

Procurement Support Service For Japanese ODA Loan Projects

June 2011

Japan International Cooperation Agency
Crown Agents for Oversea Governments and
Administrations Limited.

FFP
JR
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1. Outline of the assignment

1.1 Background

In line with the Loan approval documentation for JICA Yen Loan Projects, the Borrower is requested to follow “the Guidelines for Procurement under Japanese ODA Loans” and “Guidelines for the Employment of Consultant under Japanese ODA Loans”.

The Borrower is entirely responsible for Consultant selection and the procurement of Good and Works in yen Loan Projects. However, JICA reviews proceedings, documents and decision making processes in connection with the procurement implemented by the Borrower, based on the individual loan agreements. For each procurement process, JICA requires the Borrower to submit applications for review and concurrence with the Procurement Guidelines and reviews, if appropriate, that the procurement processes are carried out with the agreed Guidelines.

During the yen loan project implementation planning stage, JICA has been implementing Special Assistance for Project Implementation (SAPI) to support the project start up, including consultant selection. JICA has also been undertaking Special Assistance for Procurement Management (SAPMAN) for promotion of procurement proceedings and for securing fairness and transparency in selection and proceedings.

After a proven case of misconduct related to consultant contract on a Yen loan project in Vietnam in 2008, the “Japan-Vietnam ODA Moral Turpitude Prevention Joint Committee Report” produced in February, 2009 by the “Japan-Vietnam ODA Moral Turpitude Prevention Joint Committee pointed to the need for the “strengthening of consultant employment support” as a measure on the Japan side for strengthening support to the process for the selection of Consultants, in particular, from the viewpoint of optimization (securing of fairness, transparency and non-discrimination between competitors) in the consultant selection process.

Due to the circumstances mentioned above, it was decided to engage an external consultant to ensure that the Borrower agencies follow the appropriate and transparent process for Consultant selection under the Yen Loan Projects.

Crown Agents were honored to be awarded this Contract to support the JICA Yen Loan dated 18 June, 2010.

1.2 Outline of the assignment

1) Criteria for selection of target projects

The Target projects (contracts) were determined based on the following criteria out of consultant selection proceedings implemented by Yen Loan Borrowers:

- (1) Consultant contracts of a contract amount (estimated) over 1 billion Japanese Yen
- (2) Consultant contracts of where Special Terms for Economic Partnership (STEP) applied
- (3) Consultant contracts for “Special Yen Loan” (Japan-tied)

- (4) Other consultant contracts where JICA recognized the need for support of the selection process
- 2) Scope of Works
- Procurement advisor should assist Borrowers in the Consultant selection process for Yen Loan Projects selected with the criteria above.
 - Procurement advisor should draw up reports on outline the progress of operations of this process for submission to JICA.

3) Policy of Operations

The procurement advisors have followed the operational policy as listed below, when they undertook the assignments;

- (1) Send a questionnaire to the Executing Agency before the procurement advisor selection process and have meetings to learn experiences of implementation of similar project in the past and then to provide advice and guidance related to conformity to L/A (loan agreement), GTC (General Terms of Conditions), “Guidelines for the Employment of Consultant under Japanese ODA Loans” and others, which are judged to be required in consultant selection proceedings for the individual projects, and to ensure Best Practice of the Procurement.
- (2) Support in the drafting of consultant selection documents (short list, RFP (request for proposal), TOR, etc.) by the Executing Agency, through the provision of the required guidance and advice with respect to conforming to the standard documents specified by JICA and on optimization (securing of fairness, transparency and non-discrimination between competitors) of consultant selection proceedings. Furthermore, in case of a STEP project, provide guidance on points to keep in mind related to contents of description in RFP and qualification requirements of Consultant. (Field operations I)
- (3) Provide advice and guidance to the Executing Agency so that the evaluation proceedings are appropriately taken, along with predetermined evaluation criteria and evaluation procedure, before proposal evaluation proceedings (before technical proposal in case of QCBS (Quality-Cost-Based Selection)). Furthermore, provide necessary guidance and advice on matters (items of description, contents of description and so forth) required for draw-up of proposal evaluation report and to advise the Executing Agency on key points and issues to keep in mind and adhere to during the procurement process. (Field operations II)
- (4) Provide appropriate advice and guidance to the Executing Agency, if considered necessary, from the viewpoint of the prevention of fraud and moral turpitude in the Yen Loan Project. Furthermore, if any fraud, corruption or potential evidence of either is identified, the procurement advisor should immediately report this to JICA and to receive instructions for actions to be taken.
- (5) Hold preliminary talks with JICA’s overseas offices at start of field operations and gather information on characteristics of the Project, Project progress information and an assessment of the procurement capability of the Executing Agency, from the viewpoint of their ability to smoothly implement the required project operations. In addition, report matters to JICA’s overseas office that they should keep in mind and the results of Executing Agency’s actions to

the JICA's overseas office on the last day of field operations (Common to Field operations I and Field operations II)

- (6) If the views of the procurement advisor are different from those of the Executing Agency, report these differences to JICA.
- (7) Take quick actions to respond to inquiries and consultation by telephone, e-mail and so forth related to consultant selection from the Executing Agency, even after termination of Field operations I and Field operations II, until operations related to the pertinent project terminate.
- (8) At the occasion of field operations, holds seminar for strengthening procurement supervising capability of the staff of JICA's overseas office and Yen Loan Project to concerned parties in the borrower countries, based on requests from the local JICA overseas offices. (Common to Field operations I and Field operations II)

4) Terms of reference

Procurement advisors were required to undertake the following works for each target project;

- (1) Preparation for each Field operation
 - Sending a questionnaire to the Borrower/EA to obtain further information to evaluate procurement capacity and experience of the Executing Agency to undertake procurement of consultant so as to meet the Borrower/EA's specific needs.
 - Preparing Inception Report and submit it to JICA Headquarters, which contains the seminar schedule, objective of the Field operation, and foreseen problems which will be discussed with the Borrower/EA.
- (2) 1st Field operation (for 1 week approximately)
 - Having a meeting with JICA Office to obtain information concerning the characteristics and progress of the project, capacity of the Borrowers/EAs and domestic procurement regulations before starting the assignments.
 - Giving advices and guidance to the Borrowers/EAs from the view point of the conformity with "Guidelines for the Employment of Consultants under for Japanese ODA Loans" , and relevant regulations and appropriateness of the consultant selection procedure, through meeting or seminar or other suitable measures.
 - Giving advices to the Borrowers/EA concerning preparation of the documents for selection of consultant such as Short Lists, Request for Proposal (including Terms of Reference) by using JICA's "SAMPLE DOCUMENTS FOR SELECTION OF CONSULTANT UNDER JAPANESE ODA LOANS" and other related materials.
 - Carrying out training seminars on the procurement guidelines and/or the procedure for JICA staff, if JICA overseas offices requests.
 - Reporting to JICA the result of the 1st Field operation and the points to be cared by JICA Office.
- (3) 2nd Field operation(for 1 week approximately)

- Reviewing the process after 1st Field Service and giving necessary advices to EA.
- Giving guidance and advices for proposal evaluation to the Borrower/EA, especially to members of Evaluation Committee, though meeting or seminar or other suitable methods by using “GUIDE FOR EVALUATION PROCEDURE FOR PROCUREMENT OF CONSULTANT FOR JAPANESE ODA LOANS”.
- Carrying out training seminars to JICA staff as JICA overseas office requests.
- Reporting to JICA the result of the 2nd Field operation and the points to be cared by JICA Office.

(4) Follow-up

After the 1st Field operation and 2nd Field operation, the following supports shall be provided continuously,

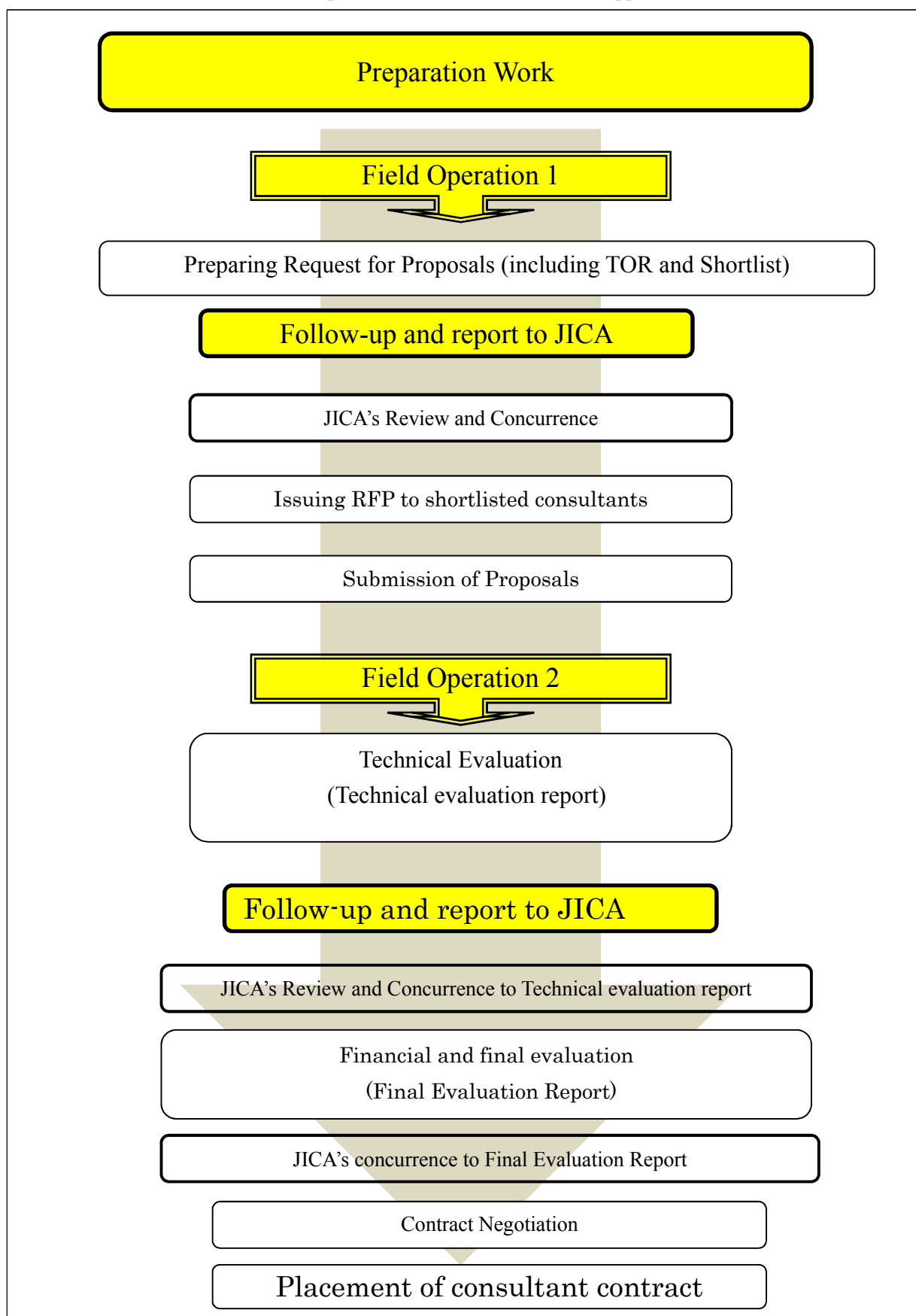
- Maintaining the good communication with the Borrowers/EA by E-mail, Telephone and other communication measures, and by using local agents, if necessary, in order to provide timely and proper assistance on the selection process.
- Giving necessary guidance and advices from the view point of anti-corruption, and reporting to JICA if the Borrowers/EA does not follow the instructions or advices from procurement advisor.

(5) Reporting

- Submitting a Field Operation Report both to JICA Headquarters and JICA Overseas Office in charge, which contains the problems that the Borrowers/EA has encountered during the selection process (including the measures taken) and the foreseen problems which the project may encounter.

5) Operational flow of Procurement support

Chart-1 Operational flow of Procurement support



1.3 Project List

Table-1 Project list

No	Name of project	Country	Procurement Advisor	Field operation 1	Field operation 2
1	Bucharest International Airport Rail Access Link Project	Romania	Michel Russell (1) Chris Harvey (2 & 3)	20 – 26 June	5 - 11 December (2 nd) 5 - 11 March (3 rd)
2	Flue Gas Desulphurization Construction Project for Ugljevik Thermal Power Plant	Bosnia y Herzegovina	John Steer	30 August – 4 September	20 - 24 March
3	Sihanoukville Port Multipurpose Terminal Development Project	Cambodia	Karen Harreis	Canceled	
4	Non Revenue Water Control Project in Sao Paulo State	Brazil	Jamie Shotters	17 - 23 Oct	
5	Himachal Pradesh Crop Diversification Project	India	Chris Smith	28 November - 9 December	
6	Yamuna Action Plan Project (III)	India	Chris Smith	22 -29 January	
7	Tamil Nadu Biodiversity Conservation and Greening Project	India	Noel Setter	13 - 19 Feb	
8	I. Financial Sector Project for the Development of Small and Medium-sized Enterprises II. Khulna Water Supply Project	Bangladesh	John Steer	1 - 11 March	
9	I. Lumut Balai Geothermal Power Plant Project II II. Bandung Intra Urban Toll Road Project (Phase I) III. Hululais Geothermal Power Plant Project IV. Indramayu Coal Fired Power Plant Project V. Tulehu Geothermal Power Plant Project	Indonesia	John Steer	9 April – 5 May	
10	Rajasthan Forestry and Biodiversity Project (Phase II)	India	Mike Russell	2 – 9 April	
11	Andra Pradesh Rural High Voltage Distribution System Project	India	Chris Harvey	21 – 28 May	

2. Potential problems or risks in the Consultant selection process identified under Yen loan projects

The following problems and risks were identified by procurement advisors through the assignments;

[Project appraisal]

- To improve the pace of progress on Yen Loans projects requires robust Borrower project management and procurement capacity. Too many executing agencies are weak in these key areas, leading to delays in project commencement and implementation. Much more emphasis could be made in assessing the project management and procurement capacity of the proposed executing agencies during project preparation phase and critically at project appraisal. There does not appear to be a formalized, systematic approach within JICA to assessing capacity at project appraisal stage nor in recommending remedies to deal with capacity gaps downstream.

[Project mobilization]

- The Project Management Unit (PMU) not being set up and staffed early enough in the life cycle of the Loan.
- Ensure that loan agreements are signed in accordance with scheduled dates to ensure procurement and other related aspects are not delayed.

[Capacity of the Executing Agency]

- A lack of staff retention and lack of capacity within the PMU to conduct procurement activities.
- There is a wide variation in the level of experience within the PMUs in the different Borrower countries and within different PMUs in the same Country. This means that risks can vary greatly between the Yen Loan Projects and the response and support required from the Consultants may need to vary greatly. Some PMUs have had experience of creating specific terms of reference, expression of interests, requests for proposals and evaluation procedures; however, others lack basic information. This will need to be carefully assessed and action taken.

[Difference of procurement practices]


- Possible conflict between recipient government requirements (e.g national laws and /or regulations) and JICA requirements of contract to be utilized for the consultant selection process

3. Recommendation for procurement support in future

- Assessments of the executing agency's project management and procurement capacity should take into account the experience in managing other complex donor-financed projects (and take note of the capacity strengthening provided on these projects). The World Bank, for example, requires project management and procurement capacity assessments to be undertaken during project appraisal, using standard diagnostic tools.
- Project supervision by JICA staff should also include closer monitoring of project management and procurement activities, using the project management/procurement capacity strengthening strategy proposed and agreed at project appraisal as their starting point.
- Earlier input into the project formulation process to give procurement a higher consideration and thus ensure that the procurement timetable is followed.
- JICA should consider a contract longer than one year so the procurement advisor can provide consistent support by the same advisors for a large proportion of the period of the Procurement Process.
- At an early stage on the first field operation, tailor the level of support required throughout the lifetime of the project, depending on the capacity of the PMU staff and update this need during the lifetime of the Project based on the possible capacity improvement achieved through supporting and advising.
- Provide closer support more frequently to actively encourage the management of the procurement process.

Appendix

APPENDIX 1 : Presentation - Guidelines for Employment of Consultants



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Name of Implementing Institution and Project

Procurement Support Workshop

Training Session on Guidelines for the Employment of
Consultants under Japanese ODA Loans

Date

1




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Outline Plan for Workshop

- Day 1:
 - Training Session on Guidelines for the Employment of Consultants under Japanese ODA Loans
 - Development of Consultant Selection Documents: Procedures and Practice
- Day 2:
 - Development of Consultant Selection Documents: Procedures and Practice (continued)
 - Activities (development of RFP, TOR, evaluation criteria)
- Day 3:
 - Activities (development of RFP, TOR, evaluation criteria, procurement timetable)

2




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Training Session on Guidelines for the Employment of Consultants under Japanese ODA Loans

- JICA's Suite of Procurement Documents
- General Principles for Employment of Consultants
 - Borrower's Responsibilities
 - JICA's Review
 - Corrupt/Fraudulent Practices
- Consulting Services
 - Types of Consultants
 - Responsibilities of Consultants
 - Conflicts of Interest

3




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Training Session on Guidelines for the Employment of Consultants under Japanese ODA Loans - 2

- Selection Procedures
 - Method of Selection
 - Preparation of the Terms of Reference (TOR)
 - Preparation of Short List of Consultants
 - Preparation of the Request for Proposals
 - Reference to JICA
- Evaluation of Proposals
- Contract Negotiations
- Contract Management


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JICA's Suite of Procurement Documents

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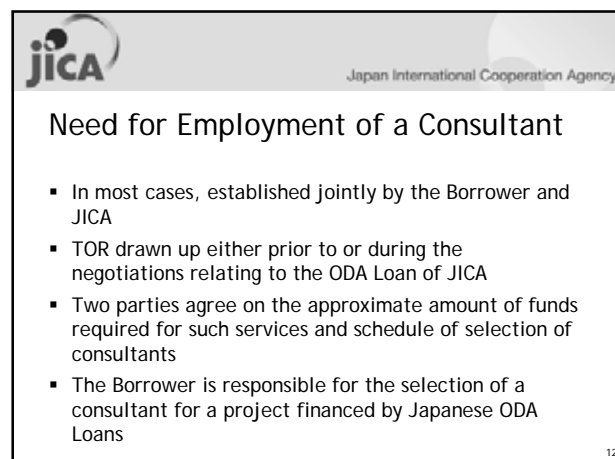
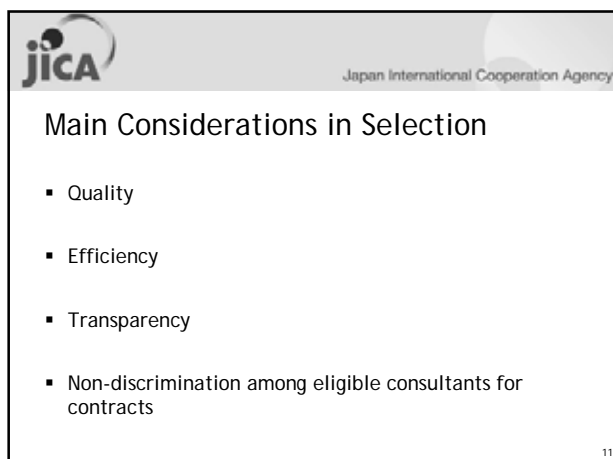
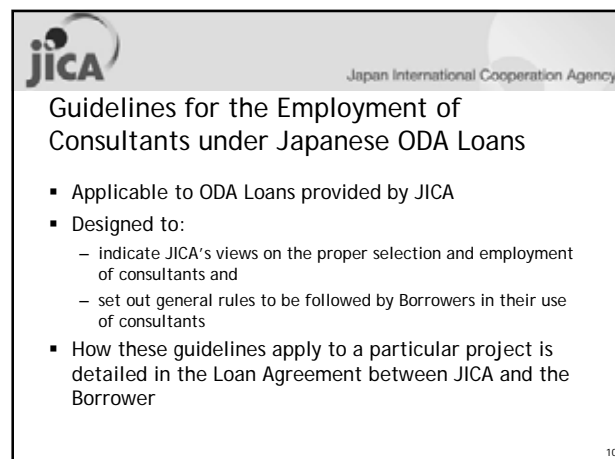
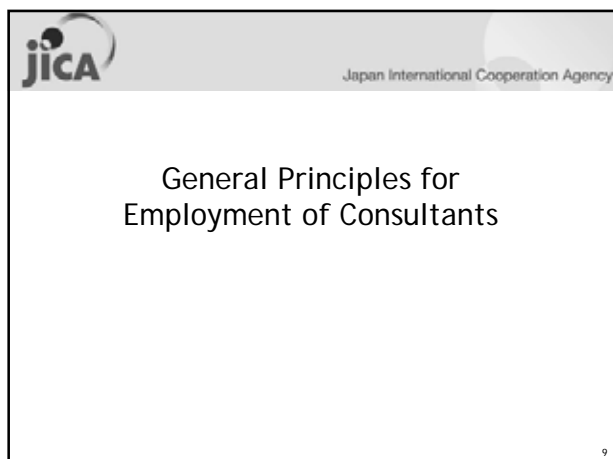
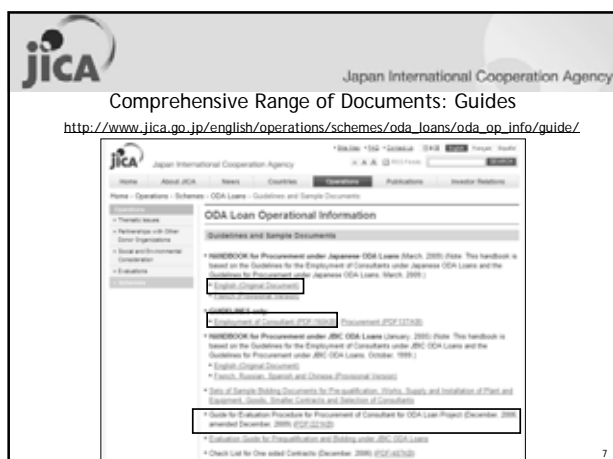


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Comprehensive Range of Documents

- Guides
 1. *Guidelines for Procurement under Japanese ODA Loans, March 2009*
 2. *Guidelines for Employment of Consultants under Japanese ODA Loans, March 2009*
 3. *Guide for Evaluation Procedures for Procurement of Consultants under Japanese ODA Loans, Amended December 2009*
 4. *Evaluation Guide for Pre-Qualification and Bidding under Japanese ODA Loans - Procurement of Goods and Services, June 2000*
- Sample Documents
 5. *Sample Pre-Qualification Documents under Japanese ODA Loans, April 2010*
 6. *Sample Bidding Documents under Japanese ODA Loans - Procurement of Works, June 2009*
 7. *Sample Bidding Documents under Japanese ODA Loans - Procurement of Goods, August 2010*
 8. *Sample Bidding Documents under Japanese ODA Loans - Procurement of Plant design, supply and installation, September 2010*
 9. *Sample Bidding Documents under Japanese ODA Loans - Procurement of small works, September 2010*
 10. *Sample Request for Proposals under Japanese ODA Loans - Selection of Consultants, September 2009*

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JICA's Files on Consultants

- JICA maintains files of information supplied by a number of consultants concerning their capability and experience
 - This information is available to Borrowers who wish to review and assess the experience and qualifications of consultants they are considering for their projects
 - This information is limited, and it may be necessary to ask for additional information from a particular consultant to form a judgment on a consultant's potential capabilities for a particular assignment

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JICA's Review

- JICA may review the Borrower's selection procedures, documents and decisions:
 - Prior to issuing RFP - the Short List of Consultants and the Request for Proposals
 - When QCBS adopted - prior to opening financial proposals, the Borrower's analysis of technical proposals
 - Prior to starting contract negotiations with the highest-ranked consultant - the results of the Borrower's evaluation of proposals
 - When SSS is desired selection method - Borrower's reasons, with Letter of Invitation and Terms of Reference
 - Immediately after executing the contract - a duly certified copy of the contract

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Corrupt or Fraudulent Practice

- Consultants and Borrowers must observe highest standard of ethics during the procurement and execution of contracts financed by Japanese ODA Loans and other Japanese ODA
- If JICA determines that the highest-ranked consultant has engaged in corrupt or fraudulent practice in competing for the contract, it will:
 - reject the proposal evaluation results
 - recognise a consultant as ineligible (for a determined period) to be awarded contracts funded with Japanese ODA Loans
- This provision to be included in Letter of Invitation and any resulting contract

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Consulting Services

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Types of Assignment

- Generally - 4 broad categories:
 - A. Pre-investment studies
 - B. Preparation services
 - C. Implementation services
 - D. Other services necessary for the project
- Taking into account the advantages of continuity of basic technical approach, functions B, C and D may be carried out by the same consultant
- If a consultant has satisfactorily carried out function A, it shall not be excluded from the short list to carry out functions B, C and D

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Consultants' Responsibilities

- Must exercise reasonable skill, care and diligence
- In professional matters act as a faithful adviser to the Borrower
 - However, in the case of supervision of work and/or management aspects, the Borrower may delegate more or less authority to act on its behalf (this **must** be clearly defined in the Terms of Reference)
- When differences of opinion occur between the Borrower and consultant, the Consultant should provide a report to the Borrower, which is then passed (with Borrower's comments) to JICA for consideration

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Competence/Impartiality

- **It is essential** that consultants clearly possess the necessary competence
 - To ensure efficient and proper execution of the project
- **It is essential** that consultants shall be demonstrably impartial
 - To ensure that goods, works and services used for projects are suitable and their cost reasonable
 - To ensure that designs and specifications in no way limit JICA's requirements regarding competitive bidding

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Types of Consultants

- Fall into one or more of the following categories:
 - A. Independent consulting firms
 - B. Organisations of a public character (e.g. public corporations, foundations) which also provide consulting services
 - C. Firms which combine the functions of consultant with those of contractor, or which are associated with, affiliated to, or owned by contractors
 - D. Firms which combine the functions of consultant with those of manufacturer, or which are associated, affiliated to, or owned by manufacturers

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Conflicts of Interest

- Letter of Invitation must include the provision at Section 2.05 (paragraph 2) of the *Guidelines*, which states:
 - Consulting firms providing consulting services for the preparation related to procurement for or implementation of a project, and any of their associates/affiliates (inclusive of parent firms), shall be disqualified from working in any other capacity on the same project, other than a continuation of the firm's earlier consulting services
 - This provision also applies to Contractors who lend or temporarily second, their personnel to firms which are engaged in consulting services for the preparation related to procurement for or implementation of the project, if the personnel would be involved in any capacity on the same project

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Monitoring by JICA

- The Borrower is responsible for supervising the consultant's performance
- JICA may monitor the work as necessary in order to satisfy itself that it is being carried out in accordance with appropriate standards, **without** assuming the responsibilities of the Borrower or the consultant
- Where appropriate, JICA may take part in discussions between the Borrower and the consultant - however, JICA shall not be liable in any way for the implementation of the project
- This provision should be clearly stated in the agreement between the Borrower and the consultant

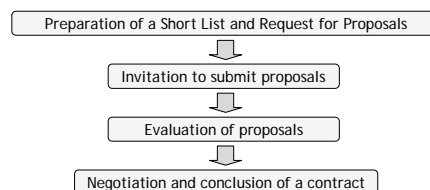
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Selection Procedures

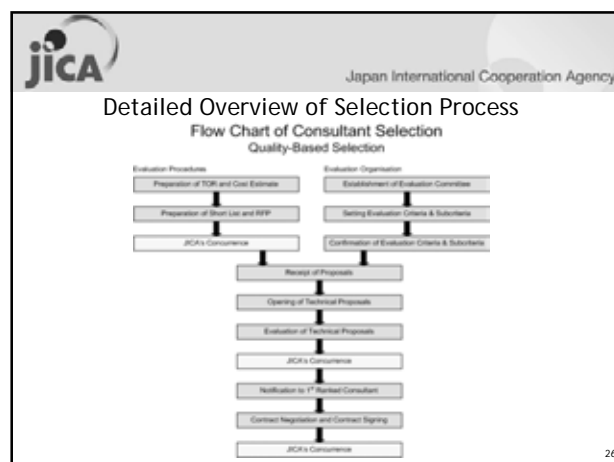
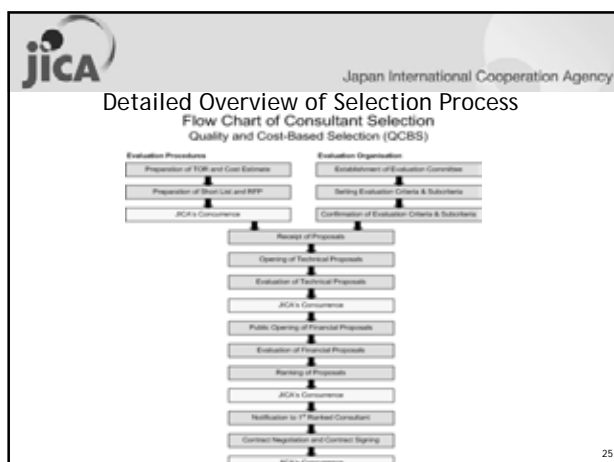
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Introduction

- JICA normally requires Borrowers to adopt the following procedures in the selection and employment of Consultants:



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Methods of Selection

- The methods which are used for the selection of consultants under a loan shall be agreed by the Borrower and JICA before the start of the selection process
 - Quality- and Cost-Based Selection (QCBS)
 - Quality-Based Selection (QBS)
 - Single-Source Selection (SSS)

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Quality- and Cost-Based Selection (QCBS)

- Method which takes into account the quality of the proposal and the cost of the services
- QCBS is the commonly recommended method, but it is not always the most appropriate

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Quality-Based Selection (QBS)

- When quality is paramount
- Complex or highly specialised assignments
- Where innovative solutions are required
- Where downstream impact is very high
- Where variable solutions are available
- Where it is important to take safety measures

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Single-Source Selection (SSS)

- Only in exceptional cases
- Must show a clear advantage over using a competitive procedure

Example:

- Natural continuation of previous work
- In emergency cases, such as in response to disasters
- For very small assignments
- Where there is only one qualified firm

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Preparation of Terms of Reference (TOR)

- First step in engagement of a consultant is for JICA and the Borrower to agree on:
 - The Terms of Reference for its services
 - The type of consultant to be employed
 - The approximate amount of funds required for the consulting services

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Structure of Terms of Reference

- The TOR should describe:
 - The scope of the consulting services in as much detail as possible (including alternative solutions and/or training the consultant is expected to explore in the course of its work)
 - How much authority will be delegated to it to act on the Borrower's behalf
- The TOR should also contain information on:
 - The background of the project
 - Objectives of the project
 - Nature of and limit to the responsibilities which the consultants assume
 - National and/or other standards
 - The specifications to be used in the design of the project
 - The conditions under which the work shall be performed
 - Data, Local services, personal and facilities to be provided by the client

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TOR - Other Considerations

- Where projects are classified into specific categories in accordance with the relevant environmental guidelines published by JICA, consulting services related to environmental consideration shall be included in the scope (such as evaluation of potential environmental impact, environmental management, monitoring and audit)
- Safety shall be emphasised in the implementation of all Project-Type Loans - the consulting services related to safety measures shall be specified (if necessary) in the TOR

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Preparation of Short List of Consultants

- Once TOR have been agreed by JICA and the Borrower, the Borrower shall prepare a Short List of Consultants to be invited
- The Short List should normally consist of not less than three and not more than five consultants
- Should the Borrower find it difficult to compile a satisfactory Short List of qualified consultants from the information available to it, JICA can make available information on consultants

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Expressions of Interest - Key considerations

- Note: JICA guidelines do not require EOIs but this is guidance in case they are required
- Consider carefully where to advertise your notice calling for EOIs - you do not want it to go unnoticed!
- State clearly what information you expect firms to submit as part of their EOIs:
 - Data on relevant experience of firm (and any partners)
 - Financial information on firm (last audited Annual Accounts?)
 - General understanding of requirement for this project
 - Indicative CVs
- Do not ask them to submit approach/methodology or definitive CVs - these will be sought at proposal stage!

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Assessing Expressions of Interest

- Assess broad capabilities, skills and experience
 - Experience of similar work
 - Experience of working with JICA or other donor organisations
 - Experience of working in the region or country
 - Quality of response (and understanding of project objectives)
- Financial standing
- Consider these aspects for all partners
- No need for strict scoring system for EOI evaluation, but...
- Don't be lured by glossy presentations - substance should always win over style!

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Short Lists - Other Considerations

- Any firm from a country other than the eligible source countries must not be listed on the Short List (neither as a single participant nor a member of a joint venture)
- The Short Listed consultants may undertake services in association with other consultants listed or not listed in the Short List as long as the Short Listed consultants execute a major portion of the required services

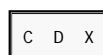
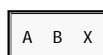
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One Bid per Bidder?

Following rules shall be followed in general:

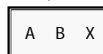
KEY

Example 1



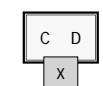
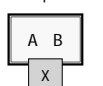
NOT permitted

Example 2



NOT permitted

Example 3



Permitted

KEY

A
Solely or jointly and severally liable for entire contract

X
Sub-consultant or association member (not liable for entire contract)

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Preparation of the Request for Proposals

The RFP includes:

- Letter of Invitation
- Instructions to Consultants (Data Sheet)
- Sample Form of Contract
- Terms of Reference
- Technical Proposal - Sample Forms (including minimum requirement, Evaluation Criteria)
- Financial Proposal - Sample Forms
- List of Eligible Source Countries

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Modifications to RFP Standard Documents?

- None to:
 - Instructions to Consultants (ITC)
 - General Conditions of Contract
 - Standard Forms
- All procurement specific requirements and amendments should be made through:
 - Letter of Invitation
 - Data Sheet
 - Terms of Reference
 - Special Conditions of Contract

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Preparation of the Request for Proposals

- The RFP shall:
 - Request consultants to at least cover the points specifically mentioned in the TOR
 - Stipulate the details of the selection procedure to be followed, including the technical evaluation categories and an indication of the weight to be given to each
- When QBS is applied, the RFP shall clearly state that the selection of the first consultant to be invited to negotiate a contract will be made solely on the basis of the ranking of the technical proposals

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Preparation of the Request for Proposals

- In case of QCBS - minimum man-month for both international consultants and local consultants shall be specified in the RFP
- In case of QBS - estimated man-months should be stated by the Borrower for international and local consultants; should not be stated as a minimum

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Preparation of the Request for Proposals

- QCBS - firms to submit technical and financial bids in separate sealed envelopes at the same time - financial bids to remain sealed until technical evaluation is completed
- QBS - only highest-ranked consultant (following proposal evaluation) can be required to submit a financial proposal

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Preparation of the Request for Proposals

- You should normally allow 45-60 days from the date of mailing the RFPs to the deadline for submission of proposals
 - Allow 15-20 days for correspondence and a further 25-30 days for visiting the site and preparing the proposal
- You should indicate adequate communication methods such as fax, e-mail, etc for your convenience in the RFP
- JICA has prepared the *Sample Documents for Selection of Consultants* - their use is encouraged, as they reflect international good practice and comply with Japanese ODA Loans procurement policy and rules

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Communications during Proposal Phase

- Shortlisted consultants should be encouraged to visit the project site to become familiar with local conditions and to obtain first hand information on the assignment
- During the proposal phase, shortlisted consultants are allowed to seek clarifications of the RFP in writing
 - a deadline should be set for final receipt of clarifications
 - Borrower should communicate all clarification requests received, together with their response (in good time), to all shortlisted consultants
- For large or complex assignments, it is recommended that the Borrower holds a pre-proposal conference, where clarification requests can be made and responses provided to all shortlisted consultants, with minutes provided by the Borrower

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Reference to JICA in the RFP

- The RFP should state explicitly that a Japanese ODA Loan is being provided
- The usual wording is provided in Section 3.06 of JICA's *Guidelines for the Employment of Consultants*
- This ensures consultants fully understand the existence of and the need to observe the Guidelines

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Evaluation of Proposals

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Optional Exercise

- In groups, consider the list of questions you would have about the consultants you select for design, management of procurement and construction supervision:
 - Rank these questions in order of importance
 - Give them marks out of 100
- Add any other questions you might have that are not on the list

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Establishment and Organization of Evaluation Committee

- Crucial to ensure a fair and objective evaluation of proposals
- Recommended that the Evaluation Committee is established before preparation of the TOR (familiarity with TOR and evaluation criteria is essential requirement)
- Need not be experts, but should at least have some knowledge of areas related to project
- Members of the Committee must maintain highest standards of integrity during process - **no** communications with shortlisted consultants from appointment until contract award (except where official clarifications related to the proposal are sought)
- Independent observer should be allowed to participate in Evaluation Committee meetings - if Borrower lacks expertise to carry out evaluation, consider hiring an independent consultant to assist

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Setting Evaluation Criteria

- The Evaluation Committee should establish the evaluation criteria and subcriteria for the technical proposals, which will be specified in the RFP.
- Before** the deadline for submission of proposals the Committee must meet to confirm there is a common understanding of the evaluation process and method for the technical proposals (including technical criteria, subcriteria, definition of the rating system and the grade).

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Evaluation Committee: key functions (QCBS)

```

graph TD
    A[Setting Evaluation Criteria] --> B[Opening of Technical Proposals]
    B --> C[Evaluation of Technical Proposals]
    C --> D[Evaluation Report of Technical Proposals]
    D --> E[Public Opening of Financial Proposals]
    E --> F[Evaluation of Financial Proposals & Ranking of Proposals]
    F --> G[Final Evaluation Report]
  
```

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Evaluation Committee - key functions (QBS)

```

graph TD
    A[Setting Evaluation Criteria] --> B[Opening of Technical Proposals]
    B --> C[Evaluation of Technical Proposals]
    C --> D[Evaluation Report of Technical Proposals]
  
```

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Evaluation Criteria for Technical Proposals

Criteria	Points Distribution	Subcriteria for (C)	Percentage Distribution
A Experience of the Consultants <i>General experience and record in the field covered by the TOR</i>	10-20	C (i) General Qualifications <i>Education, length of experience, types of position held, length of service</i>	20-30
B Adequacy of Methodology and Work Plan <i>Adequacy of proposed approach, methodology and work plan</i>	20-50	C (ii) Suitability for the Project <i>Experiences of performing the duties which will be assigned to them on project</i>	50-60
C Qualifications and Competence of Staff <i>Experience and records of staff members to be assigned to the work</i>	30-60	C (iii) Familiarity with Language/ Conditions of Country <i>Familiarity with language and conditions of country or experience in similar environments</i>	10-20

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Optional Evaluation Criteria

- Additional criteria may be applied depending on the nature of the assignment, such as:
- Suitability of transfer of knowledge
Points (weights) 1-10
– Suitability of training programs
- Support facilities and organisation
1-10
– Including support resources at Head Office
- Proposal presentation
1-10
– Overall quality of the presentation of the proposal

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How does the Scoring System work?

- Recommended that a rating scale of the level of responsiveness is divided into discrete grades and agreed by the Evaluation Committee prior to evaluation:

Grade	Percentage rating
Poor	0%
Below Average	40%
Average	70%
Good	90%
Excellent	100%

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A Sample Evaluation using the Scoring System

25.4 points out of 35

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Completion of Evaluation of Technical Proposals

- Results are detailed in an evaluation report, including:
 - Summary technical evaluation sheet
 - Evaluation sheets for staff members of each consultant

Consultant		No 1		No 2	
Evaluation Criteria	Points (P)	Rating (R)%	Score (P x R)	Rating (R)%	Score (P x R)
II Adequacy of the proposed approach, methodology and work plan	35		25.4		23.9
(i) Technical Approach and Methodology	18	90	16.2	70	12.6
(ii) Work Plan	8	70	5.6	40	3.2
(iii) Organisation and Staffing	9	40	3.6	90	8.1

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Evaluation of Financial Proposals

- Firms which have secured the minimum qualifying technical score will be advised of the location, date and time for opening of the financial proposals
- Financial proposals are opened publicly in the presence of firms' representatives who choose to attend
- The following details are announced and recorded
 - Name of the firms
 - Technical quality scores
 - Proposed prices

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Evaluation Procedures of Financial Proposals

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Determining Financial Score

- The Lowest NEFP is the given a maximum score of 100 points
 - This is used as a basis to calculate the scores of the other financial proposals
- The financial score for each proposal is inversely proportional to its NEFP
 - The higher the NEFP, the lower the financial score

Financial Scores

- The scores are computed as follows:
 - NEFP of the lowest priced proposal = 100 points
 - Each other NEFP = $100 \text{ points} \times \frac{\text{NEFP of the lowest priced proposal}}{\text{NEFP of the proposal under consideration}}$

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Financial Score: Example

- NEFP of lowest priced proposal = JPY 102 million
- NEFP of 2nd lowest priced proposal = JPY 107.5 million
- Financial score of the lowest priced NEFP = **100** points
- Financial score of the 2nd lowest priced NEFP =

$$100 \text{ points} \times \frac{\text{JPY 102 million}}{\text{JPY 107.5 million}} = \mathbf{94.884 \text{ points}}$$

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Ranking of Proposals

- Total score is obtained by weighting and adding the technical and financial scores, which determines the ranking of the proposals received
- Weight for cost should take into account
 - The complexity of the assignment
 - The relative importance of quality
- It shall normally be 20%
- Relative weight to be given to quality and cost will be agreed by JICA and the Borrower in the appraisal

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Ranking of Proposals: Example

Weight for quality: 80%

Weight for cost: 20%

Technical Score

Consultant No 1: (T) 85.320 points
Consultant No 2: (T) 80.780 points

(NEFP) JPY 107.5 million
(NEFP) JPY 102.0 million

Financial Score

Consultant No 1: (F) 94.884 points
Consultant No 2: (F) 100.000 points

Total Score

Consultant No 1: 85.320 points x 80% + 94.884 points x 20% = **87.233** points
Consultant No 2: 80.780 points x 80% + 100.000 points x 20% = **84.624** points

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Contract Negotiations - an Introduction

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Negotiations

- Outline of Negotiation Procedures
 - Invite the highest-ranked consultant to enter into negotiations on the conditions of a contract (in case of QBS) after JICA's concurrence on technical proposal evaluation
 - If no agreement reached on a contract within a reasonable time, the Borrower terminates negotiations with first consultant and invites the second-ranked consultant - JICA to be consulted first!
 - Negotiations may be conducted in phases - **Borrower prepares minutes**

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What can be negotiated: Technical/Contractual?

- TOR and technical proposal submitted should not be substantially altered by negotiations
- Staff assigned and major works shall not be materially modified to meet the budget (GL3.11)
- These elements should be clarified in negotiations:
 - Scope of work
 - Technical approach
 - Work plan and Schedule
 - Organisation and personnel
 - Deliverables
 - Counterpart staff and facilities
 - Special Conditions of Contract

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What can be negotiated - Financial?

- When QCBS is used, proposed unit rate for remuneration shall **not** be altered since they have been factors in the selection process
- When QBS is used, discussions concerning costs and other financial matters shall be conducted only with the highest-ranked consultant who is invited to enter into contract negotiations
- When QBS is used, highest-ranked consultant is notified in writing by Borrower and asked to submit its financial proposal (if not requested along with technical proposal)

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What can be negotiated: Financial?

- These negotiations should be reasonable to keep consistency between the quality and price of the services
- Should include clarification of the consultant's tax liability in the country
 - RFP will state whether consultant is liable for payment of local taxes
 - Local tax amounts should be excluded from the financial proposal, but discussed at contract negotiations and applicable amounts included in the contract

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Notification to Unsuccessful Consultants

- Promptly after completion of negotiations with the selected consultant, the other consultants on the Short List should be notified that they have been unsuccessful
- Unsuccessful consultants often want to know why their proposal was not selected - the Borrower should promptly provide an explanation as to why its proposal was not selected (in writing or in a meeting)
- Explanation should include the scores of each evaluation criteria of the consulting firm concerned and the rationale behind the scoring

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Information to be made Public

- JICA may decide to make public
 - Names of consultants which submitted proposals
 - Technical points assigned to each consultant
 - Overall ranking of the consultants
 - Name and address of successful consultant awarded contract
 - Award date
 - Contract amount
- Borrower is responsible for ensuring that the above information is available to JICA at the appropriate time (e.g. RFP and contracts)

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Confidentiality of Procurement Process

- No information relating to the proposal evaluation and recommendations concerning awards should be communicated to any persons not officially concerned with the process until a contract award is made, unless required by law

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The Contract

- Both parties' interests should be adequately protected by the detail contained in the contract
- General Conditions of Contract (contained within the RFP) must not be altered under any circumstances
- Special Conditions of Contract is where amendments of, and supplements to, clauses in the General Conditions of Contract are defined

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The Contract

- Key clauses are:
 - Scope of the Project and of the Consulting Services
 - Duration of Contract
 - Conditions relating to Validity of Contract
 - Responsibilities of the Parties (definition of consultant – JV or association with “joint and several” or “sole” responsibility)
 - Contract Amount (usually time-based payments)
 - Description of Consultants' Costs and Fees (man month rates and direct costs, contingencies – usually 5-10% of contract amount, price adjustment)

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The Contract (2)

- Key clauses (continued)
 - Currency in which Costs and Fees are to be Expressed (normally Japanese Yen, but other international trading currencies are permitted, e.g. US\$ or Euro)
 - Conditions and Methods of Payment (advance, interim and final payments)
 - Ownership and Disposal of Equipment
 - Services to be provided by the Borrower
 - Privileges and Immunities of the Consultant (e.g. tax)
 - Serious Hindrances (need to report to Borrower and JICA)

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The Contract (3)

- Key clauses (continued)
 - Reports (scope, number, type and frequency)
 - Copyright
 - Modifications (such as staff changes)
 - Force Majeure (conditions which would release consultant, procedures and both parties' rights and obligations)
 - Termination (non-performance or non-payment by Borrower to consultant – notification periods)
 - Settlement of Disputes (procedures and arbitrating institution)
 - Applicable Laws
 - Language (Japanese, English, French or Spanish)

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Contract Management - an Introduction

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Contract Management - what is it?

- The central aim of contract management is to obtain the services agreed in the contract and achieve value for money through an effective management process
- This involves, among other aspects, developing and maintaining a good working relationship between the Borrower and the consultant

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- ## Contract Management Lifecycle
- *Setting direction* - policies/objectives
 - *Service acquisition* - contract terms/quality measures/contract needs
 - *Transition/handover* - implementation/knowledge transfer/business changes
 - *Service/contract management* - service delivery/contract admin./relationship management
 - *Re-competition* - business needs/past performance
- 80

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- ## Benefits of Effective Contract Management
- improved control of the consultant
 - better performance of the contract
 - increased opportunity to achieve value for money
 - satisfactory provision of the contracted service
 - achievement of the transactional objective
 - providing a service to the Borrower's satisfaction
 - contributing to achievement of organisation's goals
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- ## What we have covered in this session
- General Principles for Employment of Consultants
 - Borrower's Responsibilities
 - JICA's Review
 - Corrupt/Fraudulent Practices
 - Consulting Services
 - Types of Consultants
 - Responsibilities of Consultants
 - Conflicts of Interest
- 82

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- ## What we have covered in this session (2)
- Selection Procedures
 - Method of Selection
 - Preparation of the Terms of Reference (TOR)
 - Preparation of Short List of Consultants
 - Preparation of the Request for Proposals
 - Reference to JICA
 - Evaluation of Proposals - Basic Principles
 - Introduction to Contract Negotiations
 - Introduction to Contract Management
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APPENDIX 2 : Presentation - Development of Consultant Selection Documents

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Name of Implementing Institution and Project

Procurement Support Workshop

Training Session on Development of Consultant
Selection Documents: Procedures and Practice

Date


1

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Outline Plan for Workshop

- Day 1:
 - Training Session on Guidelines for the Employment of Consultants under Japanese ODA Loans
 - Development of Consultant Selection Documents: Procedures and Practice
- Day 2:
 - Development of Consultant Selection Documents: Procedures and Practice (continued)
 - Activities (development of RFP, TOR, evaluation criteria)
- Day 3:
 - Activities (development of RFP, TOR, evaluation criteria, procurement timetable)


2

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Training Session on Development of Consultant Selection Documents: Procedures and Practice

- JICA's Suit of Procurement Documents - a reminder
- Request for Proposals (RFP) Sample Document
 - What we can and what we cannot change
 - Letter of Invitation
 - Instructions to Consultants (including Data Sheet)
 - Technical/Financial Proposal - Sample Forms
 - Terms of Reference
 - Sample Forms of Contract
 - List of Eligible Countries of Japanese ODA Loans


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Training Session on Development of Consultant Selection Documents: Procedures and Practice


- Preparing the Letter of Invitation
- Completing the Data Sheet
- Developing Evaluation Criteria
- Finalizing the Terms of Reference
- Completing Special Conditions of Contract

4

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JICA's Suite of Procurement Documents - a reminder

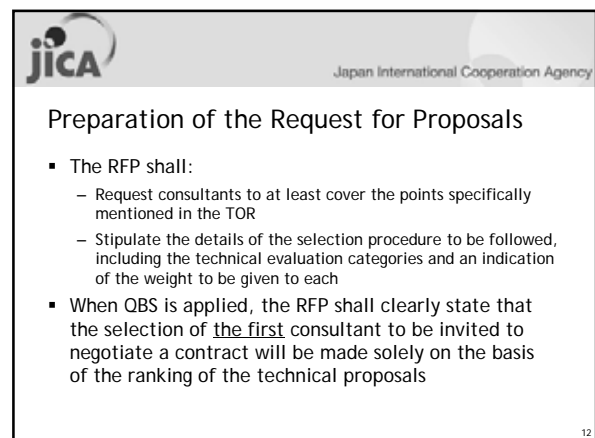
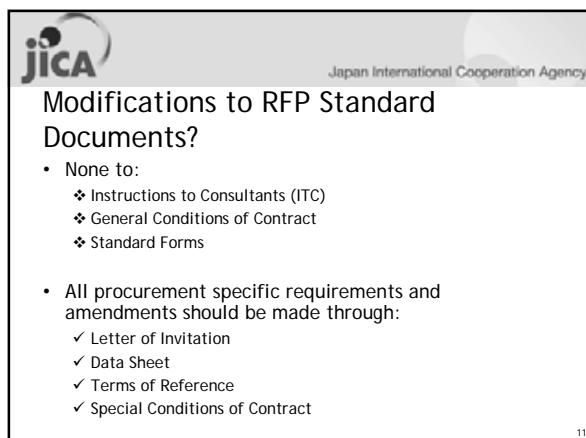
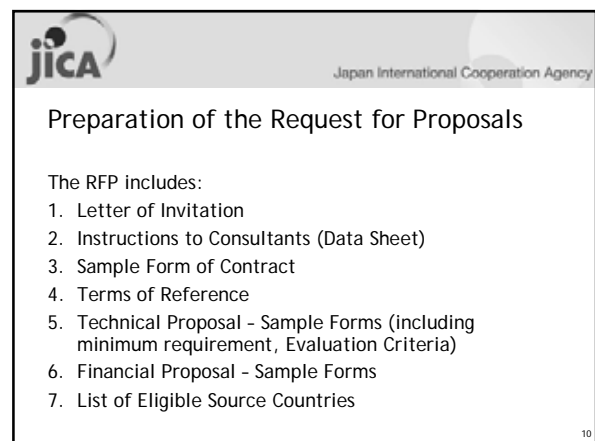
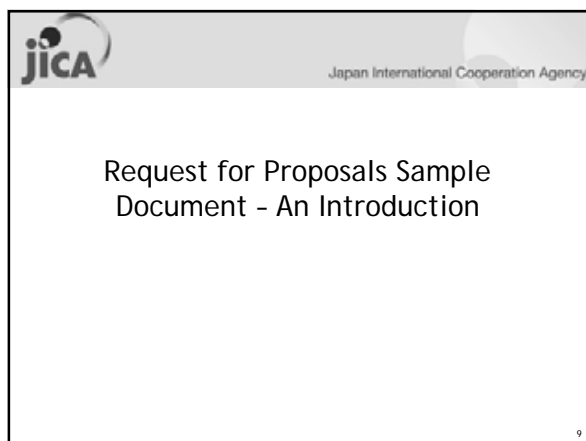
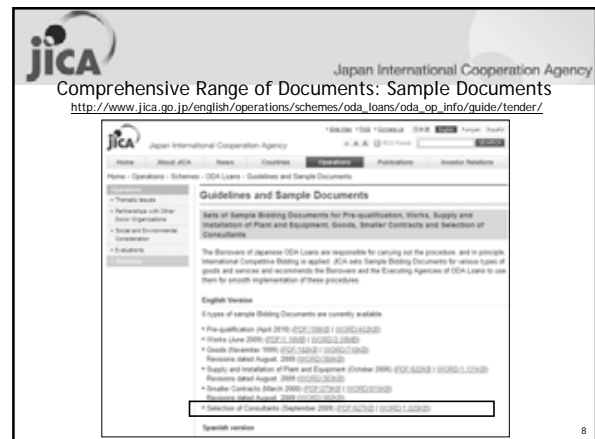
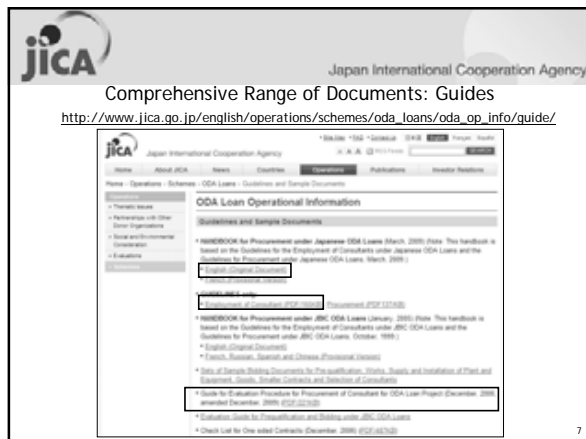
5


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Comprehensive Range of Documents

- Guides
 1. Guidelines for Procurement under Japanese ODA Loans, March 2009
 2. Guidelines for Employment of Consultants under Japanese ODA Loans, March 2009
 3. Guide for Evaluation Procedures for Procurement of Consultants under Japanese ODA Loans, Amended December 2009
 4. Evaluation Guide for Pre-Qualification and Bidding under Japanese ODA Loans - Procurement of Goods and Services, June 2000
- Sample Documents
 5. Sample Pre-Qualification Documents under Japanese ODA Loans, April 2010
 6. Sample Bidding Documents under Japanese ODA Loans - Procurement of Works, June 2009
 7. Sample Bidding Documents under Japanese ODA Loans - Procurement of Goods, August 2010
 8. Sample Bidding Documents under Japanese ODA Loans - Procurement of Plant design, supply and installation, September 2010
 9. Sample Bidding Documents under Japanese ODA Loans - Procurement of small works, September 2010
 10. Sample Request for Proposals under Japanese ODA Loans - Selection of Consultants, September 2009

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Preparation of the Request for Proposals

- In case of QCBS - minimum man-month for both international consultants and local consultants shall be specified in the RFP
- In case of QBS - estimated man-months should be stated by the Borrower for international and local consultants; should not be stated as a minimum


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Preparation of the Request for Proposals

- QCBS - firms to submit technical and financial bids in separate sealed envelopes at the same time - financial bids to remain sealed until technical evaluation is completed
- QBS - only highest-ranked consultant (following proposal evaluation) can be required to submit a financial proposal


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Preparation of the Request for Proposals

- You should normally allow 45-60 days from the date of mailing the RFPs to the deadline for submission of proposals
 - Allow 15-20 days for correspondence and a further 25-30 days for visiting the site and preparing the proposal
- You should indicate adequate communication methods such as fax, e-mail, etc for your convenience in the RFP
- JICA has prepared the *Sample Documents for Selection of Consultants* - their use is encouraged, as they reflect international good practice and comply with Japanese ODA Loans procurement policy and rules


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Section 1. Letter of Invitation

Pages 1-2 of Sample Document


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Letter of Invitation - main features

- Informs the Consultants:
 - contact details of the Borrower
 - whether the loan is effective or not
 - title of the project and assignment
 - number of consultants invited to bid
 - (*optional*) other shortlisted Consultants
 - selection method being used (QCBS or QBS)
- Reminds the Consultants of JICA provisions regarding conflicts of interest, and corrupt and fraudulent practice
- Asks the Consultants to acknowledge receipt of RFP and advise if they intend to submit a proposal

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Section 2. Instructions to Consultants

Pages 3-20 of Sample Document

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Instructions to Consultants

- This Section should not be modified
- Any necessary changes to address specific country and project issues should be introduced only through the Data Sheet
- Main subjects covered:
 - Definitions
 - Introduction (Conflict of Interest, Fraud and Corruption, Eligibility, Proposal Validity)
 - Clarification of RFP Documents
 - Amendment of RFP Documents

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Instructions to Consultants

- Main subjects covered (continued):
 - Preparation of Proposals (Technical Proposal Format and Content, Financial Proposals, Taxes and Currency)
 - Submission, Receipt and Opening of Proposals
 - Proposal Evaluation (Evaluation of Technical Proposals, Financial Proposals for QBS, Public Opening of Financial Proposals for QCBS, Evaluation of Financial Proposals for QCBS)
 - Negotiations (Technical, Financial, Availability of Personnel, Conclusion of Negotiations)
 - Award of Contract
 - Publication
 - Confidentiality

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Section 2. Instructions to Consultants (Data Sheet)

Pages 21-25 of Sample Document

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ITC - Data Sheet

- Important modifications are made here to advise the Consultants:
 - Details about the Loan Agreement
 - Name of the Client and Method of Selection
 - If Financial Proposal is required along with Technical Proposal
 - Whether a Pre-Proposal Conference will be held (time and place)
 - Inputs and facilities which will be provided by the Client
 - Validity of Technical Proposals
 - Price Adjustment Factors for price and fixed portion of Financial Proposals

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ITC - Data Sheet

- Modifications (continued)
 - Deadline for clarifications and contact details
 - Language of Proposals
 - Minimum or Estimated Number of Man-Months to be shown on personnel schedule (dependent upon Selection Method)
 - If Training is required
 - Applicable reimbursable expenses
 - Amount for provisional sums and contingency amount
 - Local taxation status of contract
 - Number of copies of Technical Proposal required


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ITC - Data Sheet

- Modifications (continued)
 - Address for submitting proposals and date and time for receipt
 - Evaluation criteria, sub-criteria and point system
 - Expected date of public opening of Financial Proposals (QCBS)
 - Single currency for price conversion
 - Quality-Cost Ratio (QCBS) - normally 80:20
 - Expected date and address for contract negotiations
 - Expected date for commencement of services


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Section 3. Technical Proposal – Sample Forms

Pages 27-38 of Sample Document


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Technical Proposal – Sample Forms

- These forms are designed to ensure Consultants submit their proposals in a standardised format, making it easier to carry out evaluation
- Main forms are:
 - Technical Proposal Submission Form
 - Consultant's Organization and Experience
 - Comments and Suggestions on Terms of Reference and on Counterpart Staff and Facilities to be Provided by the Client
 - Description of Approach, Work Plan and Methodology
 - Team Composition, Task Assignments and CV Summaries
 - CV Format
 - Personnel Schedule
 - Work Schedule


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Section 4. Financial Proposal – Sample Forms

Pages 39-53 of Sample Document


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Financial Proposal – Sample Forms

- Again, these forms are designed to ensure Consultants submit their proposals in a standardised format
- Main forms are:
 - Financial Proposal Submission Form
 - Summary of Costs
 - Remuneration
 - Breakdown of Remuneration – to be used on QBS and SSS only
 - Breakdown of Reimbursable Expenses
 - Declaration (Compliance with JICA Guidelines)
 - Sample Forms A and B (Breakdown of Social Charges and Overhead Costs) – to be used on QBS and SSS only


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Section 5. Terms of Reference

Page 55 of Sample Document


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Structure of Terms of Reference

- The TOR should describe:
 - The scope of the consulting services in as much detail as possible (including alternative solutions and/or training the consultant is expected to explore in the course of its work)
 - How much authority will be delegated to it to act on the Borrower's behalf
- The TOR should also contain information on:
 - The background of the project
 - Objectives of the project
 - Nature of and limit to the responsibilities which the consultants assume
 - National and/or other standards
 - The specifications to be used in the design of the project
 - The conditions under which the work shall be performed
 - Data, Local services, personal and facilities to be provided by the client


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Section 6. Sample Forms of Contract

Pages 57-154 of Sample Document


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Sample Forms of Contract

- There are TWO JICA sample forms of contract included in the document:
 - Consultants' Services (Time-Based) - to be used when:
 - scope of services cannot be established with sufficient precision, or
 - duration and quantity of services depends on variables that are beyond the control of the Consultant (e.g. Construction Supervision)Time-Based contract is generally recommended
 - Consultants' Services (Lump Sum) - to be used when:
 - definition of the tasks to be performed is clear and unambiguous
 - commercial risks taken by the Consultant are relatively low (e.g. Preparation/Submission of Manuals, reports)

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Contents of Sample Forms of Contract

- Both sample forms consist of the following sections:
 - I. Form of Contract (defines the contracting parties, composition of the contract, mutual rights and obligations and is signed by both parties) - to be modified
 - II. General Conditions of Contract (contains clauses covering General Provisions, Commencement/Completion/Modification and Termination of Contract, Obligations of the Consultant, Consultants' Personnel and Sub-Consultants, Obligations of the Client, Payments to the Consultant, Fairness and Good Faith, Settlement of Disputes) - not to be modified
 - III. Specific Conditions of Contract (contains amendments of, and supplements to, clauses in the General Conditions of Contract) - to be modified


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Contents of Sample Forms of Contract

- Both sample forms contain the following Appendices:
 - A. Description of Services
 - B. Reporting Requirements
 - C. Personnel Schedule
 - D. Cost Estimates in Foreign Currency
 - E. Cost Estimates in Local Currency (if applicable)
 - F. Summary of Cost Estimates
 - G. Services, Facilities and Equipment to be Provided by the Client
 - H. Form of Advance Payment Security and Bank Guarantee for Advance Payment (if applicable)
 - I. Acknowledgment of Compliance with JICA Guidelines


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Section 7. List of Eligible Source Countries of Japanese ODA Loans

Page 155 of Sample Document


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Section 7. List of Eligible Source Countries

- If Japanese ODA Loan is untied, then all countries are currently eligible
- If the Loan is under the Special Term for Economic Partnership (STEP) scheme, then eligibility will be as defined in the Loan Agreement, usually
 - prime consultants are tied to Japanese firms
 - joint ventures with recipient countries are also permitted as long as a Japanese firm is the lead partner
 - sub-consultants are untied and open to all countries

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Preparing the Letter of Invitation

Practical Session

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Completing the Data Sheet

Practical Session

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Developing the Evaluation Criteria

Training/Practical Session

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Evaluation Criteria for Technical Proposals

Criteria	Points Distribution	Subcriteria for (C)	Percentage Distribution
A Experience of the Consultants <i>General experience and record in the field covered by the TOR</i>	10-20	C (i) General Qualifications <i>Education, length of experience, types of position held, length of service</i>	20-30
B Adequacy of Methodology and Work Plan <i>Adequacy of proposed approach, methodology and work plan</i>	20-50	C (ii) Suitability for the Project <i>Experiences of performing the duties which will be assigned to them on project</i>	50-60
C Qualifications and Competence of Staff <i>Experience and records of staff members to be assigned to the work</i>	30-60	C (iii) Familiarity with Language/ Conditions of Country <i>Familiarity with language and conditions of country or experience in similar environments</i>	10-20

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Optional Evaluation Criteria

Additional criteria may be applied depending on the nature of the assignment, such as:	Points (weights)
Suitability of transfer of knowledge <ul style="list-style-type: none"> Suitability of training programs 	1-10
Support facilities and organisation <ul style="list-style-type: none"> Including support resources at Head Office 	1-10
Proposal presentation <ul style="list-style-type: none"> Overall quality of the presentation of the proposal 	1-10

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Evaluation Criteria - Experience of the Consultants

- As stated previously, experience was taken into account when drawing up the Short List
- No more than 20 points in total
- Importance will vary according to the type of consulting services to be provided, e.g.
 - If services are to be provided in very challenging and risky environments, then it is important to ensure the selected consultants have proven experience in similar environments
 - Very complex projects demand that the selected consultants can demonstrate they have successfully implemented similar projects

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Evaluation Criteria - Adequacy of Methodology and Work Plan

- This criterion needs to be carefully evaluated - it is key factor
- 20-50 points
- Subcriteria should include the following:
 - Technical Approach and Methodology
 - Work Plan
 - Organisation and Staffing

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Evaluation Criteria - Qualifications and Competence of Staff

- Experience and record of staff members proposed, based on qualifications and experience stated in their curriculum vitae (CVs) should be evaluated
- Recommended that:
 - Only “key” staff members (those conducting essential elements of the assignment) are included in the evaluation
 - Staff members with relatively minor roles are not be included in the evaluation, otherwise the relative importance of the “key” staff members will be diminished
- Weight/percentage of points depends on role and/or expertise required in assignment - Team Leader/Project Manager should be given more weight than the others

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How does the Scoring System work?

- Recommended that a rating scale of the level of responsiveness is divided into discrete grades and agreed by the Evaluation Committee prior to evaluation:

Grade	Percentage rating
Poor	0%
Below Average	40%
Average	70%
Good	90%
Excellent	100%

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Finalizing the Terms of Reference

Training/Practical Session

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Structure of Terms of Reference (a reminder)

- The TOR should describe:
 - The scope of the consulting services in as much detail as possible (including alternative solutions and/or training the consultant is expected to explore in the course of its work)
 - How much authority will be delegated to it to act on the Borrower's behalf
- The TOR should also contain information on:
 - The background of the project
 - Objectives of the project
 - Nature of and limit to the responsibilities which the consultants assume
 - National and/or other standards
 - The specifications to be used in the design of the project
 - The conditions under which the work shall be performed
 - Data, Local services, personal and facilities to be provided by the client


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TOR - Other Considerations

- Where projects are classified into specific categories in accordance with the relevant environmental guidelines published by JICA, consulting services related to environmental consideration shall be included in the scope (such as evaluation of potential environmental impact, environmental management, monitoring and audit)
- Safety shall be emphasised in the implementation of all Project-Type Loans - the consulting services related to safety measures shall be specified in the TOR

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Developing good TOR

- It takes **time** to develop good quality TOR to reflect shared understanding of the context, the assignment objectives, the approach and the intended outcome
- Ensure the objectives in the TOR are “SMART”
 - Specific
 - Measurable
 - Achievable
 - Results orientated
 - Time bound

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Key points to consider when developing TOR

- **Clarity of purpose**
 - Consultants should be able to read the TOR and readily understand the required outcomes without needing to interpret or seek further advice to resolve ambiguous or unclear meaning
 - TOR must clearly define the outputs that are required, by when, by what methods, and to what standard
 - Unclear or ambiguous expression of TOR requirements, particularly for contractors, is likely to result in a different understanding of the assignment and risk not achieving the desired outcomes.

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Key points to consider when developing TOR (2)

- **Clarity of tasking**
 - Incomplete or unclear TOR are likely to cause delays in starting the assignment
 - These will require additional internal discussions, negotiations and re-writing the TOR before the procurement process can begin
 - Ambiguous TOR for RFPs can also result in proposals that do not address the Borrower’s needs, leading to the possibility of having to re-tender
 - Delays in establishing a contract can have financial implications as well as impact upon operations

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Key points to consider when developing TOR (3)

- **Scoping the assignment**
 - Poorly scoped and written TOR may result in a consultant underestimating the work required
 - Subsequent discovery that the work is more complex and challenging than expected creates risk that the consultant will not be able to deliver work on time, or that the contract will need to be extended
 - Delivery delays can have serious flow-on effects for programme delivery and Borrower/consultant relationships

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Key points to consider when developing TOR (4)

- **Determining the appropriate level of direction**
 - TOR which are specific as much as possible, either in terms of specifics of outputs, or how work should be undertaken, decrease the risk of disputes, failure to achieve desired outcomes, and potentially limit innovation and competition
 - Many procurements will relate to very technical areas of speciality - while there are occasions where it is appropriate to prescribe specific methodology, recognised good practice is to focus on specifying required outcomes

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Preparation of Cost Estimate

- This should be made by adding remuneration for consultant staff and direct expenses incurred
- Figures are built up by computing staff time (expert per unit of time - e.g. day, month) and an estimate of each related cost component according to the results of JICA’s appraisal
- If TOR is comprehensive/well designed, then estimate is likely to be more accurate
- A mismatch between the cost estimate and the TOR will probably cause problems during the course of the project
- Cost estimate should **not** be disclosed until proposal evaluation has been completed
- During contract negotiations, the Borrower may inform the highest-ranked consultant of the cost estimate

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Completing the Special Conditions of Contract

Practical Session

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What We've Covered - Training Session on Development of Consultant Selection Documents: Procedures and Practice

- JICA's Suite of Procurement Documents - a reminder
- Request for Proposals (RFP) Sample Document
 - What we can and what we cannot change
 - Letter of Invitation
 - Instructions to Consultants (including Data Sheet)
 - Technical/Financial Proposal - Sample Forms
 - Terms of Reference
 - Sample Forms of Contract
 - List of Eligible Countries of Japanese ODA Loans

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What We've Covered - Training Session on Development of Consultant Selection Documents: Procedures and Practice

- Preparing the Letter of Invitation
- Completing the Data Sheet
- Developing Evaluation Criteria
- Finalizing the Terms of Reference
- Completing Special Conditions of Contract

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APPENDIX 3 : Presentation - Proposal Evaluation Procedures and Practice (QCBS)

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Name of Implementing Institution and Project

Procurement Support Workshop

Training Session on Proposal Evaluation (Consultants):
Procedures and Practice for QCBS

Date


1

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Outline Plan for 3-day Workshop

- Day 1:
 - Key Procurement Principles
 - Evaluation of Proposals
- Day 2:
 - Evaluation of Proposals (continued)
- Day 3:
 - Contract Negotiations
 - Contract Management
 - Development of Action Plan for Procurement Process


2

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TODAY: Key Procurement Principles and Evaluation of Proposals

- Key Procurement Principles – A Reminder
 - Main Considerations in Selection
 - Conflicts of Interest
 - Overview of Selection Process
 - Communications during Proposal Phase


3

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Key Procurement Principles and Evaluation of Proposals - 2


- Evaluation of Proposals
 - Evaluation of Technical Proposals
 - Evaluation of Financial Proposals
 - Combined Evaluation and Final Score
 - Composition and Functions of Evaluation Committee
 - How Evaluation Criteria work – a reminder
 - How Scoring System works – a reminder (Grades and Ratings)
 - Proposal Evaluation Case Studies
 - Defining the Grades – practical work related to actual procurement process
 - Key Elements of the Evaluation Report

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Key Procurement Principles – a reminder


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Main Considerations in Selection

- Quality
- Efficiency
- Transparency
- Non-discrimination among eligible consultants for contracts

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Competence/Impartiality

- It is **essential** that consultants clearly possess the necessary competence
 - To ensure efficient and proper execution of the project
- It is **essential** that consultants shall be demonstrably impartial
 - To ensure that goods, works and services used for projects are suitable and their cost reasonable
 - To ensure that designs and specifications in no way limit JICA's requirements regarding competitive bidding

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Corrupt or Fraudulent Practice

- Consultants and Borrowers must observe highest standard of ethics during the procurement and execution of contracts financed by Japanese ODA Loans and other Japanese ODA
- If JICA determines that the highest-ranked consultant has engaged in corrupt or fraudulent practice in competing for the contract, it will:
 - reject the proposal evaluation results
 - recognise a consultant as ineligible (for a determined period) to be awarded contracts funded with Japanese ODA Loans
- This provision to be included in Letter of Invitation and any resulting contract

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Conflicts of Interest

- Letter of Invitation must include the provision at Section 2.05 (paragraph 2) of the *Guidelines*, which states:
 - Consulting firms providing consulting services for the preparation related to procurement for or implementation of a project, and any of their associates/affiliates (inclusive of parent firms), shall be disqualified from working in any other capacity on the same project, other than a continuation of the firm's earlier consulting services
 - This provision also applies to Contractors who lend or temporarily second, their personnel to firms which are engaged in consulting services for the preparation related to procurement for or implementation of the project, if the personnel would be involved in any capacity on the same project

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One Bid per Bidder?

Following rules shall be followed in general:

Example 1

A B X

C D X

NOT permitted

Example 2

A B X

C D

X

NOT permitted

Example 3

A B

C D

X

X

Permitted

KEY


A

Solely or jointly and severally liable for entire contract

X

Subconsultant or association member (not liable for entire contract)

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Procurement Procedures

- JICA normally requires Borrowers to adopt the following procedures in the selection and employment of Consultants:


Preparation of a Short List and the Request for Proposals

Invitation to submit proposals

Evaluation of proposals

Negotiation and conclusion of a contract

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Detailed Overview of Selection Process

Flow Chart of Consultant Selection Quality and Cost-Based Selection (QCBS)

Preparation of TOR and Cost Estimate

Preparation of Proposal and RFP

JICA's Concurrence

Establishment of Evaluation Committee

Setting Evaluation Criteria & Subcriteria

Confirmation of Evaluation Criteria & Subcriteria

Receipt of Proposals

Opening of Received Proposals

Evaluation of Received Proposals

JICA's Concurrence

Public Opening of Received Proposals

Evaluation of Received Proposals

Ranking of Proposals

JICA's Concurrence

Notification to Preferred Consultants

Contract Negotiation and Contract Signing

JICA's Concurrence

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Evaluation of Proposals

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Evaluation of Technical Proposals

- QCBS – firms to submit technical and financial bids in separate sealed envelopes at the same time – financial bids to remain sealed until technical evaluation is completed
- QBS – only highest-ranked consultant (following proposal evaluation) can be asked to submit a financial proposal

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Establishment and Organization of Evaluation Committee

- Crucial to ensure a fair and objective evaluation of proposals
- Recommended that the Evaluation Committee is established before preparation of the TOR (familiarity with TOR and evaluation criteria is essential requirement)
- Need not be experts, but should at least have some knowledge of areas related to project
- Members of the Committee must maintain highest standards of integrity during process – no communications with shortlisted consultants from appointment until contract award (except where official clarifications related to the proposal are sought)
- Independent observer should be allowed to participate in Evaluation Committee meetings – if Borrower lacks expertise to carry out evaluation, consider hiring an independent consultant to assist

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Evaluation Committee: key functions (QCBS)

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graph TD
    A[Setting Evaluation Criteria] --> B[Opening of Technical Proposals]
    B --> C[Evaluation of Technical Proposals]
    C --> D[Evaluation Report of Technical Proposals]
    D --> E[Public Opening of Financial Proposals]
    E --> F[Evaluation of Financial Proposals & Ranking of Proposals]
    F --> G[Final Evaluation Report]
  
```

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Evaluation Criteria for Technical Proposals

Criteria	Points Distribution	Subcriteria for (C)	Percentage Distribution
A Experience of the Consultants <i>General experience and record in the field covered by the TOR</i>	10-20	C (i) General Qualifications <i>Education, length of experience, types of position held, length of service</i>	20-30
B Adequacy of Methodology and Work Plan <i>Adequacy of proposed approach, methodology and work plan</i>	20-50	C (ii) Suitability for the Project <i>Experiences of performing the duties which will be assigned to them on project</i>	50-60
C Qualifications and Competence of Staff <i>Experience and records of staff members to be assigned to the work</i>	30-60	C (iii) Familiarity with Language/ Conditions of Country <i>Familiarity with language and conditions of country or experience in similar environments</i>	10-20

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Optional Evaluation Criteria

- Additional criteria may be applied depending on the nature of the assignment, such as:

	Points (weights)
Suitability of transfer of knowledge – Suitability of training programs	1-10
Support facilities and organisation – Including support resources at Head Office	1-10
Proposal presentation – Overall quality of the presentation of the proposal	1-10

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Evaluation Criteria - Experience of the Consultants

- As stated previously, experience was taken into account when drawing up the Short List
- No more than 20 points in total
- Importance will vary according to the type of consulting services to be provided, e.g.
 - If services are to be provided in very challenging and risky environments, then it is important to ensure the selected consultants have proven experience in similar environments
 - Very complex projects demand that the selected consultants can demonstrate they have successfully implemented similar projects

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Evaluation Criteria - Adequacy of Methodology and Work Plan

- This criterion needs to be carefully evaluated - it is key factor
- 20-50 points
- Subcriteria should include the following:
 - Technical Approach and Methodology
 - Work Plan
 - Organisation and Staffing

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Evaluation Criteria - Qualifications and Competence of Staff

- Experience and record of staff members proposed, based on qualifications and experience stated in their curriculum vitae (CVs) should be evaluated
- Recommended that:
 - Only "key" staff members (those conducting essential elements of the assignment) are included in the evaluation
 - Staff members with relatively minor roles are not be included in the evaluation, otherwise the relative importance of the "key" staff members will be diminished
- Weight/percentage of points depends on role and/or expertise required in assignment - Team Leader/Project Manager should be given more weight than the others

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How does the Scoring System work?

- Recommended that a rating scale of the level of responsiveness is divided into discrete grades and agreed by the Evaluation Committee prior to evaluation:

Grade	Percentage rating
Poor	0%
Below Average	40%
Average	70%
Good	90%
Excellent	100%

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A Sample Evaluation using the Scoring System

Adequacy of Methodology & Work Plan (35 points)

Technical Approach & Methodology (18 points)

Good

90 (18 x 90%) = 16.2

Work Plan (8 points)

Average

70 (8 x 70%) = 5.6


Organisation & Staffing (9 points)

Below Average

40 (9 x 40%) = 3.6

25.4 points out of 35

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Completion of Evaluation of Technical Proposals

- Results are detailed in an evaluation report, including:
 - Summary technical evaluation sheet
 - Evaluation sheets for staff members of each consultant

Consultant	No 1		No 2		
Evaluation Criteria	Points (P)	Rating (R)%	Score (P x R)	Rating (R)%	Score (P x R)
II Adequacy of the proposed approach, methodology and work plan	35		25.4		23.9
(i) Technical Approach and Methodology	18	90	16.2	70	12.6
(ii) Work Plan	8	70	5.6	40	3.2
(iii) Organisation and Staffing	9	40	3.6	90	8.1

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Evaluation of Financial Proposals

- Firms which have secured the minimum qualifying technical score will be advised of the location, date and time for opening of the financial proposals
- Financial proposals are opened publicly in the presence of firms' representatives who choose to attend
- The following details are announced and recorded
 - Name of the firms
 - Technical quality scores
 - Proposed prices

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Evaluation Procedures of Financial Proposals

```

graph TD
    GFP["GFP (Gross Financial Proposal)  
• Remuneration  
• Reimbursable Expenses  
• Provisional Sums  
• Contingencies"] --> GEFP["GEFP (Gross Evaluated Financial Proposal)  
• Remuneration (after adjustment, if any)  
• Reimbursable expenses (after adjustment, if any)  
• Provisional Sums  
• Contingencies"]
    GEFP --> NEFP["NEFP (Net Evaluated Financial Proposal)  
• Remuneration (after adjustment, if any)  
• Reimbursable expenses (after adjustment, if any)"]
  
```

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Determining Financial Score

- The Lowest NEFP is the given a maximum score of 100 points
 - This is used as a basis to calculate the scores of the other financial proposals
- The financial score for each proposal is inversely proportional to its NEFP
 - The higher the NEFP, the lower the financial score

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Financial Scores

- The scores are computed as follows:
 - NEFP of the lowest priced proposal = 100 points
 - Each other NEFP = $100 \text{ points} \times \frac{\text{NEFP of the lowest priced proposal}}{\text{NEFP of the proposal under consideration}}$

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Financial Score: Example

- NEFP of lowest priced proposal = JPY 102 million
- NEFP of 2nd lowest priced proposal = JPY 107.5 million
- Financial score of the lowest priced NEFP = **100** points
- Financial score of the 2nd lowest priced NEFP =

$$100 \text{ points} \times \frac{\text{JPY } 102 \text{ million}}{\text{JPY } 107.5 \text{ million}} = \mathbf{94.884 \text{ points}}$$

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Ranking of Proposals

- Total score is obtained by weighting and adding the technical and financial scores, which determines the ranking of the proposals received
- Weight for cost should take into account
 - The complexity of the assignment
 - The relative importance of quality
- It shall normally be 20%
- Relative weight to be given to quality and cost will be agreed by JICA and the Borrower in the appraisal

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Ranking of Proposals: Example

Weight for quality: 80% **Weight for cost: 20%**

Technical Score

Consultant No 1: (T) 85.320 points	(NEFP) JPY 107.5 million
Consultant No 2: (T) 80.780 points	(NEFP) JPY 102.0 million

Financial Score

Consultant No 1: (F) 94.884 points	
Consultant No 2: (F) 100.000 points	

Total Score

Consultant No 1: 85.320 points x 80% + 94.884 points x 20% = 87.233 points	
Consultant No 2: 80.780 points x 80% + 100.000 points x 20% = 84.624 points	

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Proposal Evaluation - Case Study

- Extracted from World Bank Consulting Services Manual
 - Follows JICA evaluation methodology
- Review and complete highlighted sections

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Exercise

- Review the two CVs
- Take into account the criteria, weighting and grades and determine which CV you think is superior

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Evaluation Report

- Why is this report necessary?
 - Facilitates the evaluation process
 - Provides a complete record of the evaluation process
 - Enables the authorities to review the evaluation to ensure it was carried out efficiently, transparently and without discrimination
 - Should there be any dispute over evaluation result, there is a full record of process
- Sample Structure
 - JICA does not insist on standard format, but let's review a sample structure to see common elements

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Preparing for Proposal Evaluation

- Carefully review the indicative definitions for the grades (in the table you have been given)
- Finalise the definitions for the grades which will be used by the Evaluation Committee during the actual evaluation process
- You have the rest of today to do this and part of tomorrow morning!


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WHAT WE'VE COVERED TODAY: Key Procurement Principles and Evaluation of Proposals

- Key Procurement Principles - A Reminder
 - Main Considerations in Selection
 - Conflicts of Interest
 - Overview of Selection Process
 - Communications during Proposal Phase

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WHAT WE'VE COVERED TODAY: Key Procurement Principles and Evaluation of Proposals

- Evaluation of Proposals
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 - How Scoring System works - a reminder (Grades and Ratings)
 - Proposal Evaluation Case Studies
 - Defining the Grades - practical work related to actual procurement process
 - Key Elements of the Evaluation Report

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TODAY: Evaluation of Proposals (continued) and Contract Negotiations

- Evaluation of Proposals (continued)
 - Finalising your definitions of grades to be used in evaluation
- Contract Negotiations
 - Negotiation Procedures
 - What can be Negotiated (Technical/Financial)?
 - The 5 Phases of Negotiation
 - Draw up Outline Negotiation Preparation Plan


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Contract Negotiations

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Negotiations

- Outline of Negotiation Procedures
 - Invite the highest-ranked consultant to enter into negotiations on the conditions of a contract (in case of QBS) after JICA's concurrence on technical proposal evaluation
 - If no agreement reached on a contract within a reasonable time, the Borrower terminates negotiations with first consultant and invites the second-ranked consultant - JICA to be consulted first!
 - Negotiations may be conducted in phases - **Borrower prepares minutes**

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What can be negotiated: Technical/Contractual?

- TOR and technical proposal submitted should not be substantially altered by negotiations
- Staff assigned and major works shall not be materially modified to meet the budget (GL3.11)
- These elements should be clarified in negotiations:
 - Scope of work
 - Technical approach
 - Work plan and Schedule
 - Organisation and personnel
 - Deliverables
 - Counterpart staff and facilities
 - Special Conditions of Contract

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What can be negotiated - Financial?

- When QCBS is used, proposed unit rate for remuneration shall not be altered since they have been factors in the selection process
- When QBS is used, discussions concerning costs and other financial matters shall be conducted only with the highest-ranked consultant who is invited to enter into contract negotiations
- When OBS is used, highest-ranked consultant is notified in writing by Borrower and asked to submit its financial proposal (if not requested along with technical proposal)

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What can be negotiated: Financial?

- These negotiations should be reasonable to keep consistency between the quality and price of the services
- Should include clarification of the consultant's tax liability in the country
 - RFP will state whether consultant is liable for payment of local taxes
 - Local tax amounts should be excluded from the financial proposal, but discussed at contract negotiations and applicable amounts included in the contract

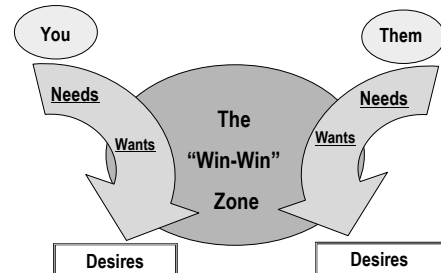
44

Exercise

- Consider the various elements of your RFP
 - Break into two groups
 - Group 1 to consider the RFP from the Buyer's viewpoint
 - Group 2 to consider the RFP from the Seller's viewpoint
 - Highlight the areas ("hot spots") where you think negotiations will focus on

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The "Win-Win" Zone



Based on *Effective Negotiating*
Colin Robinson, Kogan Press

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5- Phase model of Negotiation


- Prepare**
What do we want?
- Discuss**
What do they want?
- Propose**
What could we trade?
- Bargain**
What will we trade?
- Summarise**
What have we both agreed?

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1: Prepare

- Set Objectives
- Assess Other Party
- Compare Objectives
 - Plan Strategy
 - Allocate Roles

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2: Discuss

- Confirm the agenda
- State your opening position
- Listen to their position and their point of view
- Ask open questions
- Look for the signals
 - What they are saying?
 - How they are saying it?
 - Body language

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3: Propose

- This is the point when the first offers are made between each other
- Make tentative offers
- Use the 'if you/then perhaps' approach
- Link offers with conditions
- Do not give anything away for free
- Propose and listen to the counter offers

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4: Bargain

- **Helps**
 - Give and take
 - Arrive at a package-a collection of linked variables
 - Put any deadlocks aside to deal with later
 - Allow opportunities for movement
- **Hinders**
 - 'Give/give' or 'Get/Get'
 - Interrupting a bargain statement
 - Bluff unless you are willing for your bluff to be called
 - Deliberately/accidentally omitting issues

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5: Summarise

- Ensure that both parties have same understanding to what has been agreed
 - Take accurate minutes of proceedings
 - Both parties to initial these prior to closure of negotiations

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Wise words....

- *"When money is at stake, never be the first to mention sums"*
 - SHEIK AHMED YAMANI former Saudi Oil Minister
- *"There are some men - who in the 50-50 proposition - insist on getting the hyphen too!"*
 - LAURENCE J PETER Canadian Business author

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Exercise: Negotiating role play

- Split into 2 groups:
 - Borrower
 - Consultant
- Read relevant briefs
- Conduct negotiations, using the "5 Phases"
- Feedback

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Information to be made Public

- JICA may decide to make public
 - Names of consultants which submitted proposals
 - Technical points assigned to each consultant
 - Overall ranking of the consultants
 - Name and address of successful consultant awarded contract
 - Award date
 - Contract amount
- Borrower is responsible for ensuring that the above information is available to JICA at the appropriate time (e.g. RFP and contracts)

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Confidentiality of Procurement Process

- No information relating to the proposal evaluation and recommendations concerning awards should be communicated to any persons not officially concerned with the process until a contract award is made, unless required by law

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The Contract

- Both parties' interests should be adequately protected by the detail contained in the contract
- General Conditions of Contract (contained within the RFP) must not be altered under any circumstances
- Special Conditions of Contract is where amendments of, and supplements to, clauses in the General Conditions of Contract are defined

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The Contract

- Key clauses are:
 - Scope of the Project and of the Consulting Services
 - Duration of Contract
 - Conditions relating to Validity of Contract
 - Responsibilities of the Parties (definition of consultant - JV or association with "joint and several" or "sole" responsibility)
 - Contract Amount (usually time-based payments)
 - Description of Consultants' Costs and Fees (man month rates and direct costs, contingencies - usually 5-10% of contract amount, price adjustment)

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The Contract (2)

- Key clauses (continued)
 - Currency in which Costs and Fees are to be Expressed (normally Japanese Yen, but other international trading currencies are permitted, e.g. US\$ or Euro)
 - Conditions and Methods of Payment (advance, interim and final payments)
 - Ownership and Disposal of Equipment
 - Services to be provided by the Borrower
 - Privileges and Immunities of the Consultant (e.g. tax)
 - Serious Hindrances (need to report to Borrower and JICA)

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The Contract (3)

- Key clauses (continued)
 - Reports (scope, number, type and frequency)
 - Copyright
 - Modifications (such as staff changes)
 - Force Majeure (conditions which would release consultant, procedures and both parties' rights and obligations)
 - Termination (non-performance or non-payment by Borrower to consultant - notification periods)
 - Settlement of Disputes (procedures and arbitrating institution)
 - Applicable Laws
 - Language (Japanese, English, French or Spanish)


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Activity:

- Using the template provided, you can prepare an outline Negotiation Plan
 - Enter main areas where you envisage negotiations will focus on (TOR/Special Conditions/etc)
 - Consider preparation you can undertake prior to negotiations
 - Consider optimal negotiating team to represent your organisation
 - *Detail will need to be completed when you have selected a bid following evaluation*

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WHAT WE'VE COVERED TODAY:
Evaluation of Proposals (continued) and Contract Negotiations

- Evaluation of Proposals (continued)
 - Finalising your definitions of grades to be used in evaluation
- Contract Negotiations
 - Negotiation Procedures
 - What can be Negotiated (Technical/Financial)?
 - The 5 Phases of Negotiation
 - Draw up Outline Negotiation Preparation Plan

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TODAY: Contract Management and Development of Action Plan for Procurement


- Contract Management
 - Contract Management Lifecycle
 - Contract Mobilisation
 - Managing Service Contracts
- Development of Action Plan for Procurement Process
 - Develop Action Plan for remainder of procurement process, with updated timetable
- Final Questions and Answers/Concluding Remarks

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Contract Management

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What is Contract Management?

- The central aim of contract management is to obtain the services agreed in the contract and achieve value for money through an effective management process
- This involves, among other aspects, developing and maintaining a good working relationship between the Borrower and the service provider or consultant

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Benefits of Effective Contract Management

- improved control of the consultant
- better performance of the contract
- increased opportunity to achieve value for money
- satisfactory provision of the contracted service
- achievement of the transactional objective
- providing a service to the end user's satisfaction
- contributing to achievement of organisation's goals

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Contract Management

- The foundations for contract management are established in the stages of the procurement process before contract award, e.g.
 - required service levels
 - scheduling of services
 - pricing mechanisms
 - performance indicators/benchmarks
 - communication channels/lines of reporting

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Approach to Contract Management

- Good contract management goes beyond the agreed terms of the contract. It is about resolving tensions and issues and building relationships based on trust and mutual understanding to achieve benefits for both parties ("win/win")
- Old style approach - *formal; potentially adversarial*
- New style approach - *integrated and consensual; requiring a range of interpersonal skills*




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Contract Management Lifecycle



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Contract Management Lifecycle

- *Setting direction* - policies/objectives/TOR
- *Acquiring the service* - evaluation of bids/establishing quality measures/contract negotiations
- *Handing over/managing transition* - mobilisation/ knowledge transfer/business changes
- *Managing contract/service* - service delivery/contract administration/relationship management
- *Reviewing/Re-competition* - business needs/past performance

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Contract Mobilisation

- Borrower's external responsibilities
 - Appoint counterpart staff where necessary
 - Inform other stakeholders of the commencement of the assignment
 - Obtain any other data or information required for the assignment

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Contract Mobilisation

- Internal Responsibilities
 - Appoint a counterpart Project Manager
 - Prepare office space, vehicles and other facilities and supplies
 - For large assignments, constitute a project steering committee
 - Establish steering or monitoring arrangements
 - Make other arrangements as agreed in contract negotiations

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The Contract Management Triangle

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Exercise - Case Study

- Review the Case Study
- You work for JICA and have just received this brief on a dispute
- Consider the circumstances and propose a way forward to resolve the dispute
- Also consider - what could the Borrower have done to have prevented this dispute from occurring?

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Managing Service Contracts

- There are 5 key elements in the effective management of contracts:
 1. Managing service delivery
 2. Managing the relationship
 3. Administering the Contract
 4. Managing changes
 5. Defining and Maintaining Roles and responsibilities

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1. Managing Service Delivery

- 2 principal aspects of a service contract for a Borrower to check:
 - the service is delivered on time, to specification and quality standards
 - the costs of the service are no higher than anticipated


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Managing Service Delivery

- There are a number of areas that a contract manager or team has to supervise in order to achieve successful delivery of the contracted service:
 - service level management
 - measuring quality
 - value for money
 - management of risk
 - operations continuity

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Managing Service Delivery

- Service level management is the process of ensuring that the service is provided in accordance with the performance indicators in the contract
- To satisfy the Borrower, the service provider has to balance cost and quality of services to ensure the Borrower achieves the expected value for money

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Managing Service Delivery

- In addition to assessing the volumes and levels of service performance, quality must also be checked
- Measuring quality of service delivery requires the establishment of a series of quality measures, e.g.
 - reliability
 - end-user satisfaction
 - applicable standards

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Managing Service Delivery

- Value for Money is the optimum combination of service cost and quality to meet the end-users requirements
- A key objective for the contract management team is to ensure that the contract continues to provide value for money over the life of the contract

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Managing Service Delivery

- Risk management is a discipline for identifying and controlling all risks that may affect the current or future delivery of a service
- It allows us to analyse risks that may affect the procurement of services and to develop appropriate mitigating strategies

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Managing Service Delivery

- Operations continuity - a major issue that faces contract managers or contract management teams is the impact of a service failure or interruption of services on the organisation
- This requires contingency planning which, ideally, should be a joint responsibility agreed between the Borrower and the service provider

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2. Managing the Relationship

- Three key factors for success in developing the relationship between the Borrower and the service provider or consultant are:
 - mutual trust and understanding
 - openness and excellent communications
 - joint approach to managing delivery

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Managing the Relationship

Managing the relationship comprises a set of responsibilities/activities that may be assigned to an individual (smaller contracts) or to a team (larger contracts) i.e.

- communication
- culture
- dealing with problems

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Managing the Relationship

- Primary levels of communication for a service contract are:
 - Operational - end users/technical support staff
 - Business - contract manager/relationship manager for both parties
 - Strategic - senior management/board of directors

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Managing the Relationship

- Inevitably, problems will arise with managing the contract and the way in which these are resolved will determine the level of success
- Therefore the following are required:
 - agreed procedures for problem solving, both for the Borrower and for the service provider
 - escalation procedures, if necessary

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3. Administering the Contract

- The relationship between Borrower and service provider, implementation of procedures and operation of administrative functions, through:
 - Contract maintenance
 - Change control
 - Management reporting

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Administering the Contract

- Maintaining contract documentation up to date is an important activity and provides the framework for contract management:
 - procedures need to be established
 - document management principles applied
 - new service descriptions or service levels introduced, if there are contract changes

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Administering the Contract

- Changes to services may have an impact on service delivery, performance, cost and value for money and management of this process is an important activity
- Accordingly, a standard change control procedure is required that will apply to all changes and responsibility for authorising changes must be allocated

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Contract Administration

- The management reporting requirements should have been defined as part of the proposal (TOR)/contract award process and may include:
 - service performance reports
 - management information
 - exception reports

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5. Managing Change

- Contract management has to be flexible to accommodate change, which is a common occurrence. There can be a variety of drivers for change:
 - evolving organisational requirements
 - organisational restructuring
 - developments in technology
 - economic trends
 - changes in legislation
- *A properly managed change process can be a good opportunity to improve the level of service*

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Managing Change

- Amending a contract affects the scope and, possibly, the viability of the services contract and inevitably there are implications of change for both parties
- If change reduces the scope of the contract there is a risk that economies of scale will decline
- If the scope is increased the Borrower must ensure it continues to receive value for money from the contract

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Managing Change

- There are four basic types of change which challenge contract managers:
 - changes to performance metrics
 - changes to service functionality
 - changes to service infrastructure
 - changes to workload
- *Changes will need to be agreed with the service provider*

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6. Defining and Maintaining Roles and Responsibilities

- The Borrower and the service provider both need contract management teams, which may include:
 - senior manager
 - contract manager
 - relationship manager
 - end-user
- in some cases roles and responsibilities may vary according to the organisation
- Important to define levels of delegated authority

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Dispute Resolution

- Forms of dispute resolution:
 - Negotiation - conferring to reach an agreement
 - Conciliation - negotiation requiring reconciliation (JICA?)
 - Mediation - negotiation with the intervention of a mediator
 - Adjudication - judicial determination of a dispute
 - Arbitration - form of judicial mediation undertaken by a skilled arbitrator
 - Litigation - arbitration conducted through a court of law

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Completion of Services

- Discussion and agreement to exit strategy with consultant
- Commencement of handover to counterpart staff if necessary
- Draft Final Report submitted
- Draft report reviewed and comments submitted to consultant
- Final report submitted and passed to JICA for concurrence
- Final invoices paid

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WHAT WE'VE COVERED TODAY: Contract Management and Development of Action Plan for Procurement

- Contract Management
 - Contract Management Lifecycle
 - Contract Mobilisation
 - Managing Service Contracts
- Development of Action Plan for Procurement Process
 - Develop Action Plan for remainder of procurement process, with updated timetable
- Final Questions and Answers/Concluding Remarks

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APPENDIX 4 : Presentation - Guidelines for Procurement

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Procurement Workshop for JICA Staff _____ Office

Session on Guidelines for Procurement (Consulting
Services, Goods and Works)

Date _____

1

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Session on Guidelines for Procurement (Consulting Services, Goods and Works)

- JICA's suite of Procurement Documents
- Common Principles which apply to Procurement of Consulting Services, Goods and Works
- Guidelines for Employment of Consultants
 - Consulting Services
 - Selection Procedures
- Guidelines for Procurement under Japanese ODA Loans
- Managing Risk in Procurement
 - Fiduciary Risk
 - Performance Risk

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JICA's Suite of Procurement Documents

3

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Comprehensive Range of Documents (1)

- Guides
 1. *Guidelines for Procurement under Japanese ODA Loans, March 2009*
 2. *Guidelines for Employment of Consultants under Japanese ODA Loans, March 2009*
 3. *Guide for Evaluation Procedures for Procurement of Consultants under Japanese ODA Loans, Amended December 2009*
 4. *Evaluation Guide for Pre-Qualification and Bidding under Japanese ODA Loans - Procurement of Goods and Services, June 2000*
- Sample Documents
 5. *Sample Pre-Qualification Documents under Japanese ODA Loans, April 2010*
 6. *Sample Bidding Documents under Japanese ODA Loans - Procurement of Works, June 2009*
 7. *Sample Bidding Documents under Japanese ODA Loans - Procurement of Goods, August 2010*
 8. *Sample Bidding Documents under Japanese ODA Loans - Procurement of Plant design, supply and installation, September 2010*
 9. *Sample Bidding Documents under Japanese ODA Loans - Procurement of small works, September 2010*
 10. *Sample Request for Proposals under Japanese ODA Loans - Selection of Consultants, September 2009*

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Comprehensive Range of Documents - Guides

http://www.jica.go.jp/english/operations/schemes/oda_loans/oda_op_info/guide/


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Comprehensive Range of Documents - SBDs

http://www.jica.go.jp/english/operations/schemes/oda_loans/oda_op_info/guide/tender/


6



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Common Principles which apply to Procurement of Consulting Services, Goods and Works

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Corrupt or Fraudulent Practice

- Consultants, Bidders, Contractors and Borrowers must observe highest standard of ethics during the procurement and execution of contracts financed by Japanese ODA Loans and other Japanese ODA
- If JICA determines that the highest-ranked consultant/bidder recommended for award has engaged in corrupt or fraudulent practice in competing for the contract, it will:
 - reject the proposal evaluation results/proposal for award
 - recognise a consultant/contractor as ineligible (for a determined period) to be awarded contracts funded with Japanese ODA Loans
- This provision to be included in Letter of Invitation/ bidding documents and any resulting contract

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Reference to JICA in Bidding Documents/Requests for Proposal

- Bidding documents/RFPs should state explicitly that a Japanese ODA Loan is being provided
- The usual wording is provided in Section 4.02 of JICA's *Guidelines for Procurement under Japanese ODA Loans* and Section 3.06 of JICA's *Guidelines for the Employment of Consultants*
- This ensures bidders/consultants fully understand the existence of and the need to observe the Guidelines

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Conflicts of Interest

- Letter of Invitation must include the provision at Section 2.05 (paragraph 2) of the *Guidelines for consultants*, which states:
 - Consulting firms providing consulting services for the preparation related to procurement for or implementation of a project, and any of their associates/affiliates (inclusive of parent firms), shall be disqualified from working in any other capacity on the same project, other than a continuation of the firm's earlier consulting services
 - This provision also applies to Contractors who lend or temporarily second, their personnel to firms which are engaged in consulting services for the preparation related to procurement for or implementation of the project, if the personnel would be involved in any capacity on the same project

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Currency of Proposals/Bids

- ODA Loan of JICA is denominated in Japanese Yen
- Costs and fees/bid price should normally be stated in Japanese Yen
- However, other international trading currencies are also permitted
- Any portion of the costs and fees/bid price which is expected to be spent in the Borrower's country may be stated in the currency of the country of the Borrower

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Language

- RFPs/Bidding Documents should be prepared in one of the following languages, selected by the Borrower:
 - Japanese
 - English
 - French
 - Spanish
- If a language other than one of these four is used, then a full English text shall be incorporated in those documents and it shall be specified which is governing
- Contracts should normally be in one of these 4 languages, but other languages may be used if non-discrimination among eligible bidders in the procurement procedure is ensured.


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Settlement of Disputes


- Provisions dealing with the settlement of disputes shall be included in the conditions of contract
- JICA recommends recourse to impartial institutions specializing in such matters, such as the International Chamber of Commerce

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General Principles for Employment of Consultants


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Guidelines for the Employment of Consultants under Japanese ODA Loans

- Applicable to ODA Loans provided by JICA
- Designed to:
 - indicate JICA's views on the proper selection and employment of consultants and
 - set out general rules to be followed by Borrowers in their use of consultants
- How these guidelines apply to a particular project is detailed in the Loan Agreement between JICA and the Borrower


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2005 (JBIC) to 2009 (JICA) - why have they changed?

- Harmonize procurement procedures
 - OECD Paris Declaration (2005) and Accra Agenda for Action (2008) recognised the importance of harmonising donor procurement procedures and encouraging greater use of country procurement systems
- Increase transparency of procurement process
- Make procurement process more efficient


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2005 (JBIC) to 2009 (JICA) - what has changed?

- Method of Selection
 - Quality-Cost Based Selection - now "commonly recommended method"
 - Guidelines specify where QBS and SSS should be used
- Briefings for Unsuccessful Firms
 - After contract award, any firm can ask Borrowers for an explanation on why their proposal was not selected
- Procurement processes can start prior to signing of Loan Agreement
- Sample Documents have been revised
 - In line with those used by multilateral development banks

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Main Considerations in Selection

- Quality
- Efficiency
- Transparency
- Non-discrimination among eligible consultants for contracts


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Consulting Services

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Types of Assignment

- Generally - 4 broad categories:
 - A. Pre-investment studies
 - B. Preparation services
 - C. Implementation services
 - D. Other services necessary for the project
- Taking into account the advantages of continuity of basic technical approach, it is acceptable that functions B, C and D are carried out by the same consultant
- If a consultant has satisfactorily carried out function A, it shall not be excluded from the short list to carry out functions B, C and D

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Consultants' Responsibilities

- Must exercise reasonable skill, care and diligence
- In professional matters act as a faithful adviser to the Borrower
 - However, in the case of supervision of work and/or management aspects, the Borrower may delegate more or less authority to act on its behalf (this **must** be clearly defined in the Terms of Reference)
- When differences of opinion occur between the Borrower and consultant, the Consultant should provide a report to the Borrower, which is then passed (with Borrower's comments) to JICA for consideration

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Monitoring by JICA

- The Borrower is responsible for supervising the consultant's performance
- JICA may monitor the work as necessary in order to satisfy itself that it is being carried out in accordance with appropriate standards, **without** assuming the responsibilities of the Borrower or the consultant
- Where appropriate, JICA may take part in discussions between the Borrower and the consultant - however, JICA shall not be liable in any way for the implementation of the project
- This provision should be clearly stated in the agreement between the Borrower and the consultant


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Selection Procedures

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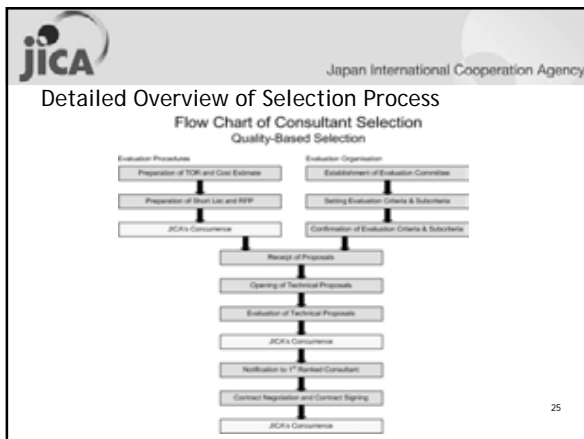
Detailed Overview of Selection Process

Flow Chart of Consultant Selection
Quality and Cost-Based Selection (QCBS)

```

graph TD
    subgraph Evaluation_Procedures [Evaluation Procedures]
        A[Preparation of TOR and Cost Estimate] --> B[Preparation of RFP/L1 and RFP]
        B --> C[JICA's Concurrence]
    end
    subgraph Evaluation_Organisation [Evaluation Organisation]
        D[Establishment of Evaluation Committee] --> E[Setting Evaluation Criteria & Sub-criteria]
        E --> F[Coordination of Evaluation Criteria & Sub-criteria]
    end
    C --> G[Receipt of Proposals]
    F --> G
    G --> H[Opening of Technical Proposals]
    H --> I[Evaluation of Technical Proposals]
    I --> J[JICA's Concurrence]
    J --> K[Public Opening of Financial Proposals]
    K --> L[Evaluation of Financial Proposals]
    L --> M[Ranking of Proposals]
    M --> N[JICA's Concurrence]
    N --> O[Notification to Preferred Consultant]
    O --> P[Contract Negotiation and Contract Signing]
    P --> Q[JICA's Concurrence]
    
```

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JICA's Review

- JICA may review the Borrower's selection procedures, documents and decisions:
 - Prior to issuing RFP - the Short List of Consultants and the Request for Proposals
 - When QCBS adopted - prior to opening financial proposals, the Borrower's analysis of technical proposals
 - Prior to starting contract negotiations with the highest-ranked consultant - the results of the Borrower's evaluation of proposals
 - When SSS is desired selection method - Borrower's reasons, with Letter of Invitation and Terms of Reference
 - Immediately after executing the contract - a duly certified copy of the contract

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Methods of Selection

- The methods which are used for the selection of consultants under a loan shall be agreed by the Borrower and JICA before the start of the selection process
 - Quality- and Cost-Based Selection (QCBS)
 - Quality-Based Selection (QBS)
 - Single-Source Selection (SSS)

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Quality- and Cost-Based Selection (QCBS)

- Method which takes into account the quality of the proposal and the cost of the services
- QCBS is the commonly recommended method, but it is not always the most appropriate

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Quality-Based Selection (QBS)

- When quality is paramount
- Complex or highly specialised assignments
- Where innovative solutions are required
- Where downstream impact is very high
- Where variable solutions are available
- Where it is important to take safety measures

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Single-Source Selection (SSS)

- Only in exceptional cases
- Must show a clear advantage over using a competitive procedure

Example:

- Natural continuation of previous work
- In emergency cases, such as in response to disasters
- For very small assignments
- Where there is only one qualified firm

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Preparation of Terms of Reference (TOR)

- First step in engagement of a consultant is for JICA and the Borrower to agree on:
 - The Terms of Reference for its services
 - The type of consultant to be employed
 - The approximate amount of funds required for the consulting services

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Structure of Terms of Reference

- The TOR should describe:
 - The scope of the consulting services in as much detail as possible (including alternative solutions and/or training the consultant is expected to explore in the course of its work)
 - How much authority will be delegated to it to act on the Borrower's behalf
- The TOR should also contain information on:
 - The background of the project
 - Objectives of the project
 - Nature of and limit to the responsibilities which the consultants assume
 - National and/or other standards
 - The specifications to be used in the design of the project
 - The conditions under which the work shall be performed
 - Data, Local services, personal and facilities to be provided by the client

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Preparation of Cost Estimate

- This should be made by adding remuneration for consultant staff and direct expenses incurred
- Figures are built up by computing staff time (expert per unit of time - e.g. day, month) and an estimate of each related cost component according to the results of JICA's appraisal
- If TOR is comprehensive/well designed, then estimate is likely to be more accurate
- A mismatch between the cost estimate and the TOR will probably cause problems during the course of the project
- Cost estimate should **not** be disclosed until proposal evaluation has been completed
- During contract negotiations, the Borrower may inform the highest-ranked consultant of the cost estimate

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Preparation of Short List of Consultants

- Once TOR have been agreed by JICA and the Borrower, the Borrower shall prepare a Short List of Consultants to be invited
- The Short List should normally consist of not less than three and not more than five consultants
- Should the Borrower find it difficult to compile a satisfactory Short List of qualified consultants from the information available to it, JICA can make available information on consultants

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Short Lists - Other Considerations

- Any firm from a country other than the eligible source countries must not be listed on the Short List (neither as a single participant nor a member of a joint venture)
- The Short Listed consultants may undertake services in association with other consultants listed or not listed in the Short List as long as the Short Listed consultants execute a major portion of the required services

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One Bid per Bidder?

Following rules shall be followed in general:

KEY

Example 1

A B X	C D X	NOT permitted
-------	-------	---------------

Example 2

A B X	C D	NOT permitted
	X	


Example 3

A B	C D	Permitted
X	X	

Solely or jointly and severally liable for entire contract

Subconsultant or association member (not liable for entire contract)

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Preparation of the Request for Proposals

The RFP includes:

1. Letter of Invitation
2. Instructions to Consultants (Data Sheet)
3. Sample Form of Contract
4. Terms of Reference
5. Technical Proposal - Sample Forms (including minimum requirement, Evaluation Criteria)
6. Financial Proposal - Sample Forms
7. List of Eligible Source Countries


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Modifications to RFP Standard Documents?

- None to:
 - ❖ Instructions to Consultants (ITC)
 - ❖ General Conditions of Contract
 - ❖ Standard Forms
- All procurement specific requirements and amendments should be made through:
 - ✓ Letter of Invitation
 - ✓ Data Sheet
 - ✓ Terms of Reference
 - ✓ Special Conditions of Contract


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Evaluation of Technical Proposals

- QCBS - firms to submit technical and financial bids in separate sealed envelopes at the same time - financial bids to remain sealed until technical evaluation is completed
- QBS - only highest-ranked consultant (following proposal evaluation) can be required to submit a financial proposal


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Negotiations

- Outline of Negotiation Procedures
 - Invite the highest-ranked consultant to enter into negotiations on the conditions of a contract (in case of QBS) after JICA's concurrence on technical proposal evaluation
 - If no agreement reached on a contract within a reasonable time, the Borrower terminates negotiations with first consultant and invites the second-ranked consultant - JICA to be consulted first!
 - Negotiations may be conducted in phases - **Borrower prepares minutes**


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What can be negotiated: Technical/Contractual?

- TOR and technical proposal submitted should not be substantially altered by negotiations
- Staff assigned and major works shall not be materially modified to meet the budget (GL3.11)
- These elements should be clarified in negotiations:
 - Scope of work
 - Technical approach
 - Work plan and Schedule
 - Organisation and personnel
 - Deliverables
 - Counterpart staff and facilities
 - Special Conditions of Contract


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What can be negotiated - Financial?

- When QCBS is used, proposed unit rate for remuneration shall not be altered since they have been factors in the selection process
- When QBS is used, discussions concerning costs and other financial matters shall be conducted only with the highest-ranked consultant who is invited to enter into contract negotiations
- When QBS is used, highest-ranked consultant is notified in writing by Borrower and asked to submit its financial proposal (if not requested along with technical proposal)

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What can be negotiated: Financial?

- These negotiations should be reasonable to keep consistency between the quality and price of the services
- Should include clarification of the consultant's tax liability in the country
 - RFP will state whether consultant is liable for payment of local taxes
 - Local tax amounts should be excluded from the financial proposal, but discussed at contract negotiations and applicable amounts included in the contract

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Confidentiality of Procurement Process

- No information relating to the proposal evaluation and recommendations concerning awards should be communicated to any persons not officially concerned with the process until a contract award is made

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The Contract

- Both parties' interests should be adequately protected by the detail contained in the contract
- General Conditions of Contract (contained within the RFP) must not be altered under any circumstances
- Special Conditions of Contract is where amendments of, and supplements to, clauses in the General Conditions of Contract are defined


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Guidelines for Procurement under Japanese ODA Loans

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What's changed - from JBIC to JICA?

- JBIC had several sample bidding documents for civil works procurement
 - Smaller Contracts
 - Civil Works (larger, more complex Contracts)
- JICA now uses sample bidding document based on one developed by Multilateral Development Banks and IFIs (World Bank, Asian Development Bank, etc) in 2004
 - General Conditions of Contract are derived from FIDIC, *Federation Internationale Des Ingenieurs-Conseils* - an Association of National Associations of Consulting Engineers (since 1913, with Headquarters in Lausanne, Switzerland)

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International Competitive Bidding (ICB)

- JICA considers that in most cases ICB is the best method for satisfying the requirements regarding procurement of goods and works

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Procedures other than ICB

- Limited International Bidding (LIB) – essentially ICB by direct invitation without open advertisement
- International Shopping (IS) – a procurement method based on comparing price quotations obtained from several (normally at least 3) foreign and/or local suppliers to ensure competitive prices
- Direct Contracting (DC) – only to be used in very exceptional circumstances

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When might these other procedures be used? (*all special circumstances*)

- Where Borrower wishes to maintain reasonable standardization of its equipment or spare parts
- Where Borrower wishes to maintain continuity of services related to goods and services provided under an existing contract awarded in accordance with procedures acceptable to JICA
- Where the number of qualified contractors/suppliers is limited
- Where the amount involved in the procurement is small
- Emergency procurement

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JICA's Review

- JICA may review the following decisions:
 - If Borrower wishes to adopt procurement procedures other than ICB, he must submit to JICA a Request for Review of Procurement Method(s)
 - Before advertisement and/or notification of prequalification (prequalification documents)
 - Prequalification selection process – report from Borrower
 - Bidding documents – prior to issue
 - Bid Analysis and Proposal for Award – prior to sending a notice of award to the successful bidder
 - Duly certified copy of contract – promptly after executing a contract

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International Competitive Bidding (1)

- Types of Contract
 - Lump Sum – (where contract price is determined as a lump sum of a certain amount)
 - Unit Price, or Ad/Re measurement – (where contract price is determined in accordance with quantity x a unit price or rate)
 - Cost Reimbursable (where payment amount is determined after the completion of the work, and includes cost-plus fixed fee contract option or cost-plus percentage fee option) – *Not acceptable to JICA except in exceptional circumstances*
 - "Turnkey" – typically for engineering, supply of equipment and construction provided by same Contractor – *acceptable only if offer technical and economic advantages to the Borrower*

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1-stage or 2-stage bidding procedure?

- Single-stage: two-envelope bidding procedures used for
 - Works (*but note that for low-value, less complex works single-stage: one-envelope bidding procedures are often used*)
 - machinery and equipment (i.e. pumps and treatment plant) for which complete technical specifications are prepared in advance
- Two-stage bidding procedures used for
 - turnkey contracts
 - contracts for large and complex plants or procurement of equipment which is subject to technological advances (e.g. major computer systems) for which it is impractical to prepare complete technical specifications in advance

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Single-stage: two-envelope bidding

- Bidders are invited to submit technical and financial proposals simultaneously in two separate envelopes
- Technical proposals are opened first and reviewed to determine they conform to the specifications
- Then financial proposals of the bidders who have submitted technical proposals which conformed to the technical specifications are then opened publicly
- Bidders or their representatives should present at the opening
- The financial proposals of the bidders whose technical proposal has disqualified shall promptly be returned unopened to the bidders

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Two-stage bidding

- Bidders will first be invited to submit technical offers without prices on the basis of the minimum operating and performance requirements
- After technical and commercial clarifications and adjustments (followed by amended bidding documents), the bidders will be invited to submit final technical proposals and financial proposals in the second stage
- JICA and the Borrower must both agree upon use of this procedure

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Advertising

- When using ICB, invitations to prequalify or to bid shall be advertised in at least one newspaper of general circulation in the Borrower's country
- Advertisements may also be published on the internet
- JICA should be sent a copy of the invitation by the Borrower
- The advertisement should contain
 - Subject matter of the bid
 - Contact addresses
 - Deadline for submission of bids
 - Reference to funding as an "ODA Loan of JICA"

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Prequalification of Bidders

- When is this process used?
 - For large or complex works, and exceptionally, for custom-designed equipment and specialized services
- Why is it used?
 - To ensure that invitations to bid are sent only to those firms which are technically and financially capable
- How do firms prequalify?
 - Prequalification should be based entirely upon the capability of prospective bidders to perform satisfactorily the particular contract - *experience/performance on similar contracts and financial position*
 - All bidders meeting the criteria should be allowed to bid

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Bidding Documents

- These should provide all necessary information to enable a prospective bidder to prepare a bid for the goods and services to be provided. An example showing elements of the bidding document is below:
 - Instruction to Bidders
 - Bid Form
 - General Conditions of Contract
 - Special Conditions of Contract
 - General Specifications
 - Technical Specifications
 - Bill of Quantities
 - Drawings
 - Contract Form
 - Bid Security Form
 - Performance Security Form

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Bid Securities

- Bid bonds or bidding guarantees will usually be required
- They should not be set so high as to discourage suitable bidders
 - Internationally accepted amount of bid security is around 2% of the estimated cost in ordinary contracts
- Bid bonds or guarantees shall be released to unsuccessful bidders as soon as possible after the contract has been signed with the successful bidder

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Conditions of Contract

- These clearly define
 - the rights and obligations of the Borrower and the Contractor
 - The powers and authority of the consultant as the engineer (if employed by the Borrower)
- General Conditions - for all contracts
- Special Conditions - differ depending on the nature of the individual contract
- Risks and liabilities among the parties shall be allocated in a balanced manner
- Safety shall be emphasized in the implementation of the project

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Clarity of Bidding Documents

- Specifications - must be clear and precise
- Drawings - to be consistent with text of specifications
- Evaluation Factors - must specify any factors, in addition to price, to be taken into account when evaluating bids
- Alternatives - if bids based on alternative designs, etc are permitted, documents must state conditions for their acceptability and the evaluation method
- Eligibility - must state eligible source countries and other eligibility provisions
- Clarifications/Alterations - must be sent promptly to all bidders using an addendum

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Standards

- There may be a requirement for equipment or materials to comply with specific national or other standards
- In this case, bidding documents shall also state that equipment or materials meeting the Japan Industrial Standards (JIS) or other internationally recognised standards which ensure quality equivalent to, or higher than, the standards specified will also be accepted
- This is to ensure the ICB process permits the widest possible competition

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Use of Brand Names

- Specification of brand names should be excluded as much as possible
- Brand names should only be used if:
 - specific spare parts are required, or
 - it has been determined that a degree of standardization is necessary (in this case, the specifications shall permit offers of alternative goods which have similar characteristics and quality at least equal to those specified)

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Price Adjustment

- Bidding documents should clearly state whether
 - firm prices are required, or
 - adjustment of bid prices is acceptable
- Provision will be made (in appropriate cases) for upward or downward adjustment of the contract price, should changes occur in major components such as labour or materials
- Specific formulae for price adjustment should be clearly stated in the bidding documents
 - Goods contracts usually have ceiling on adjustment, whereas works contracts do not.

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Bid Opening and Evaluation

- Each bid will contain:
 - Bid form
 - Technical data
 - Priced bill of quantities
 - Bid security

This is the most common method of bid submission

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Bid Opening

- Public bid opening
- Sealed bids
- Access of bidder's representatives
- No late bids
- Dealing with "modified" bids
- Minutes are taken and Chairman signs bid opening statement


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Bid Evaluation - Principles

- Importance of confidentiality
- Number of persons on bid evaluation committee
- Relationship of Borrower/Employer
- Clarification:
 - Only where permissible and warranted
 - Cannot change substance of bid or price


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Preliminary Evaluation of Bids

- Why Preliminary Examination?
 - To determine bids that are technically and commercially responsive
 - Reject those which are not
- What to look for:
 - bid complete and signed
 - bid security attached
 - any computational errors
 - are there any major deviations from bid conditions
 - brief technical scrutiny to ensure compliance with bid requirements


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Unacceptable deviations

- Late submission of bids
- Ineligible bidder
- Unsigned bids
- No acceptable bid security
- Bidder/JV not as stated in prequalification
- Price adjustment / fixed price
- Unacceptable design alternatives
- Nonconforming time phasing
- Unacceptable subcontracting


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Debatable deviations

- Different payment terms
- Non-compliance with local regulations
- Completion/maintenance periods are different
- Special methods of construction are offered
- Omission of minor works or items
- Limited liabilities
- Modified liquidated damages
- Different codes of practice or standards


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Acceptance/Rejection of Deviations

- If the deviation is acceptable to the evaluator at this stage, then the bid can be put forward for detailed evaluation
- If the deviation is not acceptable, then the bid is not substantially responsive and must be rejected
- A substantially responsive bid is one which conforms to all the Terms, Conditions and Specifications of the Bidding Documents, without material deviation or reservation
- No bidder should be asked to modify his bid to correct the deviation, but to keep the bid price the same
- The correct way to evaluate is to quantify the monetary implications of the deviation and to take this into account in the evaluation of the bid


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Categories of Deviations

- Major Deviations
 - Has an effect on the validity of the bid, or has been specified in the Bidding Documents as grounds for rejection - it is a deviation from the commercial terms or the technical specifications in the bid documents whose effect on the bid price is substantial but cannot be given a monetary value
- Minor Deviations
 - Has no effect on the validity of the bid, or has no effect on the price, quality or delivery of the goods or services offered;
 - or has an effect, but the difference from the commercial terms or technical specifications in the bid documents is such that it can be given a monetary value
 - Has not been specified in the bidding documents as grounds for rejection


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Preliminary Examination

- Is the Bid Substantially Responsive?
 - Yes or No?
 - Preliminary Evaluation Checklist and format
 - Only carry out detailed evaluation on bids which are substantially responsive


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Detailed Examination and Comparison of Bids (1)

- Objective:
 - To determine the lowest evaluated cost bid
- Check for arithmetical errors
- Check for omissions
- Convert to a common currency


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Detailed Examination and Comparison of Bids (2)

- Seek clarifications and assess monetary implications
 - Major/minor deviations
- Assess the ranking order of bids
 - Ranking is determined by using the most probable monetary costs or benefits to the Employer of all quantifiable deviations
- Lowest Evaluated Cost Bid:
 - Propose award only to bidder submitting lowest ranked evaluated cost bid


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Post qualification

- Capacity of bidder to perform contract
- Technical capability
- Product reputation
- Financial resources
- Parts and service
- Past performance
 - if there was prequalification, confirm that bidder's status is substantially same as at prequalification
 - The Borrower shall determine the qualification for the lowest evaluated bid


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Contract Award

- Following receipt of JICA concurrence to Evaluation Report, the Borrower:
 - Awards contract (within the period of validity of bids)
 - to the bidder whose bid has been determined to be the lowest evaluated cost bid
 - Who meets the appropriate standards of capability and financial resources

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Contract Award (2)

- Actions by the Bidder/Contractor:
 - Should not be required to reduce price of the bid
 - Should not be required to undertake work not specified in the bidding documents
 - Should not be required to modify the bid in any way
 - Should provide the following:
 - Letter of Acceptance
 - Contract Agreement
 - Performance Security

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Procurement Planning

Procurement Activity	Target Month for Completion
1. Preparation of Short List and Request for Proposals	12 Nov 2009
2. JICA's Concurrence to (1)	27 Nov 2009
3. Agree Composition of Evaluation Committee	04 Dec 2009
4. Issue of Request for Proposals	07 Dec 2009
5. Receipt of Contributions from Consultants	15 Jan 2010
6. Pre-Proposal Conference (if arranged)	15 Jan 2010
7. Receipt of Proposals	14 Feb 2010
8. Opening of Technical Proposals	14 Feb 2010
9. Completion of Evaluation of Technical Proposals	16 Mar 2010
10. JICA's Concurrence to (9)	31 Mar 2010
11. Notification to 1 st Ranked Consultant	01 Apr 2010
12. Receipt - Financial Proposal from 1 st Ranked Consultant	08 Apr 2010
13. Internal Review of Financial Proposal	22 Apr 2010
14. Contract Negotiation and Contract Signing	29 Apr 2010
15. JICA's Concurrence to (14)	13 May 2010
16. Consultant Commencement of Services	13 Jun 2010

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Managing Risk in Procurement

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Managing Procurement is about managing Risk

- What kind of risks do we face in procurement for Japanese ODA Loans?

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Fiduciary Risk - what is it?

- Definition of "fiduciary"
 - a relationship of confidence or trust between two or more parties
- the risk that
 - funds are not used for the intended purposes
 - do not achieve value for money
 - are not properly accounted for

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Fiduciary: Non-Compliance with Guidelines

- JICA Guidelines reflect international good practice
- Reviews should check compliance with
 - General Principles
 - Procedures
 - Correct use of sample documents/Evaluation Guides
- Avoid conflicts of interest
- Try to help Borrowers appreciate why using Guidelines will benefit them
 - Explain; advise (coaching/training)


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Fiduciary: Corrupt or Fraudulent Practice

- Consultants/Contractors and Borrowers must observe highest standard of ethics during the procurement and execution of contracts financed by Japanese ODA Loans and other Japanese ODA
- If JICA determines that the highest-ranked consultant/contractor has engaged in corrupt or fraudulent practice in competing for the contract, it will:
 - reject the proposal evaluation results
 - recognise a consultant/contractor as ineligible (for a determined period) to be awarded contracts funded with Japanese ODA Loans
- This provision to be included in Letter of Invitation and any resulting contract


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Most common corrupt practices - Selection (1)

- Consultants /Contractors could
 - Bribe Client's officials in order to be shortlisted
 - Collude with the Client and/or each other to limit competition
 - Bribe Client's officials to obtain confidential information, e.g. TOR or budget estimate in advance
 - Exert undue pressure on Evaluation Committee
 - Misrepresent facts in EOLs/proposals or submit false/forged documents in support of EOLs/proposals
 - Collude with Client to fraudulently change essential data in the financial proposal after bid submission (in QCBS)
 - Withhold critical information regarding serious conflicts of interest


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Most common corrupt practices - Selection (2)

- Clients could
 - Solicit bribes
 - Provide unequal access to information, e.g. withhold important information from certain consultants/contractors
 - Ignore conflicts of interest involving particular consultants/contractors
 - Knowingly overlook a consultant's false statements
 - Use SSS method to procure consultants/contractors where competitive process might lead to different result
 - Violate confidentiality of bidding process, e.g. by disclosing status of evaluation process to a consultant/contractors


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Most common corrupt practices - Implementation

- Consultants/Contractors may (by taking advantage of inefficient Client or in collusion with the Client)
 - Seek unjustified contract extensions or payments with no justification
 - Make unjustified changes of experts
 - Overcharge the client, e.g. on Time-Based contract, by billing more time than actually worked
 - Provide less service than is agreed upon in the contract
 - Engage in unauthorised use of project property and services
 - Alter accounting records of their assignment to misappropriate project funds


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Performance: Weak Client Capacity

- Legal/regulatory
- Institutional (Borrower and Project Management Team)
- Weak Capacity affects
 - Definition of requirements: poorly designed TOR/budget
 - Creation of Short List: inadequately researched list
 - RFP design: inappropriate evaluation criteria and contract provisions
 - Evaluation: flawed or incorrect evaluation result
 - Negotiation: contract with imbalance of risks and liabilities
 - Contract Management: time and cost overruns and/or poor consultant performance


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Performance: Weak Consultant/Contractor Capacity

- Weak Capacity affects
 - Compliance with JICA Procurement Guidelines: unaware of provisions and obligations within Guidelines
 - EOLs: consultants/contractors do not see invitations to submit EOLs/prequalification applications
 - Proposal submissions: non-compliant proposals submitted or failure to understand technical/financial requirements
 - Negotiations: contract with imbalance of risks and liabilities
 - Implementation: assignment outcomes are not achieved or there are time and/or cost overruns

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Performance: Bureaucratic Inefficiencies

- Lack of experience sharing
 - Executing agencies not learning from each other
- Lack of delegation
 - Senior managers take on too much responsibility, but rarely have time to implement procurement process
- Too many approval processes!
 - Before procurement decisions can be made, excessive number of internal and/or external approvals required

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What can JICA staff do to minimise risks?

- Review - proactively!
- Monitor progress of procurement against agreed timetable
- Advise; support; coach/train
- Encourage clients to obtain external assistance if capacity is weak
- Consider helping consultants build capacity, too


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What we've covered today

- JICA's suite of Procurement Documents
- Common Principles which apply to Procurement of Consulting Services, Goods and Works
- Guidelines for Employment of Consultants
 - Consulting Services
 - Selection Procedures
- Guidelines for Procurement under Japanese ODA Loans
- Managing Risk in Procurement
 - Fiduciary Risk
 - Performance Risk

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APPENDIX 5 : Presentation - Understanding PQ Evaluation and Bid Evaluation


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Procurement Workshop for JICA Staff _____ Office

Session on Understanding Prequalification Evaluation
and Bid Evaluation under Japanese ODA Loans for
Procurement of Works and Goods

Date _____


1

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Session on Understanding Pre Qualification Evaluation and Bid Evaluation for Procurement of Works and Goods


- Prequalification - When and How to Use It?
- JICA Sample Prequalification Documents
- Evaluation of Prequalification Submissions
- JICA Evaluation Guide for Bidding
 - Bid Evaluation
 - Award of Contract

2

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Prequalification - When and How to Use?

3

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Prequalification for ICB

Objective of Prequalification

"To ensure bidders for a Contract will only be those who have the experience and technical and financial resources necessary to fulfill the contract requirements"

- *Capacity of the bidder to perform the contract*

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Prequalification for ICB

Benefits

- Saves expense of bidding for unqualified bidders
- Improves interest of potential contractors
- Indicates interest of potential contractors
- Reduces potential for controversy
- *In plain language* - spares the Client and Donor a lot of trouble!

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Prequalification for ICB

Disadvantages

- Employer has to review all prequalification applications (But save time of bidding evaluation for unqualified bidders)
- Collusion (and possibility of price-fixing) is easier amongst a limited number of identified bidders, particularly if of the same nationality

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Prequalification for ICB

Practice

- Large Works
 - >500 million J yen(≒\$6mil) needs JICA's review and concurrence on the PQ result
 - >1,000 million J yen needs JICA's review and concurrence on the PQ document
- Complex works - (i.e. large pumping stations, or specialist treatment plant)
- Custom designed equipment
- Industrial plant
- Specialized Services

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Prequalification for ICB

Minimum information to be provided:

- Description of works, size
- Source of finance, terms of payment
- Implementation schedule
- Eligibility, Language, Procedures

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Prequalification for ICB

Evaluation:

- Eligibility, Historical contract Non-performance, Financial situation, and Construction experience may be specified
- Criteria for JV/subcontractor also should be specified

Update:

- Bid documents may require update of information

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JICA Sample Prequalification Documents

Latest version - April 2010

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JICA Sample Prequalification Document

CONTENTS:

Foreword

Notes for Users

Invitation for Prequalification

Part 1: Prequalification Procedures

- Instructions to Applicants
- Prequalification Data Sheet
- Qualification Criteria and Requirements
- Application Forms
- List of Eligible Countries of Japanese Loans

Part 2: Works Requirements

- Scope of Works

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JICA Sample prequalification Document


Part 1: prequalification Procedures

Invitation for Prequalification

(to be completed by borrower)

- Name of Borrower/Executing Agency
- Description of Works
- Anticipated dates for bids
- Terms under *Guidelines for Procurement under Japanese ODA Loans (March 2009)*
- Address for obtaining further information
- How to purchase the prequalification Documents and the fee
- Applications in clearly marked sealed envelope

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JICA Sample prequalification Document
Part 1: prequalification Procedures

I. Instructions to Applicants
*(standard paragraphs - to be used without changing
amendments made in Section II - Data Sheet)*

- General
- Contents of the prequalification Documents
- Preparation of Applicants
- Submission of Applications
- Procedures for Evaluation of Applications
- Evaluation of Applications and prequalification of Applicants

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JICA Sample prequalification Document
Part 1: prequalification Procedures

II. Prequalification Data Sheet
(to be completed by the Borrower)

- General
- Contents of the prequalification Documents
- Preparation of Applicants
- Submission of Applications
- Procedures for Evaluation of Applications
- Evaluation of Applications and prequalification of Applicants

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JICA Sample prequalification Document
Part 1: prequalification Procedures

III. Qualification Criteria and Requirements (standard)

IV. Application Forms (to be completed by Applicant)

- Eligibility
 - Application Information Form ELI-1.1
 - Plus partners in a Joint Ventures use Form ELI-1.2
- Historical Contract Non-Performance
 - Non-performing Contracts and any Pending Litigation, Form CON-2
- Financial Situation
 - Financial performance, Form FIN-3.1
 - Average Annual Turnover, Form FIN-3.2
- Experience
 - General Construction Experience, Form EXP-4.1 (last 5 years)
 - Specific Construction Experience, Form EXP-4.2a, b, c, d etc

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JICA Sample prequalification Document
Part 1: prequalification Procedures

V. List of Eligible Countries of Japanese ODA Loans
(to be completed by the Borrower according to JICA Loan Agreement)

-
-
-
-

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JICA Sample prequalification Document
Part 2: Works Requirements

VI. Scope of Works (to be completed by Borrower)

- Description of the Works
 -
 -
 -
- Construction Period
 -
- Site and Other Data
 -
 -
 -

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Prequalification for ICB

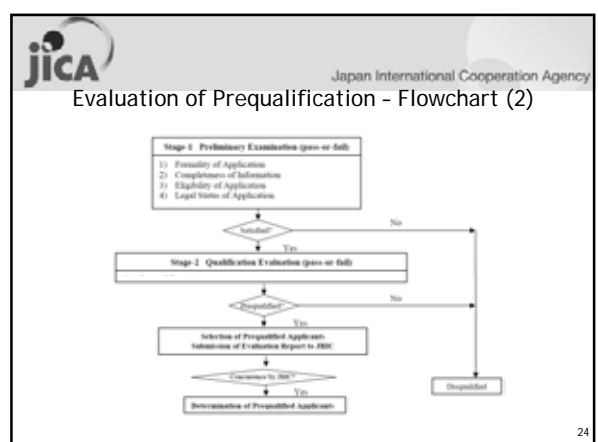
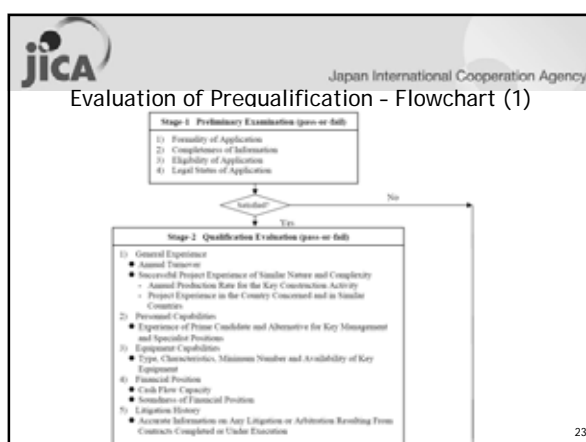
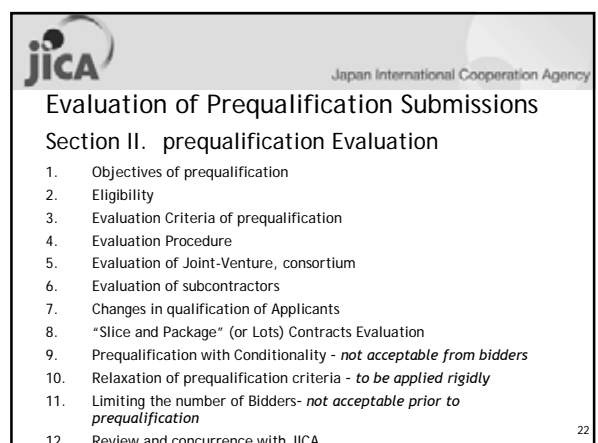
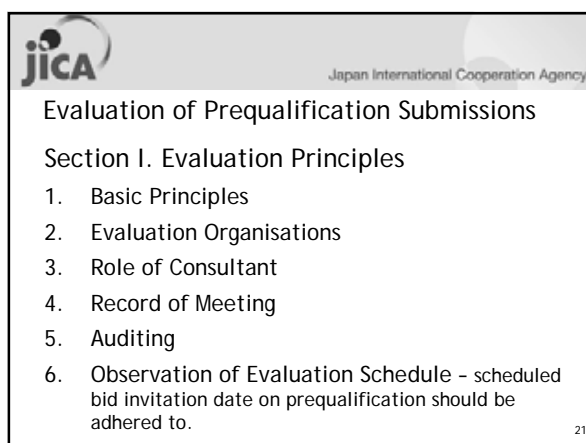
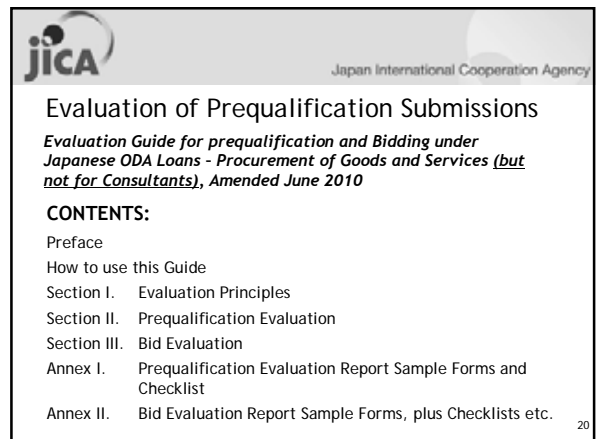
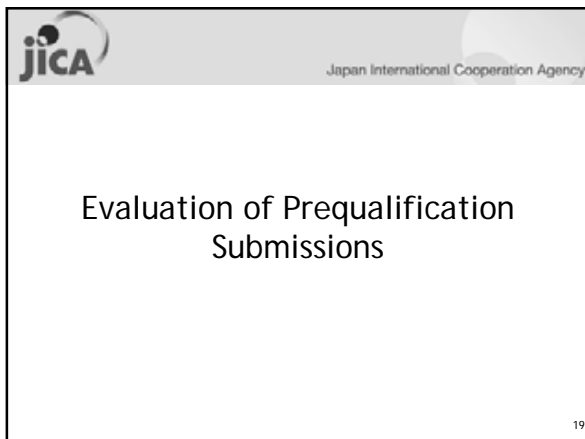
Other information

- Updating information
- Bid documents may require update of information

Advising results

- To all applicants whether successful or not successful
- Only successful applicants will then be permitted to bid

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Evaluation of Prequalification Submissions

Annex I. Prequalification Evaluation Report Forms

- Table 1 Identification
- Table 2 Prequalification Process
- Table 3 Preliminary Pass-Fail Examination of Applicants
- Table 4 Qualification Evaluation Summary (Pass-Fail Criteria)
- Table 5 Proposed Prequalification Decision
- *Annex I-1 Prequalification Evaluation summary Checklist*

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JICA Evaluation Guide for Bidding - BID EVALUATION

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JICA Evaluation Guide for Bidding - BID EVALUATION

JICA Evaluation Guide for prequalification and Bidding under Japanese ODA Loans - Procurement of Goods and Services (but not for Consultants), 2000 Amended June 2010

Section III: Bid Evaluation Guide

1. Basic Information an Bidding Process
2. Preliminary Examination of Bids
3. Determination of Substantial Responsiveness
4. Detailed examination of Bids
5. Determination of Award

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Bid Opening

- Submission deadline = bid opening time
- Public bid opening (signature on the attendance sheet)
- Sealed bids
- No late bids
- Dealing with “modified” bids
- Submission of a record of bid opening to JICA

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Bid Evaluation - Principles

- Importance of confidentiality
- Number of persons on bid evaluation committee
- Relationship of Borrower/Employer
- Clarification:
 - Only where permissible and warranted
 - Cannot change substance of bid or price


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Preliminary Evaluation of Bids

- Why Preliminary Examination?
 - To determine bids that are technically and commercially responsive
 - Reject those which are not complete as required by the BD
- What to look for:
 - bid complete and signed
 - bid security attached
 - any computational errors
 - are there any major deviations from bid conditions
 - brief technical scrutiny to ensure compliance with bid requirements

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Unacceptable deviations

- Late submission of bids
- Ineligible bidder
- Unsigned bids
- No acceptable bid security
- Bidder/JV not as stated in prequalification
- Nonconforming time phasing
- Unacceptable subcontracting
- Failure to comply with cash flow, personnel, and equipment.
- Conditional bid


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Debatable deviations

- Different payment terms
- Non-compliance with local regulations
- Completion/maintenance periods are different
- Omission of minor works or items
- Limited liabilities
- Modified liquidated damages
- Different codes of practice or standards


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Acceptance/Rejection of Deviations

- If the deviation is acceptable to the evaluator at this stage, then the bid can be put forward for detailed evaluation
- If the deviation is not acceptable, then the bid is not substantially responsive and must be rejected
- A substantially responsive bid is one which conforms to all the Terms, Conditions and Specifications of the Bidding Documents, without material deviation or reservation
- No bidder should be asked to modify his bid to correct the deviation, but to keep the bid price the same
- The correct way to evaluate is to quantify the monetary implications of the deviation and to take this into account in the evaluation of the bid


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Categories of Deviations

- Major Deviations
 - Has an effect on the validity of the bid, or has been specified in the Bidding Documents as grounds for rejection - it is a deviation from the commercial terms or the technical specifications in the bid documents whose effect on the bid price is substantial but cannot be given a monetary value
- Minor Deviations
 - Has no effect on the validity of the bid, or has no effect on the price, quality or delivery of the goods or services offered;
 - or has an effect, but the difference from the commercial terms or technical specifications in the bid documents is such that it can be given a monetary value
 - Has not been specified in the bidding documents as grounds for rejection


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Detailed Examination and Comparison of Bids (1)

- Objective:
 - To determine the lowest evaluated cost bid
- Check for arithmetical errors
- Check for provisional sums
- Check for omissions
- Convert to a common currency


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Detailed Examination and Comparison of Bids (2)

- Seek clarifications and assess monetary implications
 - Major/Minor deviations
- Assess the ranking order of bids
 - Ranking is determined by using the most probable monetary costs or benefits to the Employer of all quantifiable deviations
- Lowest Evaluated Cost Bid:
 - Propose award only to bidder submitting lowest ranked evaluated cost bid

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Post qualification (by Employer/Borrower)

Section 5.07 - Post qualification of Bidders

1. If there has been no prequalification of bidders, the Borrower shall determine whether the bidder whose bid has been evaluated the lowest has the capability and resources to carry out the contract concerned effectively.
2. The criteria to be met shall be set out in the bidding documents and if the bidder does not meet them, the bid shall be rejected. In such an event, the Borrower shall then make a similar decision regarding the next-lowest evaluated bidder.

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Post qualification (by Employer/Borrower)

For use in the procurement of small goods/works contracts.

- Capacity of bidder to perform contract
- Technical capability
- Financial resources
- Parts and service
- Past performance

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Final Evaluation - Conclusion

Recommendation by the Employer (Borrower) to the Donor (JICA):

- Awarded to the bidder -
 - whose bid has been determined to be the lowest evaluated and substantially responsive bid
 - who meets the appropriate standards of capability and financial resources
- If the successful bidder has submitted an Alternative Bid, then an evaluation of the alternative is included in an attachment to the Evaluation Report
 - Alternative bids from unsuccessful bidders evaluated on the specified tender or bid, are not considered

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JICA Evaluation Guide for Bidding - BID EVALUATION

JICA Evaluation Guide for prequalification and Bidding under Japanese ODA Loans - Procurement of Goods and Services (but not for Consultants), 2000 Amended June 2010

Annex II: Bid Evaluation Report Sample Forms (Tables)


1. Identification
2. Bidding Process
3. Bid Submission and Opening
4. Bid Prices (as read out)
5. Preliminary examination and Determination of Substantial Responsiveness
6. Corrections and unconditional discounts
7. Exchange rates
8. Currency Conversion
9. Additions, Adjustments and Priced Deviations
10. Proposed Contract Award

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JICA Evaluation Guide for Bidding - AWARD of CONTRACT

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Award of Contract

Actions by JICA:

- Are there any changes to the Evaluation Report
- Letter of Concurrence to the Recommended Contract Award sent to the Employer (Borrower)

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Award of Contract

Actions by Employer (Borrower) :

- Last chance to reject any or all bids - Employer has right to reject all and any bid at any time prior to contract award
 - If Employer rejects bid after award of contract or letter of acceptance to successful bidder, then Employer must pay successful bidder's tender preparation costs
- Ensure you are still within the period of validity of bids (typically 120 days)
 - *Tender validity can be extended - but must be requested from all bidders - no change in price or conditions*

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Award of Contract

Actions by Employer (Borrower) Continued :

- Send Contract Agreement to the successful bidder, which should be a complete bound copy containing all relevant documents including:
 - Letter of Acceptance
 - Bid (or Tender) Document and all forms
 - Bid Addenda (or Tender) amendments
 - *Recommended to produce a conform document rewriting the bid document to include all the amendments and addenda*
 - Particular and General Conditions of Contract
 - Specifications and Engineering Drawings
 - Completed schedules and forms (Bill of Quantities)

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Award of Contract

Actions by the Bidder/Supplier:

- Should not be required to reduce price of the bid.
- Should not be required to undertake work not specified in the bidding documents.
- Should not be required to modify the bid in any way
- Should provide the following:
 - Performance security within 28 days of receipt of Letter of Acceptance (and Advanced Payment Security if specified in General Conditions of contract)
 - Signed Contract Agreement within 28 days of receipt of Contract Agreement

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Award of Contract

Actions by Employer (Borrower) Continued :

- Shall Promptly notify the other unsuccessful bidders
- Promptly after executing a contract, shall submit to JICA a duly certified copy of the contract
- The following may be made public by JICA
 - a) *Name of each bidder*
 - b) *Bid prices as read out at opening*
 - c) *Name and address of successful bidder*
 - d) *Name of supplier*
 - e) *Award date and amount of the contract*

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Session on Understanding Pre Qualification Evaluation and Bid Evaluation for Procurement of Works and Goods - What We've Covered Today

- Prequalification - When and How to Use It?
- JICA Sample Prequalification Documents
- Evaluation of Prequalification Submissions
- JICA Evaluation Guide for Bidding
 - Bid Evaluation
 - Award of Contract

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APPENDIX 6 : Presentation - Understanding JICA SBDs for Procurement of Works

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Procurement Workshop for JICA Staff _____ Office

Session on Understanding Sample Bidding Documents
under Japanese ODA Loans for Procurement of Works

Date _____

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Session on Understanding Sample Bidding Documents under Japanese ODA Loans for Procurement of Works

- Types of Contracts
- Principles of Re-measurement Contracts
- JICA Forms of Contracts
- Preparing Tenders - JICA Sample Bid Document for Works
- Bidding Forms Methods of Measurements
- Bid Evaluation
- Award of Contract

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Types of Contracts

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Types of Contracts (1)

- Lump Sum** -
 - where contract price is determined as a lump sum of a certain amount
- Unit Price or Re-measurement** -
 - where contract price is determined in accordance with quantity multiplied by a unit price or rate, typically in a Bill of Quantities
- Schedule of Rates** -
 - Similar to unit price or rate, but without quantities - typically used for maintenance contracts
- Others** - >>>>

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Types of Contracts (2)

- Cost Reimbursable** - (JICA does not accept, basically)
 - where payment amount is determined on actual cost after completion of the work including overheads, sub-types;
 - cost-plus fixed fee
 - cost-plus percentage fee
- "Turnkey" or Design and Build** -
 - typically for design and build of civil or building engineering, often including the design, supply and installation of plant and equipment
- Management Contract** -
 - Construction and/or design management, where Contractor sub-contracts all Works and is paid actual costs by Employer, plus overheads and fee

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Types of Contracts (3)

	<u>Applicability to JICA and ICB</u>
Lump Sum	YES
Unit Price or Re measurement	YES
Schedule of Rates	Not normally applicable to ICB
Cost Reimbursable	Not normally - exceptional only
"Turnkey" or Design and Build	Conditional - if advantageous
Management Contract	Not normally applicable to ICB

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Principles of Re-measurement Contracts

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Re-measurement Contracts


- These refer to Bills of Quantities (BQs) and a named Engineer (SBD Clause 3.1), appointed by the Employer
- Engineer is given functions, including certification and other determinations - independently of the Employer
- All clause numbers and timing of responses should be checked against the actual Contract, Particular Conditions and Contract Data

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What are Bills of Quantity (BoQs) used for?

- Objectives of the BQ
 - To provide sufficient information on the quantities of works to be performed to enable bids to be prepared efficiently and accurately
 - When a contract has been entered into, to provide a priced itemised breakdown of the works (including materials, equipment, parts and labour) for use in the periodic valuation or certification of the works executed and a basis for re-measurement and the final account



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Re-measurement: Common Form of Contract

- the BQs are approximate estimated quantities
- the Engineer ascertains the final value of the works by re-measurement (clause 12.1)
- Certificates and payment
- Engineer to agree or determine the Contract Price (clause 12.3)

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Contract - Contractor's Obligations

- Contractor will submit statement of amounts he considers to be his entitlement in respect of:
 - The value of the permanent works executed
 - Contractor's equipment, temporary works, day-works and the like
 - Materials and plant delivered to site but not yet incorporated in the permanent works
 - Any other sum the contractor considers that he is entitled

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Contract - Engineer/Employer Obligations

- The Engineer shall forward to the Employer an interim payment certificate within (time stipulated in Contract)
- The Employer shall pay the amount of receipt of the interim payment certificate within (time stipulated in Contract) to the Contractor

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Contract – Certificates and Completion (1)

- In addition to Interim Payment Certificates, there are three other certificates:
 1. Taking over certificates (issued when Contractor has achieved substantial completion)
 2. Defects Liability Certificates (these run for twelve months from date of taking over certificate and are issued by the Engineer within 28 days after the end of the defects liability period or after the defects have been rectified by the Contractor, if later)

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Contract – Certificates and Completion (2)

3. Final Payment Certificate

- no later than 56 days after DLC the Contractor submits a draft final statement
- Contractor also sends discharge notice to the Employer confirming total of final statement he is claiming
- after 28 days of receipt of the final statement and discharge the Engineer issues to the Employer a final payment certificate
- the appropriate sum under the final payment certificate is to be paid by the Employer to the Contractor within 56 days

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The Role of the Engineer

- The Engineer has an extensive role in virtually all areas of the contract - a pivotal position with extensive powers to make decisions and give instructions
- Clause 3.1 of General Conditions of Contract defines the role of the engineer - it sets out his duties and authority, in summary they are:
 - Designer
 - Quality Controller
 - Certifier
 - Adjudicator

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Importance of Risk Allocation in Works Contracts (1)

- Risks should be fairly allocated between the Employer and the Contractor
- Allocation is made on the basis that the Employer is best placed to adopt those risks which
 - experienced contractors could not reasonably be expected to foresee or anticipate and make allowance for in their bids
 - are beyond the control of the parties
 - are not capable of being covered by insurance

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Importance of Risk Allocation in Works Contracts (2)

- Unlike a fixed price contract, JICA's form of contract for Works anticipates claims from contractors
- Different clauses provide that a contractor may be able to claim additional money from an employer
- Contractors therefore make their tender price as competitive as possible and look for claims
- Employers often accept the lowest tender
- Contractors do not appraise the risks and the carrying out of the works becomes claims-driven

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JICA Forms of Contracts

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JICA Forms of Contracts

- Small Civil Works <\$10million
- Works >\$10million
- Goods - no installation
- Plant and equipment - with design and installation

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JICA Forms of Contracts

- Small Works <\$10million
 - Used for smaller general works, with a predominance of civil engineering, but is not recommended for complex works even when less than \$10million, i.e. water treatment plant
 - *Sample Bidding Documents under Japanese ODA Loans - Procurement of Small Works, September 2010*
- Works >\$10million (≡ FIDIC MDB version 2006)
 - Used for general civil engineering works greater than \$10million, but can include smaller complex projects, and for works with major plant and equipment installation, where the civil works is still the major portion.
 - *Sample Bidding Documents under Japanese ODA Loans - Procurement of Works, June 2009*

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JICA Forms of Contracts

- Goods
 - Used for supply and delivery, but not the installation of materials or equipment.
 - Assume that no prequalification has taken place before bidding.
 - *Sample Bidding Documents under Japanese ODA Loans - Procurement of Goods, August 2010*
- Plant
 - Used for the procurement of plant through ICB, such as turbines, generators, boilers, switchyards, pumping stations, telecommunication systems, process and treatment plants.
 - The contract involves the design, manufacture, delivery, installation, testing, commissioning, training, etc.
 - *Sample Bidding Documents: Procurement of Plant Design, Supply and Installation, September 2010*

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JICA Sample Document for Procurement of Works

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JICA Sample Bid Document for Works

CONTENTS:

Foreword

Summary

Notes for Users

Part 1: Bidding Procedures

Part 2: Works Requirements

Part 3: Conditions of Contract and Contract Forms


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JICA Sample Bid Document for Works - Part 1: Bidding Procedures

- Section I: Instruction to Bidders
- Section II: Bid Data Sheet
 - Sections I and II - Option A - One-Envelope, Option B - Two envelopes (JICA preference for Option B)
- Section III: Evaluation and Qualification Criteria
 - alternatives with and without pre-qualification
- Section IV: Bidding forms
- Section V: List of Eligible Countries of Japanese ODA Loans

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JICA Sample Bid Document for Works - Parts 2 and 3:


Part 2: Works Requirements

- Section VI: Works Requirements

Part 3: Conditions of Contract and Contract Forms

- Section VII: General conditions
- Section VIII: Particular Conditions
- Annex to the Particular Conditions - Contract forms


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Modifications to Bidding Documents?

- None to:
 - ❖ Section I - Instructions to Bidders
 - ❖ Section VII - General Conditions of Contract
- All procurement specific requirements and amendments should be made to:
 - ✓ Section II - Bid Data Sheet
 - ✓ Section III - Evaluation and Qualification Criteria
 - ✓ Section IV - Bidding Forms
 - ✓ Section V - Eligible Countries
 - ✓ Section VI - Employer's Requirements
 - ✓ Section VIII - Particular Conditions of Contract
 - ✓ Section IX - Annex to Particular Conditions - Contract Forms

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JICA Sample Bid Document for Works - Part 1: Bidding Procedures (1)

One- or two- envelope bidding (JICA preference is 1 stage, 2 envelopes)

- Therefore TWO sets of templates available for Section I: Instruction to Bidders and Section II: Bid Data Sheet,
- But only minor differences in templates
- Reminder of the Two-envelope bidding procedure -
 - Applicable to complex works (i.e. pumps and treatment plant)
 - Submissions of the technical and financial proposals/tender simultaneously in two separate envelopes
 - Technical proposals** are opened in public **first** and reviewed to determine they conform to the specifications
 - Then financial proposals** of the bidders who have submitted technical proposals which conformed to the technical specifications are then opened publicly at a later invited date

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JICA Sample Bid Document for Works - Part 1: Bidding Procedures (2)

Section I: Instruction to Bidders

- A. General
 - Scope, Source of Funds, Eligibility etc.
- B. Contents of Bidding Documents
 - Site Visit, Pre-Bidding Meeting
 - Alternative Bids (*more next slide*)
 - Period of Validity of Bids
- C. Submission and Opening of Bids
 - Deadline, Late Bids, Bid Opening
- D. Evaluation and Comparison of Bids
- F. Award of Contract

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JICA Sample Bid Document for Works - Part 1: Bidding Procedures (3)

Section I: Instruction to Bidders

Alternative Bids

- Section 13.1 - unless indicated in the Bid Data Sheet, will NOT be considered
- Section 13.3 - if allowed then Bidders wishing to offer and Alternative, must first fully respond to the invited Bid first and price, then submit details of the proposed Alternative
- Section 13.3 continued - Borrowers can only consider alternatives from the LOWEST evaluated bidder conforming to the original Bid requirements

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JICA Sample Bid Document for Works - Part 1: Bidding Procedures (4)

Section II: Bid Data Sheet

- A. Introduction
- B. Bidding Documents
 - Pre-Bid Meeting invitation details
- C. Preparation of Bids
 - Note on whether Alternative Bids permitted or not
 - Period of Validity of Bids - NOT greater than 120 days, typically 90 days
 - Currency/ies of Bid
 - Bid Security, if required, details provided
- D. Submission and Opening of Bids (*more next slide*)
 - Deadline date
 - Bid Opening date (Technical only for Two envelope bids)
- E. Evaluation and Comparison of Bids
 - Currency used in Bid Evaluation for comparison purposes

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JICA Sample Bid Document for Works - Part 1: Bidding Procedures (5)

D. Submission and Opening of Bids

- Bidders may withdraw, substitute or modify bids after submission, by sending a written notice
- At Bid Opening (Technical only for two envelopes) open -
 - First, envelopes marked "WITHDRAWAL"
 - Second, envelopes marked "SUBSTITUTION"
 - Third, envelopes marked "MODIFICATION"
 - Then, all other envelopes one at a time
 - Record of bid Opening kept

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JICA Sample Bid Document for Works - Part 1: Bidding Procedures (5)

Section III: Evaluation and Qualification Criteria

- Following Pre-qualification -> *short*
- Without Pre-qualification -> *long (i.e. includes detail normally requested in Pre-Qualification)*

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JICA Sample Bid Document for Works - Part 1: Bidding Procedures (6)

Section III: Evaluation and Qualification Criteria


(FOLLOWING Pre-qualification):	(WITHOUT Pre-qualification) -
1. Evaluation notes	1. Evaluation notes
2. Qualification	2. Qualification (<i>tables and forms</i>)
<ul style="list-style-type: none"> – Financial Resources – Personnel – Equipment 	<ul style="list-style-type: none"> – <i>Eligibility</i> – <i>Historical Contract Non-performance</i> – <i>Financial Resources Situation</i> – <i>Experience</i> – <i>Personnel</i> – <i>Equipment</i>

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JICA Sample Document for Procurement of Works - BIDDING FORMS

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JICA Sample Bid Document for Works - Part 1: Bidding Procedures (8)

Section IV: Bidding Forms

- Letter of Bid
- Letter of Technical Bid
- Letter of Price Bid
- Schedule of Adjustment Data
- Bill of Quantities
- Technical Proposal
- Bidders Qualifications *following* or *without* pre-qualification - 8 and 11 forms respectively
- Bid Security Form

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JICA Sample Bid Document for Works - Part 1: Bidding Procedures (9)

Section IV: Bidding Forms

Technical Proposal - to be completed by Bidder

- Site Organisation
- Method Statement
- Mobilization Schedule
- Construction Schedule
- Safety Plan
- Personnel (Forms PER -1, PER - 2)
- Equipment (Form EQU)

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JICA Sample Bid Document for Works - Part 1: Bidding Procedures (10)

Section IV: Bidding Forms - Bidding Qualification

FORMS: - (FOLLOWING Pre-qualification):

- ELI 1 - Bidder Information
- ELI 2 - JV Information
- CON - Historical Contract non-performance
- FIN 1 - Financial Situation
- FIN 2 - Construction turnover
- FIN 3 - Financial Resources
- FIN 4 - Current Commitments
- FIN 5 - Compliance with JICA Procurement Guidelines

WITHOUT Pre-qualification - as above plus Forms EXP 1, 2a and 2b - for General and Specific Construction

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JICA Sample Bid Document for Works - Part 1: Bidding Procedures (11)

Section IV: Bidding Forms - Bid Securities

- Bid bonds or bidding guarantees will usually be required, but they should not be set so high as to discourage suitable bidders (usually 2% of estimated contract value)
- Bid bonds shall be released to unsuccessful bidders as soon as possible after the contract has been signed with the successful bidder
- Usually take the form of bank guarantees or letters of credit

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JICA Sample Document for Procurement of Works - BILL of QUANTITIES (Methods of Measurement)

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JICA Sample Bid Document for Works - Part 1: Bidding Procedures (12) Bill of Quantities

- Form of Contract used invariably Re-Measurement
- At Tender stage the Bill of Quantities are approximate estimated quantities, during contract the Engineer ascertains the final value of the works by re-measurement
- Objectives of the Bill is to provide sufficient information on the quantities of works to be performed to enable bids to be prepared efficiently and accurately
- When a contract has been entered into, to provide a priced itemised breakdown of the works (including materials, equipment, parts and labour) for use in the periodic valuation or certification of the works executed and a basis for re-measurement and the final account

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JICA Sample Bid Document for Works - Part 1: Bidding Procedures (13) - Bill of Quantities

Bill No. 1: General Items

Item No.	Description	Unit	Quantity	Rate		Amount	
				Local	Foreign	Local	Foreign
101	Performance Bond Guarantee	sum	item	---	---		
102	Insurance of the Works	sum	item	---	---		
103	Insurance of Contractor's Equipment	sum	item	---	---		
104	Third-Party Insurance	sum	item	---	---		
105	Provide Safety Measures	month	24				
106	Allow for maintenance of Works for 12 months after completion	month	12				
107	—etc—						

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JICA Sample Bid Document for Works - Part 1: Bidding Procedures (14) - Bill of Quantities

Bill No. 2: Earthworks

Item No.	Description	Unit	Quantity	Rate		Amount	
				Local	Foreign	Local	Foreign
201	Excavate topsoil to maximum depth 25 cm and stockpile for reuse, maximum haul distance 1 km	m ³	95,000				
202	Excavate topsoil to maximum depth 25-50 cm, and dispose	m ³	15,000				
203	—etc—						
206	Excavate fill material from cuttings or approved borrow pits, haul up to 1 km, deposit, shape, and compact to fill	m ³	258,000				
207	Excavate rock in cuttings and dispose, any depth	m ³	25,000				

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JICA Sample Bid Document for Works -
Part 1: Bidding Procedures (15) - Bill of Quantities
Schedule of Daywork Rates: 1. Labour

Item No.	Description	Unit	Nominal quantity	Rate		Extended amount	
				Local	Foreign	Local	Foreign
D100	Ganger	hour	500				
D101	Labourer	hour	5,000				
D102	Bricklayer	hour	500				
D103	Mason	hour	500				
D104	Carpenter	hour	500				
D105	Steelwork Erector	hour	500				
D106	—etc.—	hour					
D113	Driver for vehicle up to 10 tons	hour	1,000				
D114	Operator for excavator, dragline, shovel, or crane	hour	500				

JICA Sample Bid Document for Works -
Currency of Bids

- As ODA Loan of JICA is denominated in Japanese Yen, the bid price is normally stated in Japanese Yen
- Whenever necessary, however, other international trading currencies may also be permitted (e.g. US\$, Euro) and should be listed in the bidding documents
- Any portion of bid price which the bidder expects to spend in the Borrower's country may be stated in the currency of the Borrower's country

JICA Sample Bid Document for Works -
Currency Conversion for Bid Comparison

- To enable comparison of bid prices, these are to be converted to a single currency selected by the Borrower (which is stated in the bidding documents)
- The exchange (selling) rate used should be quoted by an official source (e.g. Central Bank) for similar transactions on a date selected in advance and specified in the bidding documents
 - This date must not be earlier than 30 days prior to (not later than) the date specified for the opening of bids


JICA Sample Bid Document for Works -
Currency of Payment

- In almost all cases, contract price payments should be made in the currency or currencies in which the bid price is expressed by the successful bidder (unless a different arrangement is clearly justified and specified in the bidding documents)
- In these exceptional cases, the exchange rate to be used for purposes of payment should be that specified by the bidder in the bid

JICA Sample Bid Document for Works -
Price Adjustment

- Bidding documents should state clearly whether
 - Firm prices are required, or
 - Adjustment of bid prices is acceptable
- Price adjustment provisions are usually included in works contracts which extend beyond one year
- Specific formulae for price adjustment should be clearly stated in the bidding documents
 - A ceiling on price adjustment is included in goods contracts, but is not usually included in contracts for works

JICA Sample Document for
Procurement of Works -
WORKS REQUIREMENTS and CONTRACT
FORMS

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JICA Sample Bid Document for Works - Parts 2 and 3: (1)


Part 2: Works Requirements

- Section VI: Works Requirements

Part 3: Conditions of Contract and Contract Forms

- Section VII: General Conditions
- Section VIII: Particular Conditions
- Annex to the Particular Conditions - Contract forms

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JICA Sample Bid Document for Works - Parts 2 and 3: (2)

Part 2: Works Requirements

- Section VI: Works Requirements - *all completed by Employer's Engineer*
 - Scope of Works
 - Specifications
 - Drawings
 - Supplementary Information
 - *Only 4 blank pages in Sample Bid Document - but the form an Engineering perspective what the project is all about*

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JICA Sample Bid Document for Works - Parts 2 and 3: (3)

Part 3: Conditions of Contract and Contract Forms

- Section VII: General conditions (©FIDIC)
 - These are used for all contracts and cannot be amended under any circumstances
- Section VIII: Particular Conditions
 - These detail conditions appropriate to the nature and location of the particular project
 - Part A - Contract Data specifically detailed cross-referenced to standard clauses in the GCC
 - Part B - specific provisions
- Annex to the Particular Conditions - Contract forms

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JICA Sample Bid Document for Works - Parts 2 and 3: (4)

Part 3: Conditions of Contract and Contract Forms

- Annex to the Particular Conditions - Contract forms
 - Letter of Acceptance
 - Contract Agreement
 - Performance Security (or Bond)
 - Advance Payment Security
 - Retention Money Guarantee

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JICA Sample Bid Document for Works - Parts 2 and 3: (5)

Advance Payments

- Advance payments are usually included in contracts, except in the case of low-value contracts
- The bidding documents should state the percentage of the total payment to be made in advance for mobilization and similar expenses
- The percentage can usually be expected to lie between 10% and 15% of the contract price
- The bidding documents should state the arrangements for any security required for advance payments

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JICA Sample Bid Document for Works - Parts 2 and 3: (6)

Performance Securities

- A performance security is usually required for civil works or large-equipment supply contracts
- These securities are usually provided in the form of an acceptably worded bank guarantee of performance bond
 - amounts vary greatly - between 5-15%
 - validity is usually for one year after completion of work
- In most goods contracts, a percentage of the total payment is held as retention money to guarantee performance (usually 5-10%)

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What We've Covered Today (Understanding
Sample Bidding Documents under Japanese ODA
Loans for Procurement of Works)

- Types of Contracts
- Principles of Re-measurement Contracts
- JICA Forms of Contracts
- Preparing Tenders - JICA Sample Bid Document for Works
- Bidding Forms Methods of Measurements

