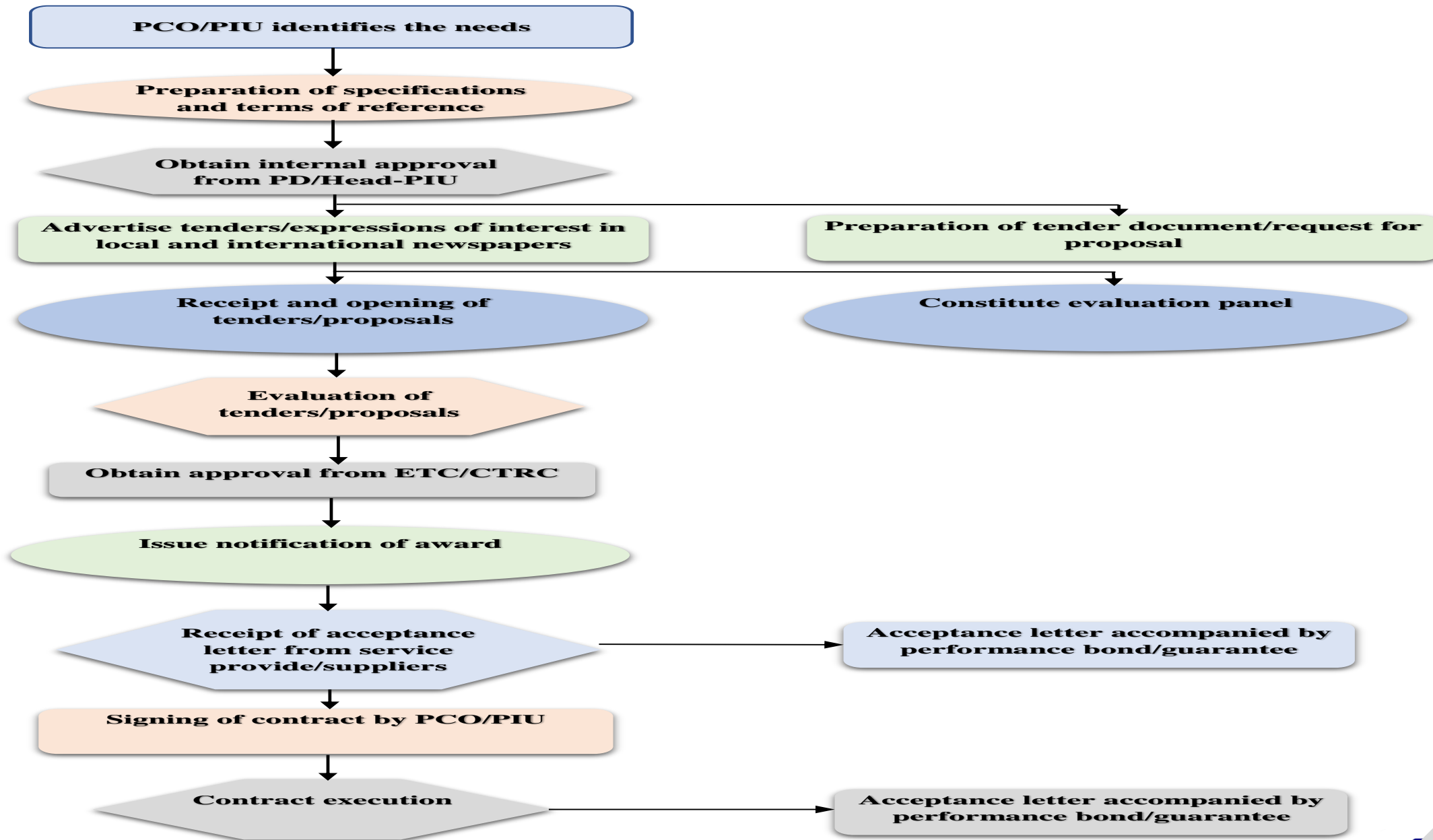


# PROCUREMENT METHODS

## International competitive tendering

International Competitive tendering shall be resorted to if the entity is of the opinion that it is in its interest and for purposes of economy, transparency, quality assurance and competition that international competitive tendering be used and that effective competition and supply of quality goods, works and services may not be obtained unless foreign firms are allowed to participate.






*Process Flow for National/International Tendering*

# PROCUREMENT METHODS

## Two-stage tendering


Where the entity intends to procure any goods, works and services for its use and it is not certain of the detailed specifications and characteristics of the goods or it is not feasible for the entity to formulate such specifications and characteristics, it may first take steps to obtain technical proposals or specifications and solutions as will meet its needs or requirements from suppliers, contractors, consultants and service providers so as to enable it review the proposals and determine which of the technical proposals, detailed specifications or solutions would best suit its needs and requirements.



# PROCUREMENT METHODS

## Framework Agreement

From time to time Procurement Entities (“Purchasers”) procure repetitive or common services. It has become imperative to adopt the best method of procuring (Framework Agreement) to save both costs of procurement and time spent in the procurement process. The expectation is that savings in cost and time will come from no requirement for retendering of each individual service, continuous improvement by transferring learning from one service to another, improved working relationships, continuous workflow and speed of procurement.



# Choice of Procurement Methods

Choice of procurement method is determined by:

- threshold or
  - circumstances .
- Thresholds are prescribed in Schedule 3 of the Act
  - Act 663 further determines circumstances which call for the use of non-competitive tendering methods i.e. Single Source Procurement or Restricted Tendering.

## Procurement Approving Threshold

Thresholds for procurement of goods, works and consultant services are detailed in Table Firth Schedule of Act 914.



# THRESHOLDS FOR PROCUREMENT METHODS

Procurement Method/Advertisement	Contract Value Threshold
<b>(1) INTERNATIONAL COMPETITIVE TENDER</b>	
(a) Goods	Above GHC 10,000,000.00
(b) Works	Above GHC 15,000,000.00
(c) Technical Services	Above GHC 5,000,000.00
<b>(2) NATIONAL COMPETITIVE TENDER</b>	
(a) Goods	More than GHC 100,000.00 up to GHC 10,000,000.00
(b) Works	More than GHC 200,000.00 up to GHC 15,000,000.00
(c) Technical Services	More than GHC 50,000.00 up to GHC 5,000,000.00
<b>(3) PRICE QUOTATION</b>	
(a) Goods	Up to GHC 100,000.00
(b) Works	Up to GHC 200,000.00
(c) Technical Services	Up to GHC 50,000.00
<b>(4) RESTRICTED TENDERING</b>	Subject to Approval by PB
<b>(5) SINGLE SOURCE PROCUREMENT</b>	Subject to Approval by PB
	<b>CONSULTANCY SERVICES      NO THRESHOLDS</b>
<b>(1) Quality Based Selection</b>	Refer to PPA Manual for Procedure
<b>(2) Quality and Cost Based Selection</b>	Refer to PPA Manual for Procedure
<b>(3) Selection Based on Consultants Qualification</b>	Refer to PPA Manual for Procedure
<b>(4) Fixed Cost Selection</b>	Refer to PPA Manual for Procedure
<b>(5) Least Cost Selection</b>	Refer to PPA Manual for Procedure
<b>(6) Individual Consultant Selection</b>	Refer to PPA Manual for Procedure
<b>(7) Single Source-Selection</b>	Subject to Approval by PB
<b>Mandatory use of Expression of Interest for ALL except Single Sourcing</b>	
<b>MANDATORY PRE-QUALIFICATION</b>	<b>CONTRACT VALUE THRESHOLDS</b>
(a) Goods	Above GHC 10,000,000.00
(b) Works	Above GHC 15,000,000.00
(c) Technical Services	Above GHC 5,000,000.00

## CATEGORY A & B

	Goods (GHC)		Works (GHC)		Services (GHC)	
Head of Entity	Current	New	Current	New	Current	New
	5,000	Up to 100,000	10,000	Up to 500,000	5,000	Up to 100,000
Entity Tender Committee (ETC)	5,000 to 100,000	100,000 to 1,000,000	10,000 to 200,000	500,000 to 15,000,000	5,000 to 50,000	100,000 to 1,000,000
Central Tender Review Committee	Above 800,000	Above 1,000,000	Above 1,500,000	Above 15,000,000	Above 800,000	Above 1,000,000

# GROUP PROJECT

A 3D illustration of four white, stylized human figures standing in a line, pulling on a thick orange rope. The rope is attached to the left side of the large, 3D, cyan-colored text 'GROUP PROJECT'. The figures are leaning forward, suggesting they are exerting effort to pull the text. The background is a plain white surface with a soft shadow under the figures and text.

## EXERCISE TWO

### PROCUREMENT PLAN

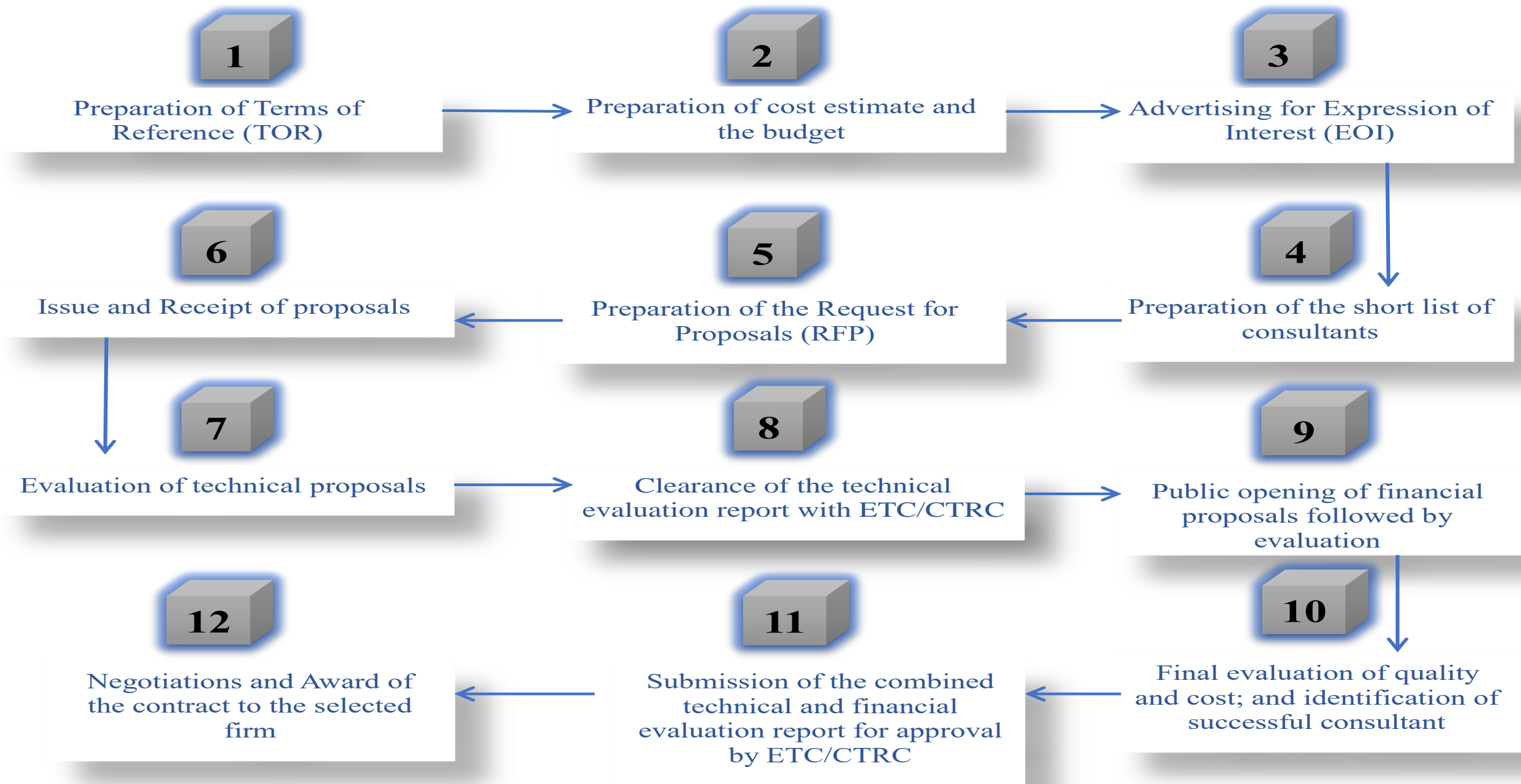
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# CONSULTANCY



## The methods of selection are as follows:

- ✓ Quality and Cost Based selection (QCBS).
- ✓ Quality Based Selection (QBS).
- ✓ Least Cost Selection (LCS).
- ✓ Selection Under Fixed Budget (SFB).
- ✓ Selection Based on Consultant's Qualification (SBCQ).
- ✓ Single Source Selection (SSS).



*Process Flow for the selection of consultants*

# Quality and Cost Based Selection (QCBS)

Quality and Cost-Based Selection (QCBS) is the standard method of selection for most consultant services, and uses a merit-point score system.

The technical capabilities and experience of the Consultants and Personnel, and the quality of the proposal submitted in response to the Terms of Reference, will receive the major percentage of the total points to be awarded.

# Quality-Based Selection (QBS)

Quality-Based Selection (QBS) may be suitable for complex, difficult to define, or highly specialised assignments, where the best expertise available is required without consideration of the price.

In this case, only technical proposals are evaluated, with the winning tenderer being invited for detailed negotiations to agree the price of the services and the contract





- The Request for Proposals (RFP) should not indicate the estimated budget, but may provide the estimated number of key staff and time, specifying that this information is given as an indication only, and that consultants are free to propose their own staff compositions and estimates.

The RFP may require submission of a technical proposal only (without a financial proposal), or request submission of both technical and financial proposals at the same time, but in separate envelopes (two-envelope system).

Only the financial envelope of the highest ranked technical proposal is opened. The rest are returned unopened to the tenderers, after the negotiations are successfully concluded.

If technical proposals only are invited, after evaluating the technical proposals, the Consultant with the highest ranked technical proposal will be invited to submit a detailed financial proposal.

The Procurement Entity and the Consultant should then negotiate the financial proposal and the contract.

Other aspects of the selection process are identical to those of QCBS.



# Selection under a Fixed Budget

Fixed Budget Selection (FBS) may be used when the assignment is simple, can be clearly defined, and there is only a strictly limited budget available for the services.

Consultants are invited to submit their best technical proposal within the fixed budget price and award of contract is made to the highest scoring technical proposal



# This method is only appropriate when

- ❑ the assignment is simple and can be precisely defined; and
- ❑ when the budget is fixed.

The RFP will indicate the available budget and request the consultants to provide their best technical and financial proposals in separate sealed envelopes, within the stated budget.

The TOR must be carefully prepared to ensure that the budget is sufficient for the consultants to perform all of the expected tasks.

Technical proposals will be evaluated and tenderers who pass the minimum technical score will be invited to a public opening of their financial envelopes.

Tenderers whose technical proposals fail to meet the minimum technical score will have their financial envelopes returned unopened.

Any financial proposals that exceed the indicated budget should be rejected.

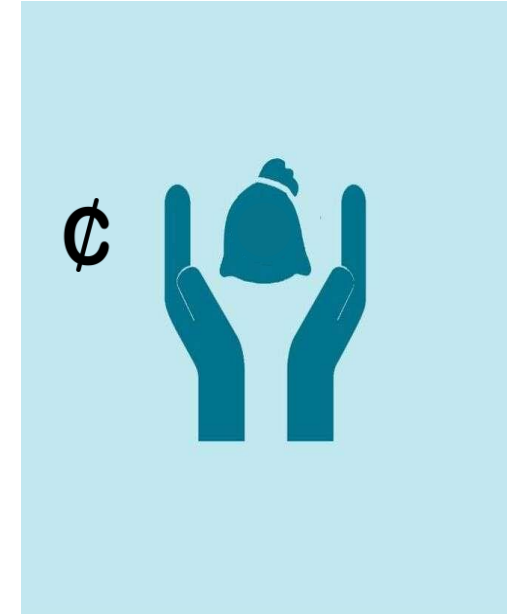
The Consultant who has submitted the highest ranked technical proposal within the budget will be selected for award of contract.

# Least-Cost Selection

This method is more appropriate to selection of consultants for assignments of a standard or routine nature (audits, engineering design of noncomplex works, etc.) where well-established practices and professional standards exist, and when the contract value is small.

A minimum qualifying score for the required quality is established and stated in the RFP.

A minimum qualifying score for the required quality is established and stated in the RFP.



# Least-Cost Selection Con'd

Technical and Financial Proposals are required to be submitted in separate envelopes by the short-listed tenderers.

Technical envelopes are opened first and evaluated. Those tenders scoring less than the minimum qualifying score are rejected.

The financial envelopes of the remaining tenderers are opened in public.

The firm with the lowest price is selected for contract award.

# Selection Based on Consultants' Qualifications

This method may be appropriate for very small assignments where the need for submission and evaluation of detailed competitive proposals is not justified.

Information on the consultants' experience and competence relevant to the assignment are requested.



The firm/consultant with the most appropriate qualifications and references is selected.

The selected firm is invited to submit a combined technical and financial proposal, and then invited to negotiate the proposal and the contract.



# SINGLE-SOURCE SELECTION

Single-source selection of consultants lacks the benefit of competition in regard to quality and cost, the selection is not transparent, and may encourage unacceptable practices.



Therefore, Single-source selection should only be used in exceptional circumstances. The justification for Single-source selection must be examined carefully to ensure economy and efficiency

# Single-Source Selection Cont'd

Single-source selection is appropriate if there is a clear advantage over competitive selection for instance:

- for tasks that are a natural continuation of previous work carried out by the Consultant;
- where rapid selection is essential (for example, in an emergency situation);
- for very low value assignments;
- when only one firm is qualified or has the necessary experience for the assignment

# Offences Relating to Procurement



**SANCTIONS**

# Offences Relating to Procurement

Section 92 of the Act as Amended states;

- (1) A person who contravenes a provision of this Act commits an offence and where a penalty is not provided for the offence, that person is liable on summary conviction to a fine not exceeding two thousand five hundred penalty units or a term of imprisonment not exceeding five years or to both the fine and the imprisonment.
- 2) The following also constitute offences under this Act:
  - a) entering or attempting to enter into a collusive agreement, whether enforceable or not, with any other supplier or contractor where the prices quoted in their respective tenders, proposals or quotations are or would be higher than would have been the case had there not been collusion between the persons concerned;
  - b) directly or indirectly influencing in any manner or attempting to influence in any manner the procurement process to obtain an unfair advantage in the award of a procurement contract:

# Offences Relating to Procurement

c) altering a procurement document with intent to influence the outcome of a tender proceeding and this includes but is not limited to

(i) forged arithmetical correction; and

(ii) insertion of documents such as bid security or tax clearance certificate which were not submitted at the bid opening; and

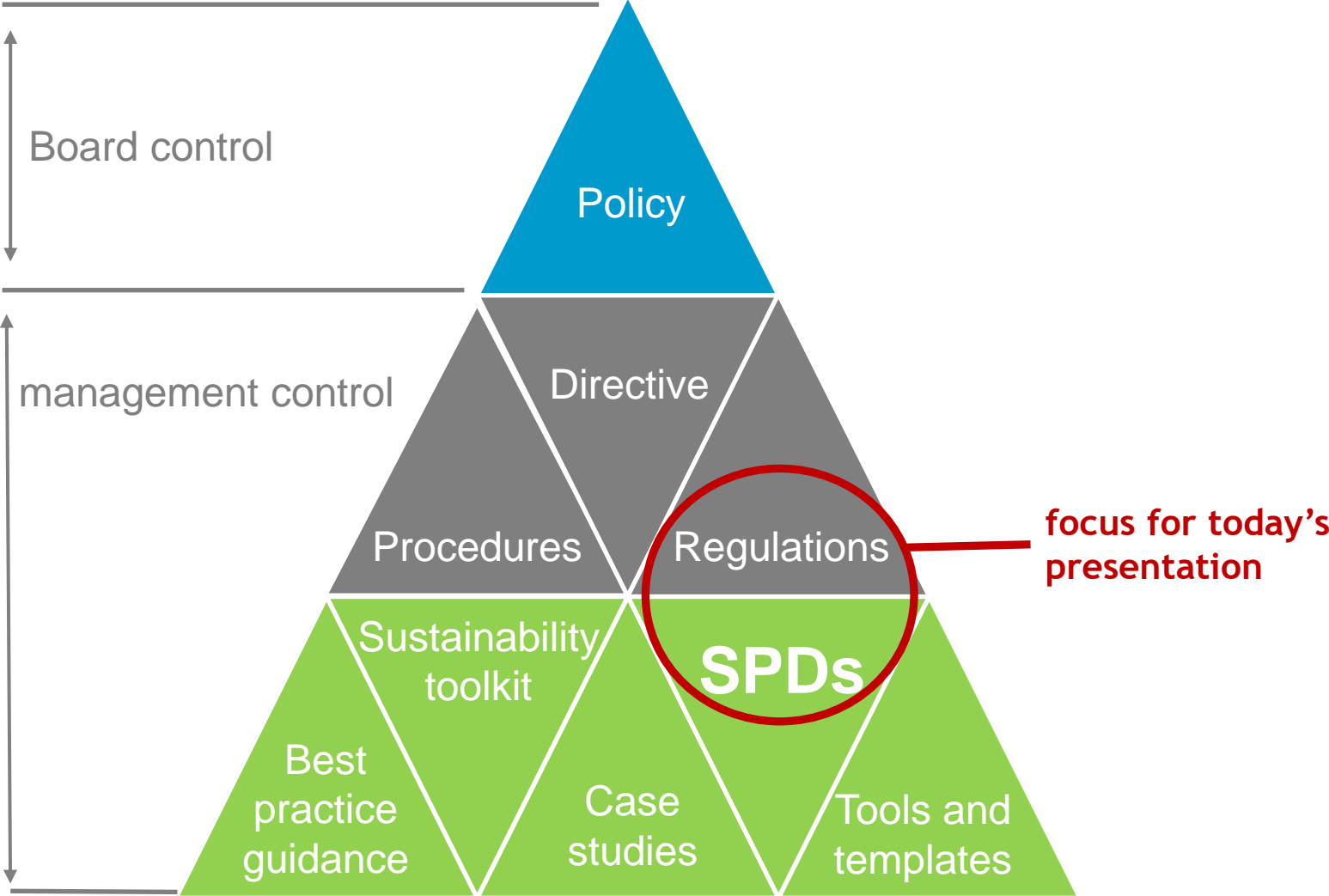
(d) request for clarification in a manner not permitted under this Act

(3) Despite anything to the contrary in enacting, a person who contravenes a regulation made under this Act is liable on summary conviction to a fine of not more than two thousand five hundred penalty units or to a term of imprisonment of not more than five years or to both.

**WORLD BANK**  
**PROCUREMENT FRAMEWORK**  
**OVERVIEW OF**  
**Regulations for Borrowers**

**Day 2**

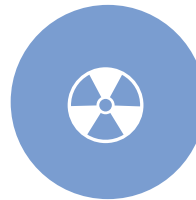
# New Procurement Framework



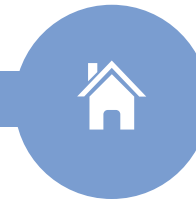
# KEY CHANGES

## Acronyms and Glossary

Eight Sections



Sixteen Annexes



*Structure of the Regulations for Borrowers*



# Sections I & II: Introduction and General Considerations (p1)

## ✓ *Vision (Section 1.A)*

“Procurement in Investment Project Financing supports clients to achieve value for money with integrity in delivering sustainable development”



# Sections I & II: Introduction and General Considerations (p1)

## ✓ *Core Procurement Principles (Section I.C)*



- ***Value for Money***
- ***Economy***
- ***Integrity***
- ***Fit-for-Purpose***
- ***Efficiency***
- ***Transparency***
- ***Fairness***

# Sections I & II: Introduction and General Considerations (p3)

## ✓ *Alternative Procurement Arrangements. (Section II, B)*

### The Bank may:



- *Agree to rely on and apply **the procurement arrangements of a multilateral or bilateral agency or organization** and an agency or entity of the Borrower; and may agree that such agencies/organizations representatives take a leading role in providing implementation support and monitoring*
- *Agree on and apply the **procurement rules and procedures** of an agency of the Borrower*

# Sections I & II: Introduction and General Considerations (p3)

## Alternative Procurement Arrangements shall be:

- *Consistent with Bank Core Procurement Principles and Governance*
- *Subject to the Bank's eligibility criteria (universal eligibility and debarment), ACGs (including inspection and audit rights), Sanctions regime; and*
- *Subject to the Bank's unrestricted right to exercise contract remedies*



## Section III: Governance (p5)

### ✓ *Roles and Responsibilities (Section III.A)*

- *Borrowers: implementation of the project, including carrying out procurement activities*
- *Bank, supervision (fiduciary role) and implementation support including:*
  - *Prior and Post Reviews*
  - *IPRs*
  - *Third parties assurance*
  - *Hands-on expanded implementation support*

## Section III: Governance (p6)

### ✓ *Roles and Responsibilities*

- *Hands-on expanded implementation support:*
  - *Drafting procurement documents*
  - *Identifying strengths and weaknesses of bids/proposals*
  - *Observing dialogues and negotiations with bidders/consultants*
  - *Drafting procurement reports and contract award documentation*
- *Project execution remains the Borrower's responsibility*

## Section III: Governance (p9 to p11)

### ✓ Eligibility (Section III.E)

- *More flexibility (SOEs, hiring Civil Servants, etc)*
- *Appropriate conditions for participation of SOEs that do not meet specific criteria to compete with private sector entities*
- *Remove additional constraints for contracting civil servants, on the basis that their services: (i) are critical to project implementation, (ii) do not create conflict of interest, and (iii) do not conflict with the Borrower's laws and the Bank's Procurement Framework*



## Section III: Governance (p9 to p11)

### ✓ Non-compliance (Section III.F)



- *More options beyond misprocurement (legal remedies)*
- *Corrective actions shall be proportional to the severity and impact of the infringement and shall take into account all relevant factors, including any valid action/s, inaction/s or omission/s by the Borrower, or any party involved in the procurement, including the Bank*
- *Professional judgement*



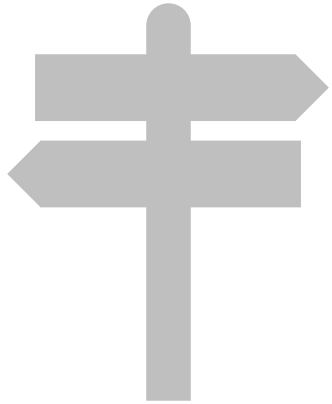
## Section III: Governance (p11, annex III)

### ✓ Complaints Handling

- *Introduced Standstill period (10 days), allowing unsuccessful bidders (standing) to lodge any complaints within an specific time prior to contract award*
- *Introduced debriefings by borrowers within Standstill period*
- *Business standards (response time)*
- *Borrowers shall record in STEP all complaints. In addition, borrowers shall inform the Bank of any procurement complaints subject to prior review*

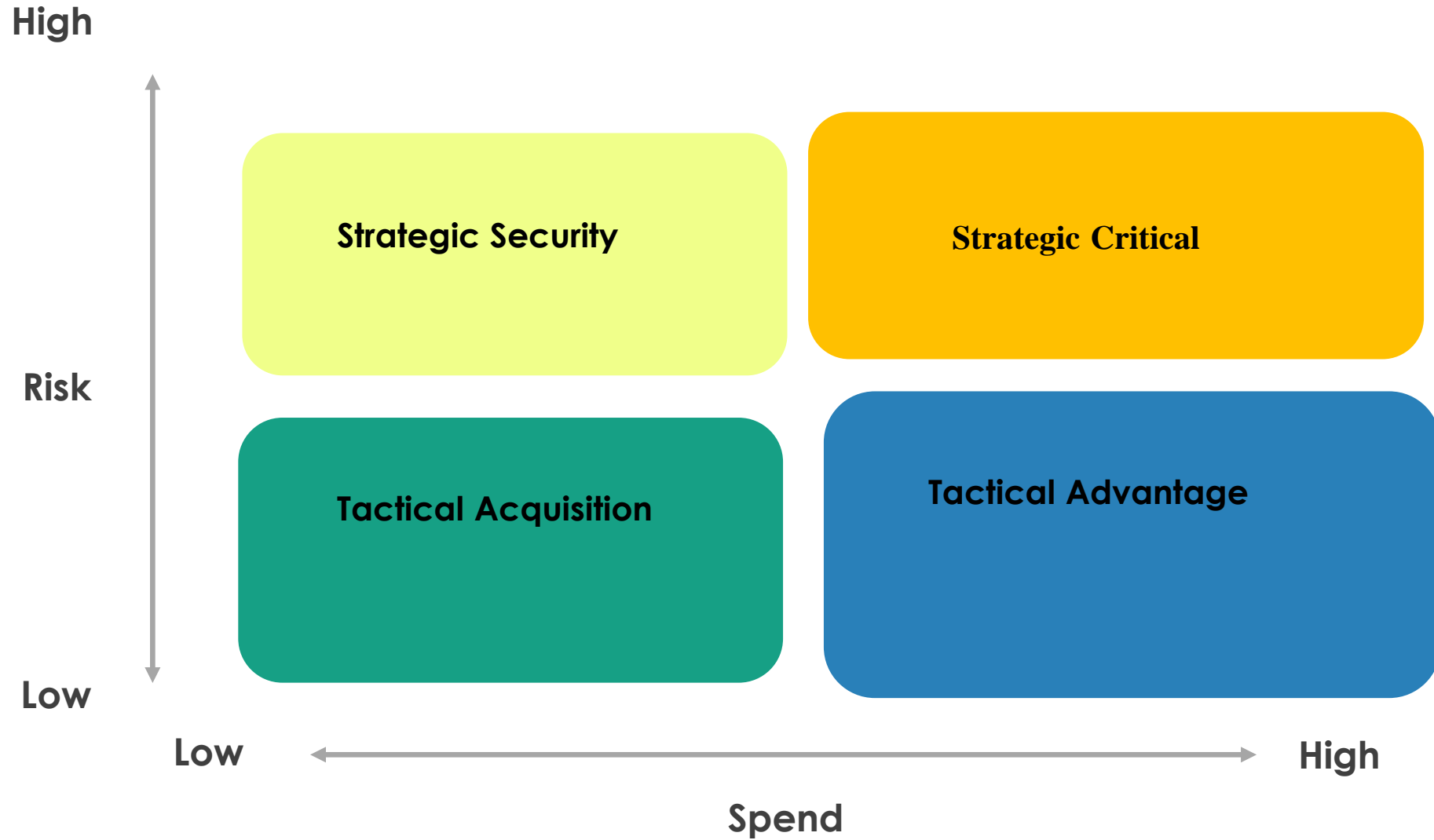


## Section IV: PPSD & Procurement Plan (p13, annex V)



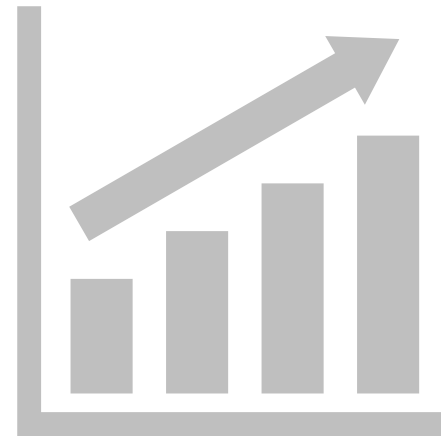
- ✓ **Project Procurement Strategy for Development (PPSD)**
  - *cornerstone, by Borrower with Bank support*
- ✓ **Activity Procurement Strategy**
  - *high risk and/or high value activities/contracts*
- ✓ **Procurement Plan**
  - *output of PPSD*

# SUPPLY POSITION

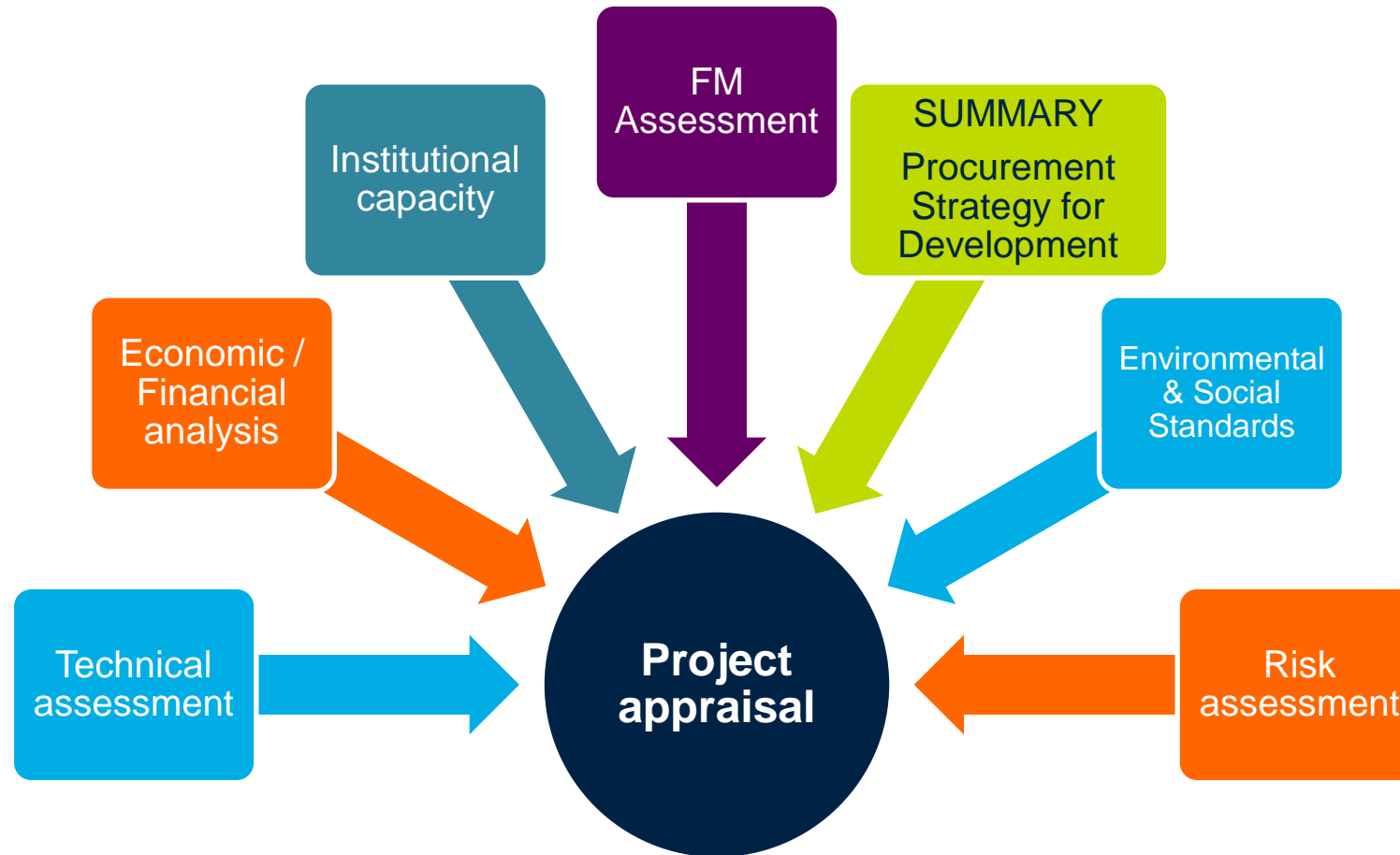


# PPSD Overview (annex V)

- 1. PPSD is required for all IPF projects*
- 2. Size and complexity of PPSD commensurate with the procurement*
- 3. PPSD is prepared by the Borrower. Bank staff may support with research, analysis, selecting options and drafting*



# PPSD – how does it fit into Overall Project Appraisal?



## Section V: General Provisions (p14, p15)

- ✓ Advance Procurement and Retroactive Financing
  - *from equivalence with procedures to consistency with Core Procurement Principles*
- ✓ Domestic preference
  - *not for plants*
- ✓ Sustainable procurement
  - *introduced Non-mandatory, consistent with Core Procurement Principles*
- ✓ Value engineering
  - *expanded use, reflected in SBDs and agreed by the Bank*

## Section VI: Specific Procurement Provisions (P18, P23)

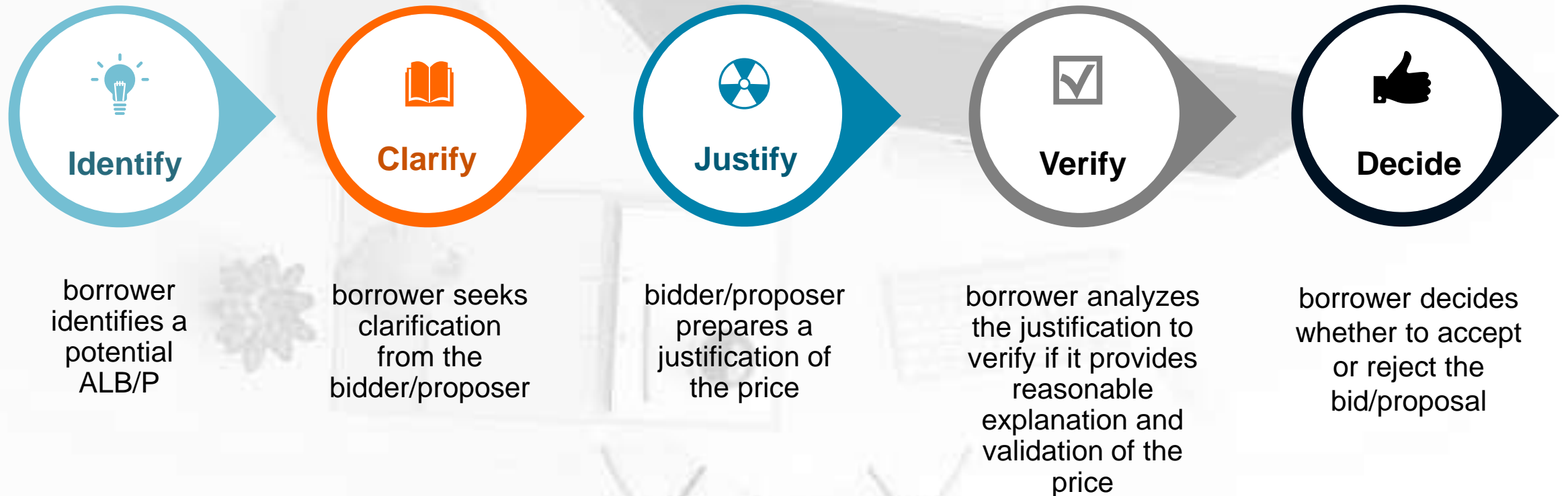
### ✓ Confidentiality



### ✓ Standstill Period



# The 5 stages in managing an ALB/P





- Enhanced provisions based on MDB Working Group findings
- Modified definition of ALB/P:

*Where the price, in combination with other elements, appears unreasonably low, to the extent that it raises material concerns as to the bidder's/proposer's capability to perform the contract for that price*



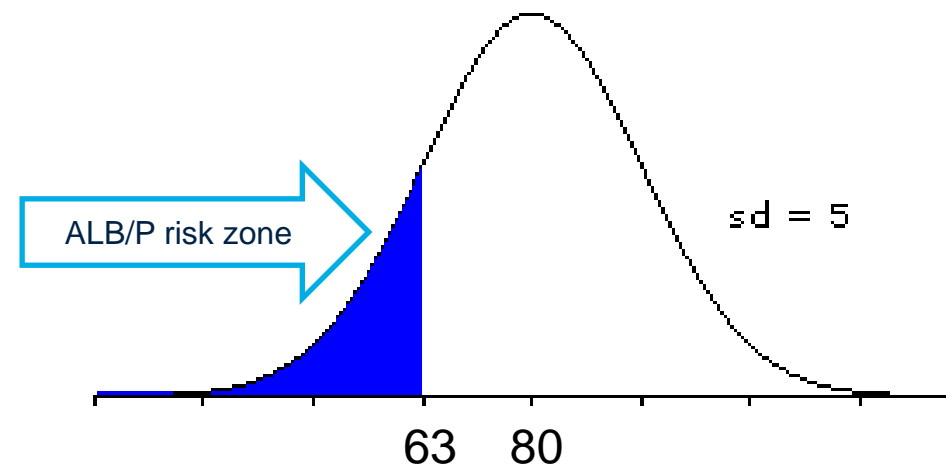
### Identification: Scenario 1

- Fewer than five compliant bids/proposals: Identification based on a comparison of the adjusted bid/proposal price, and its constituent parts, with the borrower's own cost estimate.

### Identification: Scenario 2

- At least five compliant bids/proposals: ALB/P risk zone is more than one standard deviation below the average of the compliant bids/proposals received.

Example Bids	\$M
Bid 1	72
Bid 2	92
Bid 3	82
Bid 4	101
Bid 5	53
Average	80
Standard Deviation	17
ALB/P threshold	63



# STANDARD DEVIATION

$$\sigma = \sqrt{\frac{\sum (X - \bar{X})^2}{n - 1}}$$

- Once borrower decides who to award contract to it must inform other bidders/proposers
- Send NIA to each bidder/proposer that submitted bid/proposal (but not to those who have previously been told they were not successful)
- Sending NIA starts the standstill period
- NIA must include:
  - ◆ details of the successful bidder + the contract price
  - ◆ names of all other bidders and their prices
  - ◆ statement why recipient was not successful
  - ◆ instructions on how to request a debriefing
  - ◆ date Standstill Period will end

## Section VI: Specific Procurement Provisions (p28)

### ✓ Contract Management

- *the aim of contract management is to ensure that all parties meet their obligations*
- *Introduced to ensure that:*
  - *contractor performance is satisfactory*
  - *appropriate stakeholders are informed*
  - *all contract requirements are met*
- *Set Key Performance indicators that focus on key areas of concern*

# Table 1. Selection Methods for Goods, Works and Non-Consulting Services

Approved Selection Methods	Market Approach Options										
Goods, Works and Non-Consulting Services	Open	Limited	Direct	Inter-national	National	PQ	Single Stage **	Multi Stage	BAFO	Negotiations	Rated Criteria
Approved Selection Methods											
Request for Proposals	<input type="checkbox"/>	<input type="checkbox"/>	-	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Request for Bids	<input type="checkbox"/>	<input type="checkbox"/>	-	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	-	<input type="checkbox"/>	<input type="checkbox"/>	-
Request for Quotations	<input type="checkbox"/>	<input type="checkbox"/>	-	<input type="checkbox"/>	<input type="checkbox"/>	-	<input type="checkbox"/>	-	-	-	-
Direct Selection	-	-	<input type="checkbox"/>	-	-	-	<input type="checkbox"/>	-	-	<input type="checkbox"/>	-
Particular Types of Approved Selection Arrangements											
Competitive Dialogue	<input type="checkbox"/>	<input type="checkbox"/>	-	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	-	<input type="checkbox"/>	-	-	<input type="checkbox"/>
Public Private Partnerships (PPP)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commercial Practices											
UN Agencies											
E-Auctions	<input type="checkbox"/>	<input type="checkbox"/>	-	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	-	-	<input type="checkbox"/>	-
Imports	<input type="checkbox"/>	<input type="checkbox"/>	-	<input type="checkbox"/>	-	-	<input type="checkbox"/>	-	<input type="checkbox"/>	<input type="checkbox"/>	-
Commodities	<input type="checkbox"/>	<input type="checkbox"/>	-	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	-	-	-	-
Community Driven Development (CDD)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	-	<input type="checkbox"/>	-	<input type="checkbox"/>	-	-	-	-
Force Accounts	-	-	<input type="checkbox"/>	-	<input type="checkbox"/>	-	-	-	-	-	-

Market Approach Option

\*\* Either one or two envelopes, see paragraphs 7.26 and 7.27 of this section

# Table 2. Selection Methods for Consulting Services

Approved Selection Methods	Market Approach Options					
Consulting Services	Open	Limited	Direct	Inter-national	National	Short List
<b>Selection Methods for Consulting Firms</b>						
Quality Cost Based Selection	<input type="checkbox"/>	-	-	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fixed Budget Based Selection	<input type="checkbox"/>	-	-	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Least Cost Based Selection	<input type="checkbox"/>	-	-	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Quality Based Selection	<input type="checkbox"/>	-	-	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Consultant's Qualification Based Selection	<input type="checkbox"/>	<input type="checkbox"/>	-	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Direct Selection	-	-	<input type="checkbox"/>	-	-	-
<b>Particular Types of Approved Selection Arrangements for Consultants</b>						
Commercial Practices						
UN Agencies						
Non Profit Organizations (such as NGOs)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Banks	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Procurement Agents	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Selection Methods for Individual Consultants</b>						
Selection of Individual Consultants	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	-	-	-

Market Approach Option

## National competition (p33)

- *Streamlined requirements, when the country's own procurement arrangements may be used, if they are acceptable to the Bank*
  
- *Criteria, see next two slides*



## Types of Selection Arrangements (G, W, non-CS) (p34)

### National competition – streamlined requirements criteria are:

- *Open advertising of the procurement opportunity at the national level*
- *Open to eligible providers from any country*
- *Contracts must appropriately allocate responsibilities, risk and liabilities*
- *The Bank's sanctions procedures and Anti-Corruption Guidelines apply*

- *Publication of contract award information*
- *Rights for the Bank to review procurement documentation and activities*
- *Effective and independent claims mechanism*
- *Maintenance of records of the procurement processes*
- *Right to submit complaints to the Bank*

# Types of Selection Arrangements (Goods, Works, non-Consulting Services) (p36 to 38)

## ✓ Introduced

- *Negotiations (p36)*
- *BAFO (p36)*
- *Competitive Dialogue (p37)*
- *E-reverse Auctions (p38)*



# Types of Selection Arrangements (G, W, non-CS) (P37)

## ✓ Expanded Flexibility (consistent with Core Principles)

### *Public Private Partnerships*

- *Removed downstream requirements Selection of the private sector partner should be based on approved selection methods*
- *PPP already initiated or contract awarded shall be consistent with Bank Core Procurement Principles, and other Policy requirements, such as eligibility, ACG and sanctions frameworks*
- *Unsolicited bids introduced*

# Types of Selection Arrangements (G, W, non-CS) (p38)

## UN Agencies (p38)

- *Use of UN-WB framework agreements*
- *Expanded the use of UN Agencies for the provision of goods, works, non-consulting and consulting services - particularly in emergency situations*



# Types of Selection Arrangements (G, W, non-CS) (p40)

## ✓ Expanded Flexibility (consistent with Core Principles)

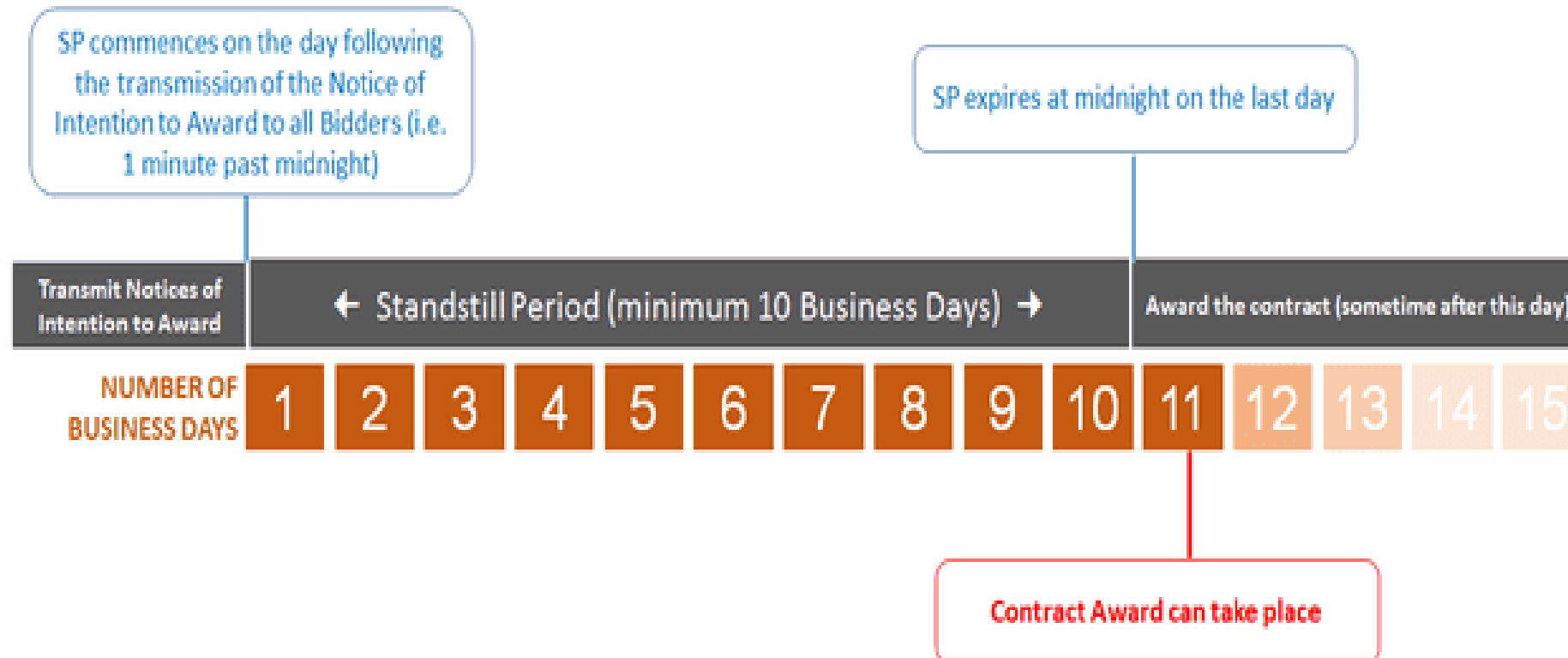
### ➤ *Framework Agreements*

- *Borrowers existing FAs may be used, consistent with Bank's Core Procurement Not limited to specific procurement approaches*
- *Removed ceiling amounts thresholds currently required under the Procurement Guidelines*
- *Expanded inciples*
- *to include consulting services*

# Key Changes - Selection of Consultants (p43 to 49)

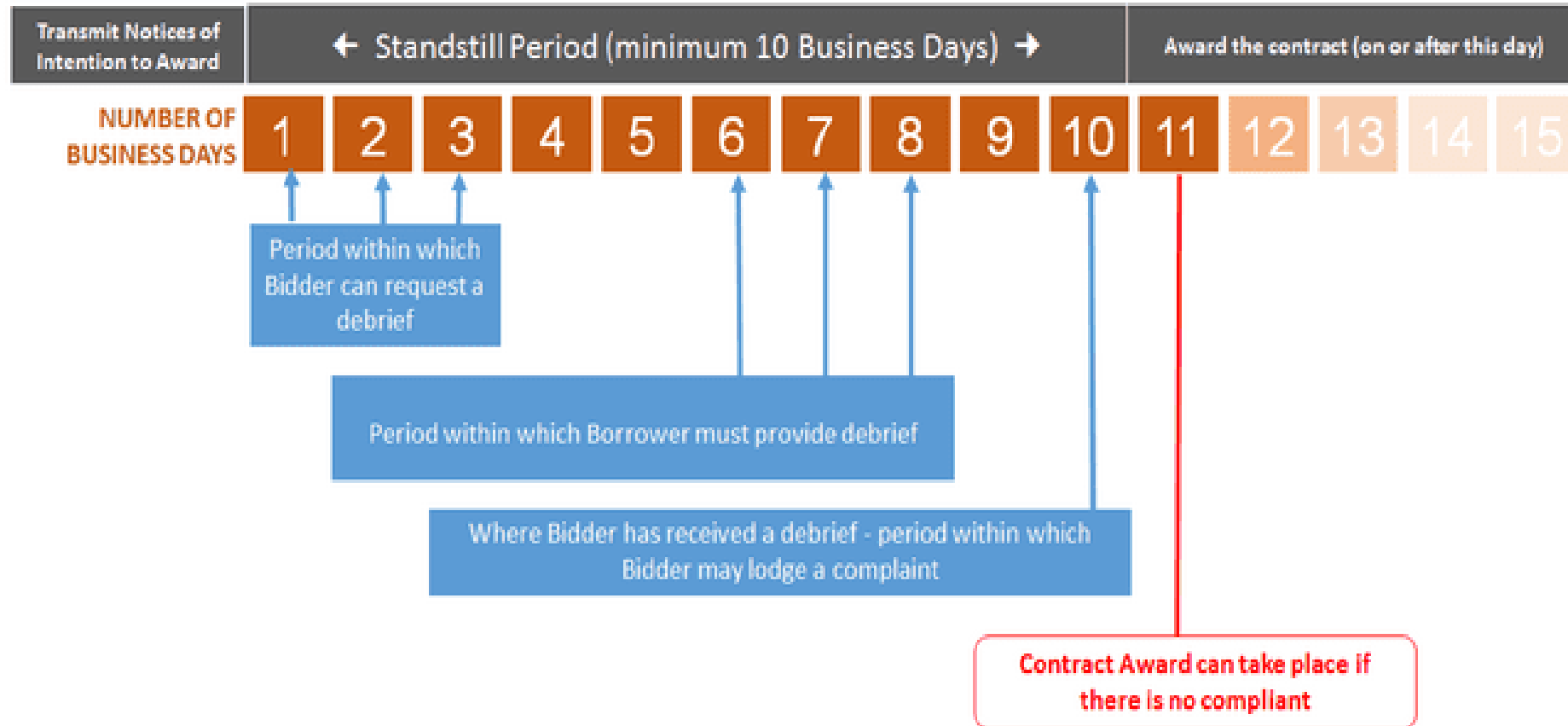
- ✓ Number of short-listed firms now 5-8 (p43)
- ✓ Shortlist restrictions (p43)
  - Fit for purpose, not prescriptive, removed geographic constraints*
- ✓ TOR must be released with REOI (p45 – 8.17)
- ✓ Advertising for CQS non-mandatory (p45 – 8.17)
- ✓ 7-days “pause” between the notification of the technical score and the opening of the financial proposals (p23 - 6.46)
- ✓ Project implementation support personnel (p48)
  - Borrower’s personnel hiring procedures, if acceptable to the Bank*

## Standstill Period – commences and expires where there are no delays to debriefs or complaints





## Standstill Period – time to request debrief and lodge complaints



# Creating a Procurement Plan Cont'd

## Expectations from you:

*While creating the PPSD, here's what you are expected to do:*

- ✓ Bring experience and knowledge of sector-specific procurement practices, including what works and does not work for the sector in that country.
- ✓ Ensure adequate resources and, in particular, a competent team, as required by the project.
- ✓ Market analysis should have knowledge of technical requirements and key industry players. This helps to determine optimum technical requirements, choice of technology, level of competition, and the supplier's past performance.
- ✓ Focus on key risk area, bottlenecks, under-performing KPIs, and proactive monitoring in implementation that will help ISR ratings in high-value contracts
- ✓ Monitor execution of the procurement strategy and procurement plan with a broad view to achieving the PDO.

# STEP

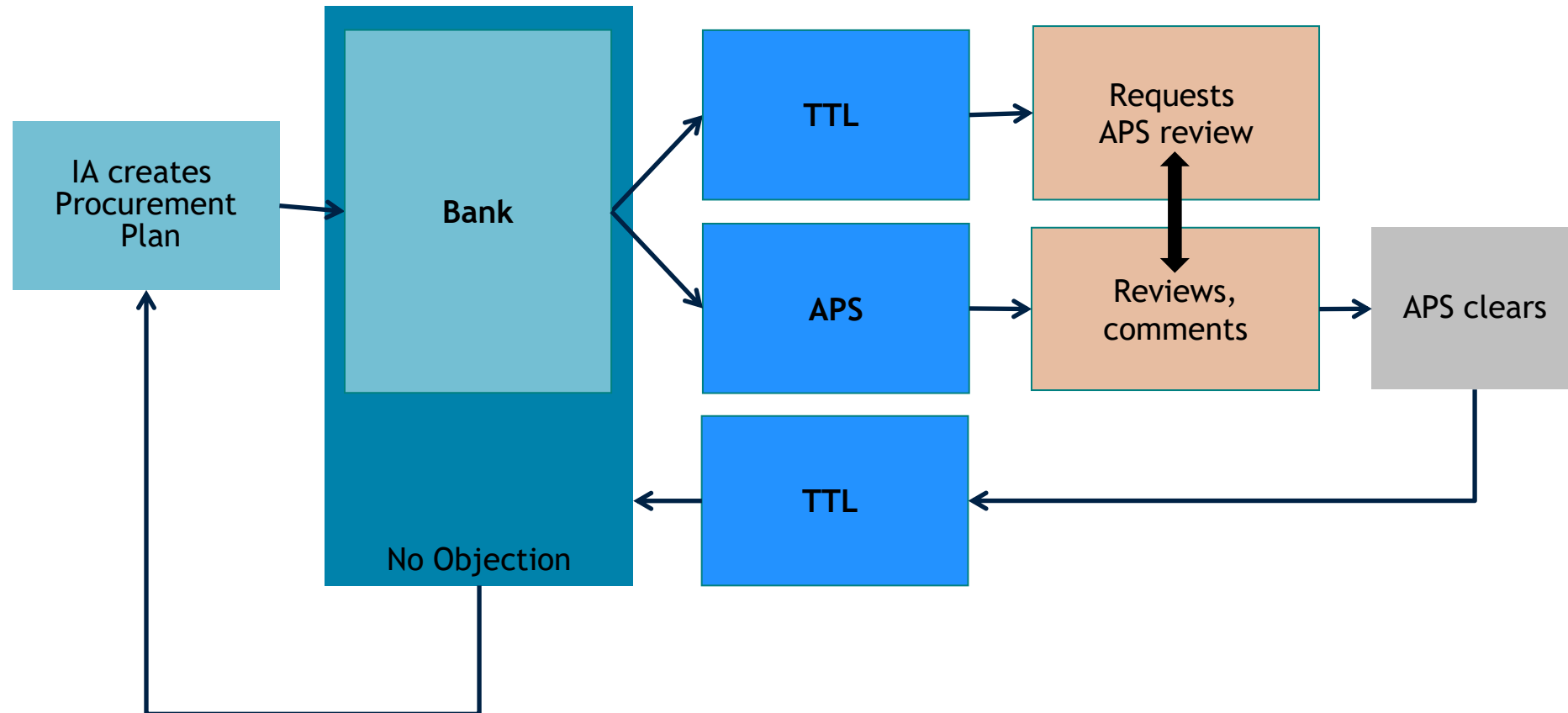
**Systematic Tracking of  
Exchanges in  
Procurement (STEP)  
electronic system:**

## ***Systematic Tracking of Exchanges in Procurement (STEP) electronic system:***

- enables the systematic planning and tracking of procurement activities throughout the project cycle, including online collaboration with clients and recording service level standards through workflow.
- brings all of its functions together under one integrated workspace.
- provides access to tools the Bank and Clients can use to streamline procurement processes.
- create and revise Procurement Plans, monitor performance and refer to related documentation, including activities that are prior reviewed by the Bank and contracts subject to post review.
- In AFR, this replaces the PROCYS and directly links Reviews to the Procurement Plan

# STEP

- Workflow – Review of Procurement Plan



# Urgent Need of Assistance and Capacity Constraints

Borrowers' national procurement arrangements in accordance with the relevant provisions of the Regulations may be accepted where the Borrower or the member country is:

- in urgent need of assistance because of a natural or man-made disaster or conflict (Emergency Situations); or
- experiencing capacity constraints because of fragility or vulnerabilities (including small states)





# Procurement Planning and Tracking Tool

- Bank's online procurement planning and tracking tools shall be used to prepare, clear and update the Procurement Plans and conduct all procurement transactions
- The Bank will provide training and handholding support in the use of the tool "Systematic Tracking of Exchanges in Procurement (STEP)"
- **No exceptions unless agreed to, in the Legal Agreement**





# Leased Assets



- Leasing may be used if it is agreed with the Bank and specified in the Procurement Plan
- Leasing may be used when there are economic and/or operational benefits like lower financing costs, tax benefits, assets required for a temporary period, reducing risks of obsolescence etc.
- Appropriate risk mitigation measures shall be incorporated and agreed with the Bank

# Procurement of Second-hand Goods

Second-hand Goods may be procured:

- only if agreed with the Bank and specified in the PP
- if this would be more economic and efficient
- risk mitigation measures reflected in the PPSD shall be applied
- procurement of second-hand and new Goods shall not be combined
- requirements/specifications shall describe minimum characteristics like age, condition and warranty provisions



# Sustainable Procurement

## Sustainable Procurement (SP)

- Application of sustainable procurement (SP) is not mandatory
- It is not proposed to be used under National Procurement Procedures
- SP requirements may arise from Borrower's policies on economic, social, and environmental sustainability
- SP aspects beyond those required by the Bank, can be added provided these are consistent with the Core Procurement Principles
- SP requirement should be identified and included in PPSD

# Sustainable Procurement Cont'd

- Proprietary SP requirements or otherwise available to only one firm shall normally not be used
- If SP requirement is included, relevant (a) evaluation and qualification criteria, and (b) KPIs for monitoring shall be specified
- International/National sustainability standards should be used provided they are consistent with the Core Procurement Principles
- Procurement Regulations allow use of SP at various stages such as prequalification/initial selection, technical specifications, evaluation criteria, contract conditions and contract performance monitoring

# Language

Default use of English/French or Spanish for all procurements, whether national or international, under the Bank funded projects

## Procurement Regulations

- also permit use of other languages
- stipulate that the contract signed shall always be in the language in which the Bid/Proposal was submitted, and
- mandate that the contract shall not be signed in more than one language

# Confidential Information

- Any information provided by Applicants/Bidders/Proposers/ Consultants in their Applications/Bids/Proposals, which they have marked as confidential shall not be disclosed
- Exception would be the information disclosure necessary to carry out obligations under the Contract (publication of contract award, debriefing of unsuccessful bidders etc.) or to comply with applicable Laws



# Confidential Information Cont'd

- Confidential information may include proprietary information, trade secrets and commercial or financially sensitive information
- Bid/Proposal evaluation information shall not be disclosed until notification of outcome of the evaluation
- In two stage selection, information relating to the evaluation of the Technical Part, shall not be disclosed until after notification of outcome of the evaluation



# Communications





- Communications between the Borrower and Applicants/Bidders/ Proposers/Consultants during the different stages of the Procurement Process shall be In writing with proof of receipt
- Written form would include e.g. by mail, e-mail, fax or e-procurement system
- A written record of meetings, such as early market engagement, Competitive Dialogue, and exploratory/clarification meetings shall be kept

# Publication of Procurement Opportunities

- Timely notification of procurement opportunities is essential in competitive procurement
- **A General Procurement Notice (GPN)** is required for each Bank financed project that is expected to involve open international competitive procurement (except for operations involving a program of imports)
- GPN containing specified information is submitted by the Borrower to the Bank prior to beginning any procurement activity under the project, and the Bank arranges for its publication in UNDB Online, and on the Bank's external website

# Publication of Procurement Opportunities

- A Specific Procurement Notice (SPN) is required for each open competitive procurement
- For national competitive procurement, SPN shall be advertised by the Borrower (a) on its free-access website, if available; (b) in at least one newspaper of national circulation; and (c) in the official gazette
- For open international competitive procurement (a) the Borrower shall also publish the SPN in UNDB online, and if possible in an international newspaper of wide circulation; and (b) the Bank shall arrange for its simultaneous publication on its external website

# Standard Procurement Documents

Procurement Regulations/Procedures specify that

- Bank's Standard Procurement Documents (SPDs), shall be used for international competitive procurement. These are available at [www.worldbank.org/procurement/standarddocuments](http://www.worldbank.org/procurement/standarddocuments)
- All contracts at or above the mandatory procurement prior review thresholds are subject to international advertising and the use of the Bank's SPDs (or other documents agreed with the Bank). This applies even if in a specific project, the Bank has agreed to increase procurement prior review thresholds beyond the set mandatory thresholds for prior review

# Standard Procurement Documents Cont'd

Procurement Regulations/Procedures specify that (contd..)

- Borrower's own procurement documents acceptable to the Bank may be used for national competitive procurement
- The Bank has set country specific thresholds for Procurement Approaches and Methods based on (a) market conditions and capacity of local industry; (b) interest of non-domestic firms; and (iii) level of risk of some industries



# Standard Bidding Documents (SBDs) vs Standard Procurement Documents (SPDs)

## SBDs vs SPDs

There are now 2 sets of documents = SBDs + SPDs

- SBDs continue to be used for any project governed by the Guidelines
- SPDs to be used for projects where the new Procurement Framework applies

## Scope of application of SPDs

- ◆ **mandatory** for international competitive procurements where the Project Concept Note is approved after 1 July 2016
- ◆ **may be used** (as amended) for national competitive procurements, with the Bank's agreement

# The new Standard Procurement Documents

## Standard Procurement Documents (SPDs)

- 23 SPDs launched 1 July 2016
- In development:
  - ◆ RFP Works (Design + Build)
  - ◆ RFP Streamlined
  - ◆ RFP Competitive Dialogue
  - ◆ SPD Framework Agreement
- Translations are underway (French and Spanish)

**NOTE:** Of the 23 launched 12 (relating to Works) have been updated to include Environment, Social, Health + Safety (ESHS) enhancements and published in January 2017. ESHS will be covered in detail in a separate seminar.

# List of Standard Procurement Documents

## Goods

**RFB Goods** (1 envelope)

**RFB Goods** (2 envelope)

**PQD Health Sector** (PVC)

**RFB Health Sector** (PVC)

**RFB Education** (Textbooks)

## Plant

**RFB Plant** (without PQ)

**RFB Plant** (with PQ)

**ISD Plant**

**RFP Plant** (2 stage)

## Works

**RFB Small Works** (1 envelope)

**RFB Small Works** (2 envelope)

**RFB Large Works** (without PQ)

**PQD Large Works**

**RFB Large Works** (after PQ)

**RFB Roads** (Output + Performance based)

**Works French Civil Code**

### Acronyms

**RFB** = Request for Bids

**PQD** = Prequalification Document

**RFP** = Request for Proposals

**ISD** = Initial Selection Document



# List of Standard Procurement Documents (cont.)

## Consulting Services

**RFP** Consultancy Services

## Other

**PQD** Management Services

**RFB** Management Services

**RFB** Non-Consultant Services

**RFB** Information Systems

**ISD** Information Systems

**RFP** Information Systems

## SPDs in development

**ISD** Works 2 stage (Design + Build)

**RFP** Works 2 stage (Design + Build)

**ISD** Streamlined universal

**RFP** Streamlined universal

**ISD** CD universal

**RFP** CD universal

**SPQD** Framework Agreement

**RFB** Framework Agreement

# Clarification of Procurement Documents

- Clarifications on Procurement Documents shall be requested in writing
- The Borrower shall issue clarifications in writing without identifying the source of the query. Clarifications together with addenda, if any shall be sent simultaneously to all recipients of the documents
- If necessary, the deadline for submission would be extended to allow adequate time for bidding



# Bid/Proposal Security

## Bid/Proposal Security for Goods, Works, and Non-consulting Services

- Securities of unsuccessful bidders/proposers shall be released once the successful bidder/proposer signs the contract and furnishes performance security

- The Borrower may require a Bid/Proposal security, in the specified form valid for 4 weeks beyond bid/proposal validity period



In place of a security, Bidders/Proposers may be required to sign a declaration

- If the security is issued by a foreign non-bank financial institution, the institution shall have a correspondent local financial institution to make it enforceable

# Bid/Proposal Preparation Period and Submission

## Bidding Time

- Bidding Time allowed shall be determined with due consideration of the complexity of procurement
- Minimum period allowed shall be 30 Business Days for open international competitive procurement. It shall be more for complex procurements
- A pre-Bid/pre-Proposal conference and/or site visit may be arranged for complex procurements
- Bids/Proposals may be submitted by mail, in person, or through e-procurement system (if available) anytime before submission deadline

# Joint Ventures

- Participating firms may form joint ventures with domestic and/or foreign firms to enhance their qualifications and capabilities
- A joint venture may be for long term (independent of a particular procurement) or for a specific procurement
- All partners in a joint venture shall be jointly and severally liable for the entire contract
- Mandatory joint ventures or other forms of mandatory association between firms shall not be accepted

# Bid/Proposal Validity

- Validity period specified in the RFB/ RFP documents shall be sufficient to enable the Borrower to:
  - ✓ complete the evaluation of Bids/Proposals
  - ✓ obtain necessary approvals within the Borrower's entity
  - ✓ allow for the Bank's prior review, if required in the Procurement Plan

# Bid/Proposal Opening

- Bids/Proposals shall be opened promptly after the deadline for submission
- In a single stage, two-envelope process, the date and time for opening the second envelope shall be appropriately announced after completion of technical evaluation
- Bids/Proposals shall be opened in public except in cases of BAFO or Negotiations or Competitive Dialogue. In the latter cases opening will not normally take place in public, but will be done in the presence of a Probity Assurance Provider acceptable to the Bank

# Bid/Proposal Opening Cont'd

- At the Bid/Proposal opening, the Borrower shall neither discuss the merits of any Bid/Proposal nor reject any except for those received late
- In single stage one-envelope process, the Borrower shall open Bids/Proposals received by the submission deadline, and read and record name, amount, discounts, bid/ proposal security, alternative bids/proposals (if permitted) etc.



# Bid/Proposal Opening Cont'd

In single stage, two-envelope process (with no BAFO or Negotiations, or Competitive Dialogue), the Borrower shall:

- Open first envelopes (technical bids/ proposals) received by submission deadline and read and record name, presence or absence of price Bid/Proposal, Bid security etc. Financial Proposals shall be kept unopened
- Open second envelopes (Financial Bids/Proposals) of those that meet the technical requirements, and read and record technical score, name, amount, discounts etc.
- After contract is signed, unopened financial bids/proposals of those that did not meet the technical requirements are returned

# Bid/Proposal Opening Cont'd

- In multistage process in which the first-stage submission does not include prices, the information to be read out is the same as in a single stage, two-envelope process
- In a multi-stage, two-envelope process, that includes BAFO or Negotiations or Competitive Dialogue, the Bid/Proposal opening will not take place in public, but will be done in the presence of a Probity Assurance Provider
- Record of opening shall be promptly sent to all Bidders/Proposers whose Bids/Proposals were opened and to the Bank in cases of prior review

# Bid/Proposal Opening Cont'd

- Where the opening has not been done in public, but in the presence of a Probity Assurance Provider, this information will be included in the Probity Assurance Provider's probity report. The report shall be promptly sent to all Bidders/Proposers whose Bids/Proposals were opened and to the Bank, along with the Notice of Intention to Award the contract.
- Only Bids/Proposals and discounts that are opened at Bid/Proposal opening shall be considered for further evaluation

# Late Bids/ Proposals

- Bids/Proposals received after the deadline for submission shall be declared late, rejected, and returned unopened to the Bidder/Proposer
- The electronic bidding system (if permitted) would not allow late submission of bids after due date & time

# Evaluation Criteria

## Evaluation Criteria – Requirements

- Evaluation criteria shall be proportionate and appropriate to the type, nature, market conditions, complexity, risk, and value of what is being procured
- Evaluation criteria should be quantifiable (such as convertible to monetary terms), to the extent possible
- RFB/RFP document shall include the complete evaluation criteria
- Only evaluation criteria and methodology specified in RFB/ RFP document shall be used
- Evaluation criteria shall be applied consistently to all Bids/Proposals



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# Evaluation Criteria Cont'd

## Range of scores for quality of Proposals (Consulting Services)

<b>Rated criteria</b>	<b>Merit point range</b>
<b>Methodology</b>	<b>20 – 50%</b>
<b>Relevant experience and qualification of key staff</b>	<b>30 – 60%</b>
<b>Relevant experience of firm</b>	<b>0 – 10%</b>
<b>Transfer of knowledge</b>	<b>0 – 10%</b>
<b>Nationals among key staff</b> [As reflected by the participation of nationals among key experts (whether presented by foreign or national firms), and calculated as the ratio of key national experts' time (in person months), to the total number of key experts' time (in person months), in the Proposal]	<b>0 – 10%</b>

# Evaluation Criteria Cont'd

## Combined Quality Cost Ratio for QCBS (Consulting Services)

<b>Description</b>	<b>Quality/Cost Score Weighting (%)</b>
<b>High complex / downstream consequences / specialized assignments (or may use QBS method)</b>	<b>90 / 10</b>
<b>Moderate complexity</b>	<b>70-80 / 30-20</b>
<b>Assignments of a standard or routine nature (or may use LCS method)</b>	<b>60-50 / 40-50</b>

# Domestic Preference

## Domestic Preference - Goods and Works

- When open international competitive procurement is used to procure Goods or Works, a margin of domestic preference may be provided in evaluation for the following
  - ✓ Goods manufactured in the Borrower's country, compared with Goods manufactured abroad; and
  - ✓ For works, Bids/Proposals from domestic firms compared with those from foreign firms
- Domestic preference shall not be applied to Plant
- The use of domestic preference is agreed in the Procurement Plan, and set forth in RFB/RFP document



# Domestic Preference Cont'd

## Domestic Preference - Goods

- Applicable only for Goods manufactured in the country of the Borrower, when compared to such Goods manufactured elsewhere
- Nationality of the manufacturer or Bidder shall not be a condition for eligibility. Place of manufacture shall determine eligibility
- Production facility in which the Goods will be manufactured or assembled is ongoing at least since time of Bid/Proposal submission
- Local labour, raw material, and components, including domestic transportation and insurance will account for 30% or more of the Ex Works price, and
- Domestic preference margin is added to CIP price of Foreign Bids, and not subtracted from the price of the local bid

## Domestic Preference Cont'd

- The responsive Bids/Proposals shall be classified into one of the following three groups – Groups A, B and C
- Group A - bids offering goods manufactured in the Purchaser's country, with local content more than 30% of EXW price; and the production facility has been engaged in manufacturing or assembling the goods at least since the date of bid/ proposal submission
- Group B - all other bids offering goods from within the country of the Purchaser
- Group C - bids offering goods of foreign origin to be imported directly or those already imported

## Domestic Preference Cont'd

- First the Most Advantageous Bid/Proposal is identified in each group
- Next the Most Advantageous Bids/Proposals are compared with each other. If a Bid/Proposal from Group A or Group B is the best, it shall be selected for contract award

### **If a Bid/Proposal from Group C is the best,**

- an amount equal to 15% of the respective CIP price shall be added to all Bids/Proposals in Group C, and shall be compared with the Most Advantageous Bid/Proposal from Group A
- Both prices shall include unconditional discounts and corrected for arithmetical errors
- If the Bid/Proposal from Group A is the best, it shall be selected. If not, the Most Advantageous Bid/Proposal from Group C shall be selected for contract award

# Domestic Preference Cont'd

## Domestic Preference – Works

- Preference for domestic Bidders/Proposers is applicable only in countries which qualify
- RFP/RFB document shall clearly indicate any preference to be granted to domestic contractors, and the information required to be furnished by them including details of ownership, to establish their eligibility for such preference
- Responsive bids/ Proposals shall be classified into two groups
  - ✓ Group A - Bids/Proposals offered by domestic Bidders/Proposers eligible for the preference; and
  - ✓ Group B - Bids/Proposals offered by other Bidders/Proposers
- First the Most Advantageous Bid/ Proposal is identified in each Group

## Domestic Preference Cont'd

- Next the Most Advantageous Bids/Proposals from the two Groups are compared with each other. If a Bid/Proposal from Group A is the best, it is selected for contract award

### **If a Bid/Proposal from Group B is the best,**

- an amount equal to 7.5% is added to all Bids/Proposals in Group B (corrected for arithmetical errors and unconditional discounts, but excluding provisional sums and the cost of day Works, if any) and are compared with the Most Advantageous Bid/Proposal from Group A
- If the Bid/Proposal from Group A is the Most Advantageous Bid/Proposal, it shall be selected for award of contract. If not, the Most Advantageous Bid/Proposal from Group B based on the first evaluation step shall be selected

# Domestic Preference

## Preference for Domestic Contractors illustration 4

Bidders are divided into Group A (Domestic Contractors) and Group B (other Contractors)

Bidders	A	A1	B	B1
Bid Prices	1,140	1,200	1,150	1,160
Adjusted Bid Price	1,040	1,100	1,000	1,050
Ranking	2	4	1	3
Domestic Preference 7.5%	-	-	75	79
Total for Comparison	1,040	1,100	1,075	1,129
Ranking	1		2	
Award	A1			

Adjusted Bid Price is the price Corrected for arithmetical errors, includes unconditional discounts, excludes provisional sums and cost of day works

# Currency

- In international competitive procurement, the Procurement Document shall allow submission of Bid/Proposal price as a sum of amounts in no more than three foreign currencies
- **The Borrower may also require that the price representing local costs shall be stated in the local currencies**
- Payments shall be made in the currencies in which payment has been requested by the Bidder/Proposer/Consultant in its offer

# Price Adjustment

- Price adjustment is made to reflect any changes in major cost components of the contract, such as labor and materials
- Price adjustment provisions are usually not necessary in simple contracts involving completion within 18 months, except when local or foreign inflation is expected to be high
- Prices are adjusted using official price indices. If such indices are not available, these may be derived from other documented sources
- Contract shall also have provision for consideration of changes in laws and regulations within 28 days prior to submission deadline that affect the contract price or delivery/ completion time





# Rejection of Bids/Proposals

## Rejection of Bids/Proposals - Goods, Works, and Non-consulting Services

- All Bids/Proposals may be rejected when
  - ✓ effective competition is lacking;
  - ✓ None of the Bids or Proposals is substantially responsive;
  - ✓ Prices are substantially higher; or
  - ✓ No Proposals meets the minimum technical qualifying score
- Lack of competition is not determined solely on the basis of number of Bids/Proposals. One Bid/Proposal may be valid if it was satisfactorily advertised, qualification criteria is not unduly restrictive, and if price is reasonable



# Rejection of Bids/Proposals contd'

- If all Bids/Proposals are rejected, causes shall be reviewed, and PPSD and RFP/RFB shall be appropriately revised
- New Bids/Proposals shall not be invited using the same RFP/RFB solely to obtain lower prices
- Fresh bids/proposals may be invited if prices are much higher than the updated estimates OR negotiations may be held with the Bidder/Proposer with the Most Advantageous Bid/Proposal to obtain a satisfactory contract through reduction in the scope and reallocation of risks and responsibilities
- However, substantial reduction in the scope or modification to the contract documents may require rebidding

# Rejection of Bids/Proposals contd'

## Rejection of Proposals - Consulting Services

- All proposals may be rejected when
  - ✓ all Proposals fail to respond to important aspects of the TOR;
  - ✓ all Proposals fail to achieve the minimum technical score; or
  - ✓ the offered price of the successful Proposal is substantially higher than updated estimate or the available budget
- If prices are high, then rather than re-inviting Proposals, the possibility of increasing the budget or scaling down the scope of services or person months may be investigated with the Consultant
- However, any substantial reduction in the scope of services will require a re-invitation



# Seriously Unbalanced or Front-loaded Bids/Proposals

## *Seriously Unbalanced or Front-loaded Bids / Proposals for Works and Plant*

- If the Bid/Proposal with the lowest evaluated cost is seriously unbalanced or front-loaded, the Borrower may require the Bidder to provide written clarifications and detailed price analysis. After evaluating the detailed price analysis, the Borrower may:
  - ✓ accept the Bid/Proposal;
  - ✓ require that performance security be increased (not exceeding 20% of the contract price); or
  - ✓ reject the Bid/Proposal

# Most Advantageous Bid / Proposal

## Most Advantageous Bid / Proposal

- The contract shall be awarded to the Bidder/Proposer/Consultant offering the Most Advantageous Bid/Proposal

## Goods, Works, and Non-consulting Services

- The Most Advantageous Bid/Proposal is the one that meets the qualification criteria and has been determined to be
  - ✓ substantially responsive to the RFB/RFP document; and
  - ✓ the highest ranked Bid/Proposal (when rated criteria is used) or the lowest evaluated cost (when rated criteria is not used).

## Consulting Services

- The Most Advantageous Proposal is the best evaluated Proposal

# Notification of the Intention to Award

## Notification of the Intention to Award - Goods, Works and Non-consulting Services



- Following the decision to award the contract or to conclude a Framework Agreement, the Borrower shall issue written notification of intention to award the contract (or conclude a FA) to the successful Bidder/Proposer
- The notification shall also be sent to other Bidders/Proposers except those already excluded from the procurement process at an interim stage

# Records

**Records** of all proceedings of the Procurement Process shall be kept in accordance with the requirements of the Legal Agreement



# Initial Selection and Prequalification

## Difference between Initial Selection and Prequalification

- **Prequalification** = select all substantially qualified Applications
- **Initial Selection** = select only the best (highest scoring) qualified Applications



- an option (in international competitive procurement) where borrower requests Best and Final Offers
- used following evaluation and before contract award, when the procurement would benefit from Bidders/Proposers having a final opportunity to improve their Bids/Proposals
- bidders/proposers are not required to submit a BAFO
- must signal in the procurement document that BAFO may be used
- Borrower's discretion to use will depend on market response
- there cannot be Negotiation after BAFO
- If BAFO is used must employ independent probity assurance provider

**BAFO and Negotiation are mutually exclusive i.e. you cannot use both in a single procurement**

- an option (in international competitive procurement) that allows the borrower to conduct a negotiation following evaluation and before contract award
- Borrower's discretion to use will depend on market response
- sequence: must negotiate first with the bidder/proposer with the MAB/P
- if the outcome is unsatisfactory, or agreement not reached, negotiate with next MAB/P
- must be held in presence of independent probity assurance provider
- may address terms and conditions, price, social/environmental aspects + innovation
- must not change the minimum requirements
- must signal in the RFB/RFP document that negotiation may be used

Negotiation and BAFO are mutually exclusive i.e. you cannot use both in a single procurement

# Questions

THANK YOU