

**Guidelines of the Japanese Grant Aid
for General Projects
and for Fisheries**

2000

JAPAN INTERNATIONAL COOPERATION AGENCY

Guidelines of the Japanese Grant Aid for General Projects and for Fisheries

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PART 1 Basic Principles

1 Application

These Guidelines set forth the general rules to be followed by the Government of the recipient country (hereinafter referred to as "the Recipient" that is defined in 2. (2) below) in using a Japanese Grant (hereinafter referred to as "the Grant") for the procurement of products and services for a development project (hereinafter referred to as "the project") which is agreed upon in the Exchange of Notes (hereinafter referred to as "the E/N") between the Recipient and the Government of Japan.

These Guidelines are to apply to those types of the Grant classified as Grant Aid for General Projects and Grant Aid for Fisheries (hereinafter referred to as "Grant Aid"). They replace the previous guidelines issued in 1991 under the title of "Guidelines for Procurement under Japanese Grant". These Guidelines are not applicable to other types of Japanese grant aid.

2 Parties Concerned

In these Guidelines, the Grant Aid means a set of arrangements where the Government of Japan provides to the Recipient a fund to be expended for procuring products and services necessary for the execution of a specific project. As parties to the arrangements, the Government of Japan will provide the Grant in accordance with the provisions of the E/N, whereas the Recipient executes the project using the Grant. The roles of the concerned parties, including Japan International Cooperation Agency (hereinafter referred to as "JICA"), the Consultant and the Contractor in relation to the procurement under the Grant Aid are understood as follows:

- (1) The Government of Japan is the provider of the Grant for the project. As the source of the Grant is the tax revenue from the Japanese citizens, the Government of Japan pays

serious attention to ensure the accountability on proper and effective use of the Grant for the project.

- (2) The Recipient is the recipient of the Grant, and is responsible for the execution of the project. As the client or the buyer, the Recipient conducts the procurement of products and services necessary for the project using the Grant provided by the Government of Japan.
- (3) JICA is the official agency designated by the Government of Japan as the organ responsible for necessary works aiming at expediting the proper execution of the project.
- (4) The Consultant is the firm who renders services to the Recipient with regard to designing, tendering and supervising the procurement for the project. Based upon the contract with the Recipient, the Consultant renders services to the Recipient.
- (5) The Contractor is the firm who provides products and services necessary for the project in accordance with the contract with the Recipient.

3 Reporting Requirement

The Recipient shall submit to the Government of Japan, through JICA, written reports on the progress of the project execution. The reports shall cover the following phases, and be submitted immediately after each phase is completed. The details of the reporting procedures will be advised by JICA to the Recipient.

- (1) Preparation of Tender Documents (including Tender Notice, Prequalification Documents, and Report on Detailed Design, where applicable)
- (2) Tender Evaluation
- (3) Preparation of Contract Documents
- (4) Final Inspection
- (5) Inspection against hidden defects

4 Project Modification

The Grant shall be used exclusively for procuring products and services necessary for the

project, the basic design of which is confirmed by the both Governments prior to the signing of the E/N. Therefore, it is the duty of the Recipient to execute the project in a manner described in the basic design report prepared for and submitted to the Recipient by JICA. If unpredicted circumstances, however, require any modification of the project, as illustrated below, the Recipient through the consultant shall obtain prior approval from the Government of Japan through JICA. The details of the procedures for project modification will be advised by JICA.

- (1) Obvious change in appearance of the building or facilities
- (2) Change of project sites
- (3) Change of major structure and/or strength of the building or facilities
- (4) Change of dimensions of the building or facilities or change on weight of the vessels
- (5) Change in quality or quantity of major equipment
- (6) Change that requires amendment of the verified contract
- (7) Other changes for which the Government of Japan or JICA deems the reporting necessary

PART 2 Guidelines for the Use of Consultants

1 General

(1) Consultant

The Recipient will enter into contract with the Consultant for consulting services with regard to the designing, tendering and supervising the procurement for the project.

(2) Eligibility

In accordance with the E/N, the Consultant shall be a Japanese national. The term “Japanese national” whenever used in these Guidelines means Japanese physical person or a Japanese juridical person controlled by Japanese physical persons.

(3) Recommendation

The Consultant is selected by JICA, and is recommended to the Recipient for each project. The recommendation is to expedite execution of the project by ensuring the technical consistency from the basic design of the project.

(4) Contract for Consulting Services

The Consultant shall render services to the Recipient with due diligence and sound technical judgment. The scope of consulting services provided by the Consultant will include the following:

- 1) To conduct the detailed design study for the project.
- 2) To assist the Recipient in conducting the procurement in fair and proper manner.
- 3) To provide appropriate supervision and guidance, on behalf of the Recipient, to the

contractor.

- 4) To conduct inspections on the products and services in the course of the project implementation, including cargo inspection contracted out to an inspection organization.
- 5) To conduct inspections at the completion stage and at the end of the warranty period.

2 Verification of Contract

(1) General

The contract concluded between the Recipient and the Consultant shall become effective only after verification by the Government of Japan. The contract, which is prepared as two identical documents, shall be submitted by the Recipient through Consultant to JICA for examination. Through this pre-verification process, JICA confirms that the contract is eligible for funding by the Grant. The Government of Japan verifies the contract in accordance with the E/N after pre-verification examination by JICA.

(2) Reference to the E/N

The contract will refer to the E/N as follows: "The Government of Japan extends its grant to the Government of (name of recipient country) in accordance with the Exchange of Notes signed on (day, month, year) between the two Governments concerning the (name of the project)."

(3) Period of Execution

The contract shall clearly stipulate the period for the provision of consulting services. The period shall not exceed the term of validity of the Grant as prescribed in the E/N (or Note Verbales exchanged for the purpose of extending the term).

(4) Contract Price

The total amount of the contract price shall not exceed the amount of the Grant specified in

the E/N. Each contract price shall be precisely and correctly stated in Japanese yen in the contract using both words and figures. If there is a difference between the price in words and that in figures, the price in words is deemed correct.

(5) Verification of Contract

The concluded contract shall clearly state that it shall become effective only upon its verification by the Government of Japan in accordance with the provisions of the E/N. Prior to the verification of the contract, JICA will confirm whether or not the contract is eligible for funding by the Grant.

(6) Payment Method

The Recipient shall conclude a Banking Arrangement (B/A) with a bank of Japan immediately after signing the E/N in order to make payment in accordance with the verified contract. In accordance with the E/N, the contract shall have a clause stating that "payment shall be made in Japanese yen through a bank of Japan under an Authorization to Pay (A/P) issued by the Government of (name of the recipient country) or its designated authority". Payment shall be made in accordance with the criteria stipulated by the Government of Japan.

(7) Amendment

If the contract requires amendment, it shall be done in the form of a contract of amendment, referring to the contract presently in force identified by its verification date and number. The contract of amendment shall clearly state that;

- 1) all the clauses except that which is amended, remain unchanged.
- 2) the contract of amendment shall become effective only after its verification by the Government of Japan.

PART 3 Guidelines for Procurement of Goods and Service

1 General

(1) Contractor

The Contractor shall be Japanese nationals who are capable of procurement of products and services in proper manner under the Grant.

(2) Eligible Source Countries

To be eligible for procurement under the Grant Aid, products shall be those produced in eligible source countries, the scope of which is set forth in the E/N. Procurement from countries other than Japan or the recipient country can be made in accordance with the E/N with the prior consent of the Government of Japan.

2 Procurement Procedures

(1) Procurement

(1-1) Competitive Tendering

The Grant shall be used with due attention to economy and efficiency as well as non-discrimination among tenderers who are eligible to provide the products and services. Competitive tendering is considered to be the best procedure to satisfy these principles.

(1-2) Procurement Procedures other than Competitive Tendering

Alternative procedures can be used with the prior consent of JICA, when particular circumstances render competitive tendering inappropriate. These alternatives can be used under the following circumstances:

- 1) where the Recipient demonstrates adequate reasons for procurement of spare parts for existing equipment;
- 2) where the Recipient demonstrates adequate reasons to maintain the continuity of services being provided under an existing contract;

- 3) where the number of qualified suppliers or contractors is extremely limited;
- 4) where the scale of procurement is so small that it is duly doubtful that potential tenderers would be interested, and the advantages of competitive tendering would be outweighed by the administrative burdens involved; or
- 5) where emergency procurement is required.

In the above-mentioned cases, the following procurement procedures may, as appropriate, be used provided that such use is in a manner that complies with the Competitive Tendering procedures to the fullest possible extent:

- 1) Selective Tendering
- 2) Direct Contracting

(2) Type of Contract

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

(3) Size of Contract

In the interest of obtaining the broadest possible competition, any contract for which a tender is invited should, whenever possible, be of a size large enough to attract tenderers. On the other hand, if it is technically and administratively possible to divide the project into two or more contracts, and if such division is likely to result in the broadest possible competition, the project should be so divided.

(4) Prequalification of Tenderers

Prequalification is advisable for large or complex work and, exceptionally, for custom-designed equipment or specialized services to insure, in advance of tendering, that the invitation to tender is to be extended only to those who are capable. Prequalification should be based entirely on the capability and resources of potential tenderers to perform the particular work satisfactorily, taking into account, in particular:

- 1) their experience and past performance under similar contracts;
- 2) their experience and past performance in the recipient country and its neighboring countries;
- 3) their capabilities with respect to personnel, equipment and plant; and
- 4) their financial position.

The invitation to prequalification for a specific contract shall be publicly announced and notified as described in paragraph (5) below. A clear statement of the scope of the contract and the requirements for qualification shall be sent to all those who wish to be considered for prequalification. As soon as prequalification is completed, the tender documents shall be issued to the qualified tenderers. All such tenderers that meet the specified criteria shall be allowed to tender.

(5) Public Announcement

Public announcement shall be carried out in such a way that all potential tenderers will have fair opportunity to learn about and participate in the tender. Invitation to prequalification or to tender should be advertised in at least one newspaper in general circulation, and if any, in the official gazette in the recipient country or a general circulation newspaper in its neighboring countries or Japan. Items to be included in the public announcement are:

- 1) Name of the Project;
- 2) Brief description of the Project;
- 3) Name of the executing agency of the Project;
- 4) Qualification required of tenderer;
- 5) Date, time and place of the delivery of tender documents (date, time and place of the delivery of prequalification documents, in case of prequalification); and
- 6) Other relevant and important information that potential tenderers may need to determine whether to submit a tender.

(6) Language

The tender invitation, tender documents, and contracts should be prepared in English,

French or Spanish.

3 Tender Documents

(1) General

Tender documents should provide all information necessary to enable tenderers to prepare valid offers for the products and services to be procured. Tender documents should be prepared by the Recipient, and be submitted to JICA prior to public announcement. They should generally include:

- 1) Instruction to tenderers,
- 2) Form of tender,
- 3) Form of contract,
- 4) Technical specification, and
- 5) Necessary appendices, etc.

Tender documents should refer to the Grant as follows:

"For the purpose of contributing to the execution of (name of the project stipulated in the Exchange of Notes) by the Government of (name of the recipient country), the Government of Japan will extend a grant to the Government of (name of the recipient country) in accordance with the Exchange of Notes signed on (day, month, year)."

If a fee is charged for the tender documents, it should be reasonable and reflect the cost of their production, and should not be so high as to discourage potential tenderers.

(2) Clarity of Tender Documents

Tender documents should be so worded as to permit and encourage competitive tendering. They should describe as clearly as possible the products and services to be procured, qualification required of the tenderer, eligible sources countries, size of contract, the place and

timing of delivery and/or installation, insurance, transportation, bond and warranty as well as other pertinent terms.

In addition, the tender documents, where appropriate, should define the tests, standards, and methods to be employed to judge conformity of the products and services to be procured with the required specification.

Drawings should be consistent with the text of the technical specifications.

Any additional information, clarification, correction of errors or alteration of tender documents should be promptly sent to all those who have requested the original tender documents in ample time before the date of tender submission so that tenderers can take appropriate action.

(3) Pricing and Currency of Tenders

Tender documents should clearly mention the following:

- 1) The tender price shall be stated in Japanese Yen on the basis of a lump sum price, in conformity with the specification stipulated in the tender documents, and
- 2) The tender price must be firm and final.

(4) Tender Bond or Guarantee

The amount of tender bond or other tender guarantees, if required, should not be set so high as to discourage potential tenderers.

The tender bond or other guarantees should be released to unsuccessful tenderers as soon as possible after the award of contract.

(5) Method of Tender Evaluation

Tender documents should clearly state the method of tender evaluation. The statement should include the following:

"the tenderer who, in compliance with the conditions and specifications stipulated in the tender documents, offers the lowest price shall be designated as the successful tenderer.

In case the tender is divided into several packages, the statement should include the

following; "The tender evaluation shall be done separately."

(6) Conditions of Contract

The tender documents should clearly define the conditions of contract such as the rights and obligations of the Recipient and the Contractor.

(6-1) Terms of Payment

The conditions of contract should state the terms of payment. In general, the terms of payment should be as follows:

- 1) In the case of contract for supply of products other than those mentioned in 2) below, the payment for the products will be made upon the completion of the shipment of the contracted products.
- 2) In the case of a contract for complex work for construction, or shipbuilding, or custom-designed equipment, a reasonable advance payment and/or regular progress payments may be applicable.

(6-2) Warranties

The conditions of contract should clearly state the time of commencement and the period of any warranties if those warranties are required.

(6-3) Performance Bond or Guarantee

The Contractor may be required to post a performance bond or guarantee. Such a bond or guarantee should be of a reasonable amount and should be released as soon as possible after the completion of the shipment of the contracted goods or of the services required under the contract.

(6-4) Force Majeure

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

(6-5) Settlement of Disputes

Provisions dealing with the settlement of disputes should be included in the conditions of contract. It is advisable that the provisions be based on the "Rules of Arbitration" prepared by the International Chamber of Commerce.

(7) Specifications

(7-1) Clarity

Specifications should set forth as clearly and precisely as possible the products and services to be supplied and the place of delivery or installation.

Drawings should be consistent with the text of specifications; where they are not, the text shall govern.

The specifications should identify the main factors or criteria to be taken into account in evaluating tenders. The specifications should be so worded as to permit and encourage the broadest possible competition.

(7-2) Brand Names

Technical specifications should be based on relevant characteristics and performance requirements.

Reference to brand names, catalogue numbers or similar classifications should be avoided unless in the case of procurement of particular spare parts.

(7-3) Standards

In the event that specifications require products to comply with industrial standards, specifications in the tender document should state that the products meeting the Japan

Industrial Standards (JIS) or other internationally accepted standards which insure an equal or higher quality than the standards mentioned will also be accepted.

4 Opening of Tenders, Evaluation and Award of Contract

(1) Time Interval between Invitation and Submission of Tenders

The time allowed for preparation and submission of the tenders should be determined with due consideration of the particular circumstances of the project, and the size and complexity of the contract. Generally, the deadline for the submission of tenders should be set at least thirty days after the date when tender documents are made available for potential tenderers.

(2) Procedures for Opening of Tenders

The date, time and place of the latest receipt as well as those of the tender opening should be announced at the time of invitation. All tenders should be opened in the presence of tenderers or their representatives at the fixed time and place. Tenders received after the announced deadline should not be considered and should be returned unopened. The names of the tenderers and total amount of each tender should be read aloud and recorded.

(3) Clarification or Alteration of Tenders

No tenderer should be permitted to alter its tender after the tenders have been opened. Clarifications without changing the substance of the tender may be accepted. The Recipient may ask any tenderer for clarification on its tender submitted, but should not ask any tenderer to change the substance or price of the tender.

(4) Process to be Confidential

After the public opening of the tenders, information relating to the examination, clarification and evaluation of tenders and recommendations concerning award should not be disclosed to tenderers or other persons not officially concerned with the process, until the

award of contract is announced.

(5) Examination of Tenders

Following the opening of tenders, it should be ascertained that (i) computations are free of material errors, (ii) the tenders are substantially responsive to the tender documents, (iii) the required certificates have been provided, (iv) the required securities have been provided, (v) documents have been properly signed, and (vi) the tenders are consistent with the instructions of the tender documents. If a tender does not substantially conform to the specifications, or contains inadmissible reservations or is otherwise not substantially responsive to the tender documents, it should be rejected. A technical analysis should then be made to evaluate each responsive tender and to enable tenders to be compared.

(6) Evaluation of Tenders

Tender evaluation shall be consistent with the terms and conditions stated in the tender documents. Those tenders which substantially conform to the technical specifications, and are responsive to other stipulations of the tender documents, shall be judged solely on the basis of the submitted price, and the tender who offers the lowest price shall be designated as the successful tenderer.

(7) Evaluation Report

A detailed evaluation report of tenders, giving the reasons for the acceptance or rejection of tenders, shall be prepared by the Recipient. The evaluation report will be submitted to JICA prior to the award of contract.

(8) Rejection of Tenders

Any tenders should not be rejected nor a new tender be invited using the same specifications solely for the purpose of obtaining lower prices in the new tender, except in the case where the lowest tender exceeds the cost estimates. Rejection of any tenders may only

be justified when tenders do not comply with the tender documents.

If all tenders are rejected, the Recipient should review the causes of the rejection, and consider revision of the specifications called for in the original invitation to tender.

(9) Award of Contract

The contract shall be awarded within the period specified for the validity of the tender, to the tenderer who, in compliance with the conditions and specifications stipulated in the tender documents, offers the lowest price.

No tenderer shall be required, as a condition of the award, to bear responsibilities or undertake services not stipulated in the tender documents.

5 Contract and Verification

(1) General

The Recipient shall enter into contract(s) with Japanese contractor(s) in accordance with the E/N. The contract(s) thus concluded shall become effective only after verification by the Government of Japan. The contract, which is prepared as two identical documents, shall be submitted by the Recipient through Consultant or Contractor to JICA for examination. Through this pre-verification process, JICA confirms that the contract is eligible for funding by the Grant. The Government of Japan verifies the contract in accordance with the E/N after pre-verification examination by JICA.

(2) Reference to the E/N

The contract shall refer to the E/N as follows;

"The Government of Japan extends its grant to the Government of (name of the recipient country) in accordance with the Exchange of Notes signed on (day, month, year) between the two Governments concerning the (name of the project)."

(3) Scope of Work

The contract shall clearly state all products and services to be procured under the Grant. In case that a contract includes products or services which are not covered by the E/N, such a contract shall not be verified by the Government of Japan.

(4) Period of Execution

The contract shall clearly stipulate the period of execution of work; that the period shall not exceed the term of validity of the Grant as prescribed in the E/N (or Note Verbales exchanged for the purpose of extending the term).

(5) Contract Price

The total amount of the contract price shall not exceed the amount of the Grant specified in the E/N. The contract price shall be precisely and correctly stated in Japanese yen in the contract using both words and figures. If there is a difference between the price in words and that in figures, the price in words is deemed correct.

(6) Verification of Contract

The contract shall clearly state that it shall become effective only upon its verification by the Government of Japan in accordance with the stipulations of the E/N. Prior to the verification of the contract, JICA will confirm whether or not the contract is eligible for funding by the Grant.

(7) Payment Method

In accordance with the E/N, the contract shall have a clause stating that "payment shall be made in Japanese yen through a bank of Japan under an Authorization to Pay (A/P) issued by the Recipient or its designated authority". Payment shall be made in accordance with the criteria stipulated by the Government of Japan.

(8) Responsibilities and Obligations of the Recipient

The contract shall clearly state the responsibilities and obligations of the Recipient in accordance with the E/N.

(9) Amendment

If the contract requires amendment, it shall be done in the form of a contract of amendment, referring to the contract presently in force identified by its verification date and number.

The contract of amendment shall clearly state that;

- 1) all the clauses except that which is or are amended, remain unchanged.
- 2) the contract of amendment shall become effective only after its verification by the Government of Japan.

*If application of the Guidelines is inconsistent with the laws and regulations of the Government of the recipient country, the Government of the recipient country is

requested to consult with JICA.