



Democratic Socialist Republic of Sri Lanka

GUIDELINES

SELECTION & EMPLOYMENT OF CONSULTANTS

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**NATIONAL PROCUREMENT AGENCY
OF SRI LANKA**

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DEFINITIONS

Unless the Context otherwise requires, the following terms whenever used in these Guidelines have the following meanings:

(The first letter of a defined word is written in uppercase throughout the Guideline)

- “Proposal”** means a formal offer by a Consultant indicating the details and other terms at which the Consultant proposes to provide the Consultant Services, if it is accepted by the Procuring Entity.
- “Foreign Funding Agency”** means any multi-lateral or bi-lateral agency which has entered/intends to enter into an agreement with the Government of Sri Lanka and is not limited to the World Bank, Asian Development Bank, or Japan Bank for International Cooperation.
- “Foreign Funded Project”** means a project fully or partly financed by a Foreign Funding Agency.
- “Consultant”** means an individual or a Consultancy Organisation providing Consulting Services.
- “Consulting Services”** means the services provided by Consultant of an intellectual and advisory nature in wide range of activities such as policy advice; institutional reforms; management; engineering services; architectural services; construction supervision; financial services; procurement services; social and environmental studies; and identification, preparation, and implementation of projects.
- “Selection of Consultants”** means obtaining by Procuring Entities of Consulting Services by the most appropriate means, with public funds or funds from any other source whether local or foreign received by way of loans, grants, gifts, donations, contributions and similar receipts.
- Procurement Guidelines** means the latest Procurement Guidelines for Goods and Works published by NPA.
- “Procuring Entity”** means a government ministry, provincial council, government department, statutory authority, government corporation, government owned company, local authority or any subdivision thereof or any other body wholly or partly owned by the Government of Sri Lanka or where the Government of Sri Lanka has effective control of such body, that engages in procurement.
- “Consultancy Organisation”** means an entity whether national or international who has submitted a Proposal or who has invited to submit a Proposal or who has selected to provide Consulting Services.
- “Guideline”** means these Guidelines for selection and employment of Consultants
- “Selection Step”** means any action in furtherance of selection and employment of Consultants

Interpretations:

- Headings are for convenience only and do not limit, alter or affect the interpretations of these Guidelines.
- Words importing the singular include the plural and vice-versa.

Acronyms

AO	-	Accounting Officer
CAO	-	Chief Accounting Officer
CAPC	-	Cabinet Appointed Procurement Committee
CPC	-	Consultants Procurement Committee
CPCC	-	Cabinet Appointed Consultants Procurement Committee
CPCD	-	Department Consultants Procurement Committee
CPCM	-	Ministry Consultants Procurement Committee
CPCP	-	Project Consultant Procurement Committee
CQS	-	Selection Based on Consultant's Qualifications
EOI	-	Expression of Interest
FBS	-	Selection on Fixed Budget
GOSL	-	Government of Sri Lanka
LCS	-	Least Cost Selection
LKR	-	Sri Lanka Rupees
NPA	-	National Procurement Agency
PC	-	Procurement Committee
PE	-	Procuring Entity
QBS	-	Quality Based Selection
QCBS	-	Quality and Cost Based Selection
RFP	-	Request for Proposals
SRFP	-	Standard Request for Proposals
SSS	-	Single Source Selection
TOR	-	Terms of Reference

CHAPTER I- GENERAL

1.1 Purpose

1.1.1 The purpose of these Guidelines is to set forth the procedures that should be adhered to by the PE, in carrying out any selection and employment of Consultants, financed in whole or in part by GoSL or a Foreign Funding Agency, in the circumstances where the PE is lacking the necessary:

- (a) expertise;
- (b) knowledge; or
- (c) organizational strength

to carry out the proposed assignment.

1.2 Objectives

1.2.1 The process of selection and employment of Consultants should ensure:

- (a) need for high quality and standard of services;
- (b) maximizing economy, timeliness and efficiency;
- (c) adhering to prescribed standards, rules, regulations and good governance;
- (d) the need to give best qualified Consultants an opportunity to compete in providing the Consulting Services
- (e) compliance with local laws and regulations and international obligations;
- (f) ensuring transparency and consistency in the evaluation and selection procedure;
- (g) need for increasing focus on anticorruption and observance of ethics; and
- (h) retaining confidentiality of information provided by Consultants

1.3 Scope of Application

1.3.1 These Guidelines repeal, replace or otherwise supersede all previous guidelines, circulars and financial regulations issued by the Treasury and the Department of Public Finance on the subject of selection/employment of Consultants.

1.3.2 Types of Consultant Entities

Guidelines are applicable for the selection and employment of all types of Consultants. For the purpose of these Guidelines, the term Consultants includes a wide variety of entities, including international and national Consultancy Organisations, engineering organisations, architectural organisations, quantity surveying organisations, management organisations, procurement agents, inspection agents, auditors, multinational organizations, universities, research institutions, government agencies, nongovernmental organizations (NGOs), and individuals.

1.3.3 Type of Consulting Services

The type of consulting services covered in these Guidelines include but not limited to policy advice, institutional reforms, capacity building, management, engineering services, architectural services, construction supervision, pre-investment studies, financial services, procurement services, social and environmental studies, and identification, preparation, and implementation of projects.

*see Consulting
Services Manual
1.3.3*

1.3.4 Guidelines of Foreign Funding Agencies

In the case of a Foreign Funded Project, if the Foreign Funding Agency mandates the use of guidelines of such funding agency, such funding agency guidelines shall prevail over these Guidelines to the extent applicable. In the event of a conflict between these Guidelines and that of the funding agency, the funding agency guidelines shall take precedence over these Guidelines.

1.4 Ethics in Selection and Employment of Consultants

1.4.1 Confidentiality

Parties associated with Selection Steps, namely, Consultants and officials shall ensure that they maintain strict confidentiality throughout the process.

1.4.2 Corruption

The officials involved in a Selection Steps shall not abuse their powers. An official who abuses one's position in a Selection Step to derive benefits for oneself or one's close family or business associates, would be deemed to be engaged in corrupt practices.

1.4.3 Conflict of Interest

Officials shall declare that they shall remain without a conflict of interest throughout the process. Should such a compromising situation arise, the official shall declare his/her interest and disassociate himself/herself from the process.

1.4.4 No gifts or inducement to be accepted

Officials shall refrain from receiving any personal gain from any Selection Step. No gifts or inducement shall be accepted. Consultants are liable to be disqualified from the selection process if found offering any gift or inducement which may have an effect of influencing a decision or impairing the objectivity of an official.

1.4.5 For the purpose of Guideline 1.4 (Ethics in selection and employment of Consultants), officials shall mean any public officer or any other person who is engaged in any activity related to a specific Selection Step.

1.5 Laws applicable to Selection of Consultants

The laws applicable to selection of Consultants shall be the laws of the Democratic Socialist Republic of Sri Lanka.

CHAPTER 2 - INSTITUTIONS, CONSULTANTS PROCUREMENT COMMITTEES AND THEIR FUNCTIONS

2.1 National Procurement Agency of Sri Lanka (NPA)

2.1.1 The NPA is the principal authority for formulating and effecting amendments to these Guidelines; issuance of manuals, standard documents, evaluation methodologies and standard contracts. Any clarification of the provisions of these Guidelines or the aforementioned documents may be sought from the NPA.

2.2 Secretaries to the Line Ministries & Chief Secretaries to the Provincial Councils

2.2.1 The responsibility of selection and employment of Consultants shall be vested with the Secretaries of the respective line ministries or Chief Secretaries of the respective provincial councils as appropriate, who are deemed to be the CAO.

2.3 Responsibilities of the Procuring Entity

2.3.1 The officer-in-charge of a PE , such as head of department (HD) and project director (PD), together with the assistance of the procurement specialists, and other staff shall be responsible for the following:

- (a) maintenance of necessary communication with all stakeholders of the process of selection and employment of Consultants;
- (b) maintaining documentation connected with selection and employment process;
- (c) preparation of EOI and its submission to the CPC for review and approval;
- (d) preparation of the draft RFP including the TOR and its submission to the CPCs for review and approval;
- (e) preparation of data and information prior to the evaluation;
- (f) issuance of invitations and facilitating the meetings of CPCs;
- (g) circulation of the minutes of the meetings of CPCs; and
- (h) provision of any requisite assistance to CPCs on any request made by them to facilitate the process and all other matters incidental thereto.

2.4 Responsibilities of Consultants Procurement Committees

- 2.4.1 CPCs shall be responsible for the entire selection process. The appropriate CPC, as described in these Guidelines shall carry out the entire process of selection of Consultants.

*Authority of
CPCs are
given in
Consulting
Services
Manual
2.10.1*

Consulting Services Leading to Downstream Procurement

- 2.4.2 The PE may carry out the selection of a consultant for the Consulting Services that will lead to downstream procurement/s such as subsequent contract awards for construction activities (non consultancy component), following a Consulting Services for design of construction works (consultancy component) using either of the following options.

2.4.3 Option A

The PE may carry out the selection of consultant for the consultancy component as described under Guideline 2.4.2 above, as an independent procurement following the procedures and through the appropriate CPC as described in these Guidelines.

2.4.4 Option B

Non consultancy component and consultancy component as described under Guideline 2.4.2, shall be aggregated and appropriate PC for the aggregated amount, in accordance with guideline 2.7 of the Procurement Guidelines shall carry out both consultancy and non consultancy procurement activities.

- 2.4.5 The Technical Evaluation Committee (TEC) for non consultancy component shall be selected in accordance with the Guideline 2.8 of Procurement Guideline. For consultancy component, the PC shall be enhanced to act as CPC as described in these Guidelines.

- 2.4.6 If the aggregate amount as per Guideline 2.4.2 above, is falling within the purview of CAPC as per Guideline 2.7 of the Procurement Guideline and the estimated cost of the consultancy component alone is:

- a. less than the threshold of CPCC in accordance with Guideline 2.10.1 of these Guideline, then the determination of the CPCC for the consultancy component shall be notified to the Cabinet of Ministers as an information note only, at the time the Cabinet Memo is presented for the non consultancy component in accordance with Guideline 8.6 of the Procurement Guideline.
- b. falling within the purview of CPCC in accordance with Guideline 2.10.1 of these Guideline, then the determination of the CPCC too shall be subjected to the approval of the Cabinet of Ministers in accordance with Chapter 9 of these Guideline.

2.5 Responsibilities and Duties of Consultants Procurement Committees (CPC)

2.5.1 The members of the CPCs are jointly and severally responsible for the following:

- (a) all members of CPCs shall give priority to the duties assigned to them in the CPC, over their routine functions.
- (b) ensuring that the funds are available for the Consultancy Services under consideration;
- (c) reviewing and agreeing upon the PTS in order to award the contract as planned;
- (d) deciding on the selection method and type of contract to be used;
- (e) evaluation and approving the short list;
- (f) review and approve of RFP including the TOR prepared by PE, to ensure that the selected consultant will deliver the required output and competitiveness could be promoted on an equal level;
- (g) approve and issue addenda to the RFP where necessary;
- (h) seek clarifications on Proposals through the PE where appropriate;
- (i) prepare the technical evaluation report ; All the members of the CPC, other than the Chairperson shall independently evaluate all the technical proposals received and record on pre-established worksheets. After the independent evaluation is completed by the members, the chairman of the CPC shall jointly discuss with all the members to review and minimise the disparities of marks given among such evaluation and a compromise average shall be agreed;
- (j) The CPC may evaluate the financial proposals individually as above or jointly and prepare a final report together with contract award recommendation/determination in accordance with Guideline 8.10.4;
- (k) The CPC may get assistance from any external personnel only on exceptional circumstances, where expert opinion is important. . However, any services performed by such external persons should be under the guidance and supervision of the CPC; and
- (l) to review the draft contract prepared by the PE to ensure that it complies with the determination of the CPC;

2.6 Composition of Cabinet Appointed Consultants Procurement Committees (CPCC)

2.6.1 Under delegated authority by the Cabinet of Ministers, the NPA shall appoint CPCCs to undertake high value consultancy assignments

Composition of CPCC is given in Consulting Services Manual 2.6.1

Ministry Consultants Procurement Committee (CPCM)

2.6.2 The CAO shall appoint the CPCM.

Composition of CPCM

- is given in
Consulting
Services
Manual
2.6.2*
- 2.6.3 **Department Consultants Procurement Committee (CPCD)**
The CAO shall appoint the CPCD.
- Compositio
n of CPCD
is given in
Consulting
Services
Manual
2.6.3*
- 2.6.4 **Project Consultants Procurement Committee (CPCP)**
The CAO shall appoint the CPCP.
- Compositio
n of CPCP
is given in
Consulting
Services
Manual
2.6.4*
- 2.6.5 **All the members shall be in attendance for a Consultant Procurement Committee (CPC)**

Generally all the members inclusive of the chairperson shall be in attendance for all the meetings of the CPC. However in the case where the chairperson has been appointed in his ex-officio capacity and is unable to attend a meeting, the person acting in the post of an ex-officio member shall chair the meeting and perform all such functions as would have been required to be performed by such ex-officio member.
- 2.7 **Payments for Members of Consultants Procurement Committees (CPCs)**
- 2.7.1 Members of the CPCs and alternate members shall be paid for serving in the CPC.
- The
applicable
fee
structure is
given in
Consulting
Services
Manual
2.7.1*
- 2.8 **Declarations by Members of Consultants Procurement Committees (CPCs)**
- (a) All members of CPCs are required to sign a declaration in the prescribed format at its first meeting, affirming:
- The
prescribed
format is
given in
Consulting
Services
Manual 2.8*
- (i) their respect for the commercial confidentiality of the proceedings of the committee;
- (ii) their impartiality and probity; and
- (iii) absence of personal interest.
- (b) The PE shall provide for the safe custody of such declaration, which shall be preserved for a period of at least five (05) years.

2.9 Review of Performance of Consultants Procurement Committees (CPCs) by the National Procurement Agency

2.9.1 The NPA shall:

- (i) monitor the performance of CPCs;
- (ii) conduct random post procurement reviews;
- (iii) examine on random basis, whether the decisions taken by member/s are in accordance with the procedures described in these Guidelines.

2.9.2 Pursuant to 2.9.1 (iii), if it is established that the members were negligent, inactive or irresponsible in the conduct and the performance of duties at CPCs, resulting in delays, NPA may at its sole discretion:

- (i) advise the members to expedite the selection process by rescheduling the PTS; or
- (ii) advise the members to adopt corrective measures; or
- (iii) replace such irresponsible members; or
- (iv) cancel the names of such members from the NPA list.

2.10 Limits of Authority for Recommendation/Determination of Contract Awards

2.10.1 Limits of authority to make recommendation/determination of contract award and thresholds shall be decided from time to time, and shall be communicated by making amendments to the Consulting Services Manual or circulars issued under these Guidelines by the NPA.

The applicable limits are given in Consulting Services Manual 2.10.1

CHAPTER 3 - SELECTION PROCESS AND SELECTION METHODS OF CONSULTANCY ORGANISATIONS

3.1 Consultancy Organisations or Individual Consultants Should be Selected?

A Consultancy Organisation shall be selected in obtaining the services required rather than getting the service done by one or more individuals for assignments for which:

- (a) team of personnel are required; and
- (b) coordination, administration or collective responsibility is paramount important.

In other cases PE may employ individual Consultant/s. The selection method of individual Consultants is outlined in Chapter 4.

3.2. Competitive Process to be followed

Consultants shall be selected following competitive process wherever possible, on the basis of comparison of technical and financial proposals or in very rare case only technical proposal, submitted by the shortlisted Consultants,. The selection method shall achieve the objectives of fairness, clarity, transparency and confidentiality. Hence the appropriate method of selection is related to the nature, size, complexity, likely impact of the assignment, and the technical and financial considerations.

3.3 Terms of Reference (TOR)

The PE shall be responsible for preparing the TOR for the assignment. TOR shall be prepared by a person(s) or a Consultancy Organisation specialized in the area of the assignment. The scope of the services described in the TOR shall be compatible with the available budget. TOR shall define clearly the objectives, goals, and scope of the assignment and provide background information (including a list of existing relevant studies and basic data) to facilitate the consultants' preparation of their proposals. If transfer of knowledge or training is an objective, it should be specifically outlined along with details of number of staff to be trained, and so forth, to enable consultants to estimate the required resources. However, TOR should not be too detailed and inflexible, so that competing consultants may propose their own methodology and staffing. Consultancy Organisations shall be encouraged to comment on the TOR in their proposals. The PE's and consultants' respective responsibilities should be clearly defined in the TOR.

The details for preparation of TOR are given in Consulting Services Manual 3.3

3.4 Cost Estimate and Budget

Well-developed cost estimates are essential to ensure realistic budgetary allocations. The cost estimates for the proposed assignment shall be prepared by the PE based on assessment of the resources needed to carry out the activities: experts' time; logistical support; and physical inputs (for example, transport office space and equipment, laboratory equipment.) Costs shall be firstly divided into two main categories:

- (a) remuneration; and
- (b) other expenses,

and further divided into foreign and local costs where appropriate.

The details for preparation of Cost estimates are given in Consulting Services Manual 3.4

3.5 Preparation of Long List

The long list of Consultants may be prepared following one or any combination of the following methods:

- (a) Inviting EOI by advertisement;
- (b) By including names of consultants who have satisfactorily completed similar assignments to the PE previously;
- (c) By collecting names from the other PEs who had obtained the services of consultants for similar assignments; and
- (d) By collecting names from Foreign Funding Agencies

A suggestion for inviting EOI is given in Consulting Services Manual 3.5

However for large (exceeding two million (LKR 2 m)) and complex assignments the PE shall advertise in national news papers. When the participation of international Consultancy Organisations are expected the invitation shall be extended to international media.

3.6 Preparation of Shortlist

Short listing of Consultants shall ensure, only the best qualified Consultancy Organisations submit proposals. In preparation of short list first consideration shall be given to those organisations expressing interest that possesses the relevant qualifications. Short lists shall comprise not more than seven Consultancy organisations. The shortlist may comprise of less than seven organisations when suitably qualified organisations have not expressed their interest to submit a proposal and no other qualified Consultancy Organisations are known. The short list should preferably comprise consultants of the same category, similar capacity, and business objectives. The shortlist shall not include individual consultants. When QCBS, LCS or FBS methods are used mixing of NGOs, universities; etc with other business type Consultancy Organisations shall be avoided.

The criteria for preparation of Short list is given in Consulting Services Manual 3.6

3.7 Selection Methods

3.7.1 The choice of the appropriate method of selection is related to the nature, size, complexity, likely impact of the assignment, technical and financial considerations, It is therefore necessary to carefully define the assignment, particularly the objective and the scope of the services, before deciding on the selection method.

The following Methods may be used as appropriate in selection of Consultancy Organisations.

- Quality and Cost Based Selection (QCBS);
- Quality Based Selection (QBS);
- Selection under a Fixed Budget (FBS);
- Least Cost Selection (LCS);
- Selection Based on Consultant's Qualifications (CQS);
- Single Source Selection (SSS); and
- Selection of particular types of Consultant

3.8 Quality and Cost Based Selection (QCBS)

3.8.1 QCBS uses a competitive process among short-listed Consultancy Organisations that takes into account the quality of the proposal and the cost of the services in the selection of the successful Consultancy Organisation. Cost as a factor of selection shall be used sensibly. The relative weight to be given to the quality and cost shall be determined for each case depending on the nature of the assignment. QCBS shall be used wherever possible. Other methods shall be used only under the circumstances described against such selection methods.

The situations where QCBS is appropriate are given in Consulting Services Manual 3.8.1

Selection Process

3.8.2 The selection process shall include the following steps:

- (a) Preparation of TOR in accordance with Guideline 3.3;
- (b) Preparation of cost estimate and the budget in accordance with Guideline 3.4;
- (c) Preparation of long list in accordance with Guideline 3.5;
- (d) Preparation of the short list of consultants in accordance with Guideline 3.6;
- (e) Preparation of RFP in accordance with Chapter 6;
- (f) Issuance of the RFP in accordance with Chapter 7;
- (g) Receipt of technical and financial proposals in

Refer the flow chart given in Consulting Services Manual 3.8.2

- accordance with Chapter 7;
- (h) Evaluation of technical proposals in accordance with Guideline 8.8;
 - (i) Public opening of financial proposal of the Consultancy Organisations who have achieved the minimum score specified in the RFP, in accordance with Guideline 7.4;
 - (j) Evaluation of financial proposals in accordance with Guideline 8.9 and 8.10.1;
 - (k) Final evaluation of quality and cost in accordance with Guideline 8.10.2 and 8.10.3; and
 - (l) Negotiations in accordance with Guideline 8.12.1 and award of the contract to the selected Consultancy Organisation.

3.9 Quality Based Selection (QBS)

3.9.1 QBS is a method based on evaluating only the quality of the technical proposals and the subsequent negotiation of the financial proposal and the contract with the Consultant who submitted the highest ranked technical proposal.

QBS is appropriate when:

- (a) Assignments are complex or highly specialized making it difficult to define precise TOR and the required input from the Consultants for which the client expects the consultants to demonstrate innovation in their proposals; or
- (b) Assignments that have a high downstream impact and in which the objective is to have the best experts; or
- (c) Assignments that can be carried out in substantially different ways, such that proposals will not be comparable.

QBS uses a competitive process among short-listed Consultancy Organisations that takes into account only the quality of the proposal and hence shall be used only under special circumstances satisfying the above.

3.9.2 Selection Process

The selection process shall include the following steps:

- (a) Preparation of TOR in accordance with Guideline 3.3;
- (b) Preparation of cost estimate and the budget in accordance with Guideline 3.4;
- (c) Preparation of long list in accordance with Guideline 3.5;

Refer the flow chart given in Consulting Services Manual 3.9.2

- (d) Preparation of the short list of consultants in accordance with Guideline 3.6;
- (e) Preparation of the RFP in accordance with Chapter 6;
- (f) Issuance of the RFP in accordance with Chapter 7
- (g) Receipt of technical and financial proposals in accordance with Chapter 7;
- (h) Evaluation of technical proposals in accordance with Guideline 8.8;
- (i) Evaluation of financial proposal of the Consultancy Organisation of the highest ranked technical proposal in accordance with Guideline 8.9 and 8.11; and
- (j) Negotiations and award of the contract to the selected Consultancy Organisation in accordance with Guideline 8.12.2.

3.10 Selection under a Fixed Budget (FBS)

3.10.1 FBC is a method where the RFP will indicate the available budget and request the Consultancy Organisations to provide their best technical and financial proposals in separate envelopes, within the budget. TOR should be particularly well prepared to make sure that the budget is sufficient for the Consultants to perform the expected tasks.

FBS is appropriate only when:

- (a) TOR is precisely defined;
- (b) The time and personnel inputs can be accurately assessed; and
- (c) The budget is fixed and can not be exceeded.

Evaluation of all technical proposals shall be carried out first as in the QCBS method. Then the price envelopes shall be opened in public. Proposals of which the evaluated financial proposal exceed the indicated budget shall be rejected. The Consultant who has submitted the highest ranked technical proposal among the rest shall be selected and invited to negotiate a contract.

3.10.2 Selection Process

The selection process shall include the following steps:

- (a) Preparation of TOR in accordance with Guideline 3.3;
- (b) Preparation of cost estimate and the budget in accordance with Guideline 3.4;
- (c) Preparation of long list in accordance with Guideline 3.5;

Refer the flow chart given in Consulting Services Manual 3.10.2

- (d) Preparation of the short list of Consultants in accordance with Guideline 3.6;
- (e) Preparation of the RFP in accordance with Chapter 6;
- (f) Issuance of the RFP in accordance with Chapter 7;
- (g) Receipt of technical and financial proposals in accordance with Chapter 7;
- (h) Evaluation of technical proposals consideration of quality in accordance with Guideline 8.8;
- (i) Public opening of financial proposal in accordance with Guideline 7.4;
- (j) Evaluation of financial proposal in accordance with Guideline 8.9 and eliminate the proposals of which the evaluated financial proposal exceed the indicated budget; and
- (k) Negotiations with highest ranked technical proposal in accordance with Guideline 8.12.1 and award of the contract.

3.11 Least Cost Selection(LCS)

3.11.1 LCS is a method a “minimum” qualifying mark for the “quality” is established. Proposals to be submitted in two envelopes are invited from a short list. Technical envelopes are opened first and evaluated. Those securing less than the minimum marks specified shall be rejected, and the financial envelopes of the rest are opened in public. The Consultancy Organisation with the lowest price shall then be selected. Under this method, the qualifying mark shall be established, keeping in view that all proposals above the minimum compete only on “cost.” The minimum mark shall be stated in the RFP.

LCS is appropriate only when:

- (a) Standard or routine nature assignments (audits, architectural/engineering design/supervision of simple projects, and simple surveys);
- (b) Well established practices and standards exist;

Selection Process

3.11.2 The selection process shall include the following steps:

- (a) Preparation of TOR in accordance with Guideline 3.3;
- (b) Preparation of cost estimate and the budget in accordance

Refer the flow chart given in Consulting Services Manual 3.11.2

- with Guideline 3.4;
- (c) Preparation of long list in accordance with Guideline 3.5;
- (d) Preparation of the short list of consultants in accordance with Guideline 3.6;
- (e) Preparation RFP in accordance with Chapter 6;
- (f) Issuance of the RFP in accordance with Chapter 7;
- (g) Receipt of technical and financial proposals in accordance with Chapter 7;
- (h) Evaluation of technical proposals in accordance with Guideline 8.8;
- (i) Public opening of financial proposal of those securing minimum qualifying points indicated in accordance with Guideline 7.4;
- (j) Evaluation of financial proposal in accordance with Guideline 8.9; and
- (k) Negotiations with the Consultancy Organisation who has submitted the least evaluated cost in accordance with Guideline 8.12.1 and award of the contract.

3. 12 Consultant's Qualification Selection (CQS)

3.12..1 CQS is a method where detailed technical and financial proposals are invited from only a selected Consultancy Organisation to negotiate a contract. EOI shall be invited using an amplified format. Out of the long list received in response to invitation of EOI, a shortlist of three to five organisations shall be prepared. The Consultancy Organisation ranked as number one, shall be requested to submit a combined technical-financial proposal and then be invited to negotiate a contract. Should the negotiations failed the PE shall obtain a combined proposal from the next ranked organisation until an agreement is reached.

*The suggested
for mats for EOI
is given in
Consulting
Services Manual
3.12.1*

CQS may be used for smaller value assignments (equal or not exceeding LKR. 3 (three) million) when:

- (a) allowed so in the foreign funded projects; or
- (b) preparation and evaluation of full-fledged competitive proposals is not justified.

CQS is appropriate for higher value assignments (exceeding LKR 3 (three) million) only when:

- (c) Satisfies the conditions given under 'a' or 'b' above; and
- (d) Highly specialized expertise is required for the

assignment; and

- (e) Few consultants are qualified.

3.12.2 Selection Process

The selection process shall include the following steps:

Refer the flow chart given in Consulting Services Manual 3.12.2

- (a) Preparation of TOR in accordance with Guideline 3.3;
- (b) Preparation of cost estimate and the budget in accordance with Guideline 3.4;
- (c) Preparation of long list in accordance with Guideline 3.5;
- (d) Preparation of the short list of consultants in accordance with Guideline 3.12.3;
- (e) Select the Consultancy Organisation with best qualifications and references;
- (f) Preparation of the RFP in accordance with Chapter 6;
- (g) Issuance of the RFP in accordance with Chapter 7;
- (h) Receipt of technical and financial proposals;
- (i) Evaluation of technical proposal consideration of quality in accordance with Guideline 8.8;
- (j) Evaluation of financial proposal in accordance with Guideline 8.9; and
- (k) Negotiations in accordance with Guideline 8.12.2 and award of the contract.

Preparation of Shortlist for CQS

- 3.12.3 Out of the long list received in response to invitation of EOI, a shortlist of three to five Consultancy Organisations shall be prepared. From this short list the organisation with the most appropriate qualifications and references based on the EOI submitted shall be selected.

3.13 Single Source Selection (SSS)

- 3.13.1 Single-source selection of consultants does not provide the benefits of competition in regard to quality and cost, lacks transparency in selection, and could encourage unacceptable practices. Therefore, single-source selection shall be used only in exceptional cases.

SSS may be appropriate only if it presents a clear advantage over competition:

- (a) for tasks that represent a natural continuation of previous work carried out by the same Consultancy Organisation where it was selected on competitive basis for the first assignment; or
- (b) where a rapid selection is essential in an emergency operation; or
- (c) for small assignments not exceeding LKR 100,000; or
- (d) when only one organisation is qualified or has experience of exceptional worth for the assignment, or
- (e) with the specific approval of the relevant CPC and concurrence of the funding agency.

Selection Process

3.13.2 The selection process shall include the following steps:

- (a) Preparation of TOR in accordance with Guideline 3.3;
- (b) Preparation of cost estimate and the budget in accordance with Guideline 3.4;
- (c) Select the Consultancy Organisation on single source basis;
- (d) Preparation RFP in accordance with Chapter 6;
- (e) Issuance of the RFP in accordance with Chapter 7
- (f) Receipt of technical and financial proposal from the selected organisation;
- (g) Evaluation of technical proposals consideration of quality in accordance with Guideline 8.8;
- (h) Evaluation of financial proposals in accordance with Guideline 8.9; and
- (i) Negotiations in accordance with Guideline 8.12.2 and award of the contract to the selected Consultancy Organisation.

Refer the flow chart given in Consulting Services Manual 3.13.2

3.14 Selection of Particular Type of Consultants

3.14.1 Under normal circumstances the consultants shall be selected following the procedures described in Chapter 1 to Chapter 10 of these Guidelines. However, under special circumstances as described below consultants may be selected.

3.14.2 Consultancy Works by Universities and Research & Development (R & D) Centers

With the objective of promoting active institute/industry links/partnerships, Consultancy Assignments directed towards improvement of efficiency and productivity of the local industries and helping to realize the country's socio-economic, environmental and human development policies, may be directly assigned to universities and R & D centers. In such situations the PE shall follow the process described under Guideline 3.13.2. The fees billed for permanent staff by the university or R & D center in no case should exceed twice the basic salary of such staff. When such Consulting Services are given the university or R & D center shall follow the requirements given in the Consultant Services Manual 3.14.2. The contract shall be entered with the legal entity of the university or R & D Center and in no case with an individual or group of individuals. For foreign funded projects this selection method shall be used only with the concurrence of the Foreign Funding Agency.

The requirements to be full-filled are given in Consulting Services Manual 3.14.2

3.14.3 Awards of Consultancy Assignment to Government Institutes

If the total cost of the Consulting Services is not exceeding ten LKR ten million (LKR 10 m) and under special circumstances, with the concurrence of the appropriate CPC a Consultancy Services may be awarded to Government owned agencies. In such situations the PE shall follow the process described under Guideline 3.13.2. The lump sum type contract shall be entered with the legal entity of the Government agency and in no case with an individual or group of individuals. The selected Government Agency should not undertake any down stream works related to the Consulting Services either directly or on competitive procedure.

CHAPTER 4 - SELECTION PROCESS AND SELECTION OF INDIVIDUAL CONSULTANTS

4.1 Individual Expert or a Consulting Organisation Should be Selected?

Individual consultants are normally employed on assignments for which:

- (a) teams of personnel are not required;
- (b) no additional outside professional support is required;
- (c) the experience and qualifications of the individual are the predominant considerations; and
- (d) When coordination, administration, or collective responsibility between the individuals is not required.

4.2 Terms of Reference

PE should first prepare a TOR for the assignment, including the scope of work and its estimated budget following the procedures described under Guidelines 3.3 and 3.4. The TOR shall be reviewed by the relevant CPC or other appropriate authority as described under Guideline 2.10.

4.3 Advertising

Consultancy Services for national experts and exceeding a period of one year, submission of qualifications shall be advertised in national news papers. For international Consultancy Assignments of duration exceeding six months it is recommended to advertise in national news papers in addition to international advertisements.

4.4 Selection on Competition

Individual consultants are selected on the basis of their qualifications for the assignment. Generally they shall be selected through comparison of qualifications of three or more candidates among those who have expressed interest in the assignment in response to an advertisement or have been approached directly by the PE. It is recommend to set up interviews wherever possible. Individuals employed by PE shall meet all relevant qualifications and shall be fully capable of carrying out the assignment. Capability is judged on the basis of academic background, experience, and as appropriate.

4.5 Sole-Source Selection

Individual consultants may be selected on a sole-source basis with due justification in exceptional cases such as:

- (a) tasks that are a continuation of previous work that the consultant has carried out and for which the consultant was selected competitively; or
- (b) assignments lasting less than six months; or
- (c) emergency situations resulting from natural disasters; or
- (d) when the individual is the only consultant qualified for the assignment.

4.6 Terms of Appointment

Wherever possible a formal contract agreement shall be signed with the individual Consultant. This contract shall include employment conditions covering remuneration, direct expenses, leave (if any), insurance (if any), per-diems (if any), and TOR. For very small assignments of routine nature a letter of appointment may be used but shall address the above mentioned terms.

CHAPTER 5 - PROCUREMENT PREPARATION AND PLANNING

5.1 Advance Action on Selection Process

- 5.1.1 (a) Efficient planning of the entire selection process of Consultants is vital to ensure timely completion of the project and to obtain the best market value for it.
- (b) Inviting EOI and selection of consultants shall be made with the concurrence of the CAO or in respect of Foreign Funded Projects with that of the Foreign Funding Agency.
- (c) Selection Steps should not be commenced without a firm commitment of funds for the consultancy assignment.

The time frame for various Procurement Actions are given in Consulting Services Manual 5.1.1

5.2 Master Procurement Plan (MPP)

- 5.2.1 (a) The PE shall prepare the MPP which should include the Consultant Services;
- (b) Selection Steps envisaged at least for a period of two-years shall be listed in the MPP;
- (c) Selection Steps for the immediately succeeding year shall be prepared in detail;
- (d) MPP shall be regularly updated at intervals not exceeding six months.

The format of MPP is given in Procurement Manual. 5.2.1

5.2.2 Procurement Time Schedule (PTS)

- (a) PTS is a schedule describing in chronological order, steps of each individual Selection Step, from the point of commencement until its completion.
- (b) PTS shall be prepared in two stages as described below:

5.2.3 Stage 1 -

- (a) Stage I of PTS shall include all activities from the commencement up to the preparation of RFP which shall be prepared without delay.
- (b) Preparation and regular updates of Stage 1 lies with the PE.

The format items that should be considered for PTS are given in Procurement Manual. 5.2.3

Stage 2 -

- (a) Stage 2 of PTS shall include all activities after the preparation of the RFP.

- (b) Responsibility of preparing draft of Stage 2 of PTS also rests with the PE.
- (c) It is an obligation of the respective CPC, to consider the PTS and approve it at the first meeting. The PE shall forward the draft PTS for the Consultancy assignment, together with any connected downstream Procurement to the CPC or PC. Once the PTS is agreed upon, the Chairpersons of the PC/CPC shall monitor the progress in consultation with the PE. Where a major delay occurs, it is the responsibility of the Chairperson of the PC/CPC to explain the cause/s for the delay, effect remedial measures and inform NPA, In the case of CAPCs, CPCCs, MPCs, CPCMs and in all other cases, such responsibility shall vest in the CAO.

CHAPTER 6 - PREPARATION OF REQUEST FOR PROPOSALS

6.1 Initiation of Drafting RFP

- 6.1.1 (a) The PE should initiate the drafting of RFP including TOR, budget, etc.
- (b) The PE should commence the aforementioned task prior to the appointment of the CPC.

6.2 Contents of RFP Documents

- 6.2.1 (a) The RFP documents shall contain all relevant information necessary for prospective Consultants to prepare a proposal for the assignment in response to the EOI. The contents of the RFP should be unambiguous. The RFP shall include the following section 2.1
- i. Letter of Invitation (LOI);
 - ii. Instructions to Consultants (including Data Sheet);
 - iii. Technical Proposal – Standard Forms;
 - iv. Financial Proposal – Standard Forms;
 - v. Terms of Reference (TOR); and
 - vi. Standard form of Contract.
- (b) The detail and complexity of these documents may vary with the size and nature of the proposed assignment.

6.3 Standard Request for Proposal (SRFP)

- 6.3.1 (a) PEs shall use the appropriate specimen SRFPs approved by NPA, with minimum changes, if necessary, to address assignment specific issues.
- (b) Whenever the SRFPs consists of different sections, i.e. instruction to consultants, data sheet, general conditions of contract and special conditions of contract, any such changes shall be introduced only through data sheets, and through special conditions of contract, and not by modifying the instructions to consultants and general conditions of contract.
- (c) Where no relevant SRFPs have been issued, the PE may use other documents with the concurrence of NPA; all such documents must be vetted and approved by the CPC, who shall take the entire responsibility for the contents of such documents.
- (d) In the case of Procurements funded by a Foreign Funding Agency, the PEs may use the SRFPs mandated by such agencies.

*A list of
approved
SRFPs
available in
NPA website*

6.4 Letter of Invitation (LOI)

6.4.1 The LOI should state the intention of the PE to obtain the services of the Consultant for a given assignment and inform the shortlisted Consultants that they are invited to submit a proposal for the execution of the assignment. It shall provide the basic information regarding:

Sample form of EOI is given in Consulting Services Manual. 6.4.12

- (a) The name of the PE and source of funding;
- (b) The names of the shortlisted organizations;
- (c) A brief description of the objectives and scope of the assignment;
- (d) The method of selection; and
- (e) The date, time and address for submission of proposals.

The LOI should also instruct the Consultants to indicate whether they intend to submit their proposal alone or in association with other shortlisted parties and request the PE's permission to such association.

6.5 Instructions to Consultants (ITC)

6.5.1 Instructions to consultants shall contain all relevant information or the Consultant to prepare and submit a proposal. Among the other things, ITC shall contain the requirements given under Guidelines 6.5.2 to 6.5.9.

6.5.2 Eligibility of Consultants

- (a) No contract shall be awarded to any consultant who is blacklisted by NPA.
- (b) A list of blacklisted consultants, updated periodically, will be circulated by the NPA to the PEs from time to time and will also be published in the NPA web site.
- (c) No contract shall be awarded to any consultant who has been engaged by the PE to provide goods, works or services which are related to the proposed assignment.

Names of Blacklisted consultants available in NPA website

6.5.3 Clarifications and Amendment to RFP

- (a) Any additional information, clarification, correction of errors or modifications to RFP shall be circulated to each and every recipient of the original RFP document.
- (b) During the proposal submission period, all shortlisted consultants shall be allowed to request clarifications about the information provided in the RFP. The PE in consultation with

CPC, shall provide these clarifications in writing and copy them to all Consultancy Organisations on the short list.

- (c) PE shall provide reasonable opportunity of access to the project sites for visits by prospective Consultants.
- (d) In the case of complex assignments a pre-proposal conference may be arranged whereby potential Consultants have the opportunity of seeking clarifications from the PE's representative/s.
- (e) Minutes of such pre-proposal conference shall be circulated to all prospective Consultants.

6.5.4 Associations between Consultants

- (a) Consultants may be allowed to associate with each other to complement their respective areas of expertise, or for other reasons. Such an association may be for the long term (independent of any particular assignment) or for a specific assignment.
- (b) The "association" may take the form of a joint venture or of a subconsultancy.
- (c) In case of a joint venture, all members of the joint venture shall sign the contract and shall be jointly and severally liable for the entire assignment.
- (d) Once the short list is finalized, and the Requests for Proposals (RFPs) are issued, any association in the form of joint venture or subconsultancy among short-listed Consultancy Organisations shall be permissible only with the approval of the PE.
- (e) A shortlisted Consultancy Organisation shall submit only one proposal in the same selection process, either individually as a proponent or as a partner in a joint venture. No Consultancy Organisation can be a subconsultant while submitting a proposal individually or as partner in a joint venture in the same selection process. A Consultancy Organisation, if acting in the capacity of subconsultant in any proposal, may participate in more than one proposal, but only in that capacity.

6.5.5 Factors to be considered in preparation of Proposals

The RFP shall include all the relevant factors that should be considered by the Consultants in preparation of technical and financial proposals.

6.5.6 **Foreign and National Consultants to be Treated Equally**

When foreign consultants are involved the contract conditions, shall have equal application to both national and foreign consultants other than allowing preference for participation of national consultants, if specified in the RFP.

- (a) Only if foreign currency payments are envisaged under the contract, both the foreign and national Consultancy Organisations shall be eligible to quote and be paid in foreign currency to the extent applicable.
- (b) To be eligible for foreign currency payment, consultants are required to submit justification to that effect. Import of specialized equipment and payment of remuneration for expatriates etc., would for instance be deemed to be valid justifications.

6.5.7 **Proposal Validity period**

- (a) Consultants shall be required to submit proposals valid for a period specified in the RFP documents.
- (b) The CPC shall ensure that the period so specified is sufficient to enable the CPC to complete the evaluation of proposals, obtain all requisite approvals and in the case of a Foreign Funded Project to obtain the concurrence of the Foreign Funding Agency for the recommendation of award in order that the contract can be awarded within the proposal validity period.
- (c) The minimum proposal validity periods are given in the Consulting Services Manual.

The information on Proposal validity periods are given in Consulting Services Manual 6.5.7

6.5.8 **Time for submission of Proposals**

The CPC shall allow enough time for the consultants to prepare their proposals. The CPC shall follow the minimum time periods given under Guideline 7.2.2

6.5.9 **Evaluation Criteria**

The RFP document shall specify the evaluation criteria and subcriteria that will be applied for the selection of the consultant.

Details are provided in the Consulting Services Manual 6.5.9

6.6 **Standard Forms of Contract**

6.6.1 **Draft Contract to be issued**

- (a) The draft contract shall be issued with the RFP document.
- (b) The draft contract document shall clearly define:

- (i) the scope of the assignment;
- (ii) the rights and obligations of the PE;
- (iii) the rights and obligations of the Consultant;
- (iv) if the PE intending to assign members of its own professional staff to the assignment in different capacities. If so shall give the details governing such staff, known as counterpart staff, as well as facilities that shall be provided by the PE, such as housing, office space, secretarial support, utilities, materials, and vehicles. The contract shall also indicate measures the consultant can take if some of the items cannot be provided or have to be withdrawn during the assignment, and the compensation the consultant will receive in such a case.
- (v) that the consultant should state the local cost only in Sri Lankan Rupees.
- (vi) That the failure on the part of the parties to perform their obligations under the contract will not be considered a default, if such failure is the result of an event of Force Majeure, as defined in the contract.

In addition to the general conditions of contract, any special conditions particular to the specific Goods or Works or Services to be procured and the location and modality of the project shall be included.

6.6.2 Price Adjustment

To adjust the remuneration for foreign and/or local inflation and other costs, a price adjustment provision may be included in the contract if its duration is expected to exceed 12 months.

6.6.3 Payment Provisions

Payment provisions, including amounts to be paid, schedule of payments, and payment procedures, shall be included.

6.6.4 Advance Payment

a maximum of twenty percent (20%) of the contract sum may be paid against the submission of an acceptable advance payment guarantee. When an advance payment is made it shall be set off by equal installments against the payments due to the Consultant, within the first fiftypercent (50%) of the total contract price.

The acceptable securities are given in Consulting Services Manual 6.6.4

6.6.5 Dispute Resolution

- (a) All disputes arising out of contract agreements shall be governed in accordance with the provisions of the Arbitration Act No. 11 of 1995 of Sri Lanka, as amended.
- (b) A reference must be made in the contract documents, that settlement of disputes would be by way of arbitration and a detailed arbitration clause should be included in the contract to such effect.
- (c) For Foreign Funded Projects dispute resolution provisions recommended by the Foreign Funding Agency shall be complied with.

6.6.6 Subject to the provisions of the Arbitration Act, the Rules of Arbitration of the International Chamber of Commerce (ICC) or the United Nations Commission on International Trade Law (UNCITRAL) or any other set of acceptable rules are recommended for usage.

6.6.7 The venue of arbitration shall be in Sri Lanka, for GoSL funded projects. The venue of arbitration for Foreign Funded Projects would be determined in accordance with the requirements of the Foreign Funding Agency.

6.6.8 The Law of Contract

The law governing the Contract shall be the laws of the Democratic Socialist Republic of Sri Lanka.

6.7 Technical and Financial Proposals Standard Forms

6.7.1 The PE shall not modify technical and financial proposal standard forms given in the Standard RFPs, unless it is really essential and that with the concurrence of NPA.

CHAPTER 7 - ISSUING OF RFP AND CLOSING/OPENING OF PROPOSALS

7.1 Issuance of RFP

7.1.1 (a) The RFP should be made available during business hours, by mail or in person to short listed consultant, on the payment of the prescribed fees.

(b) The RFP shall be issued only to the short listed consultants.

7.1.2 The prescribed fee (if any) for purchase of RFP documents should not be fixed so high as to discourage the consultants.

7.2 Proposal Preparation Period

7.2.1 (a) The proposal preparation period shall commence from the date on which the RFP documents are available to short listed consultants.

(b) The period shall end with the deadline for proposal submission.

(c) The proposal preparation period shall be reasonably adequate to prepare the bids.

7.2.2 Minimum period of proposal preparation period shall be maintained as stated below:

<i>International consultancy assignments [QCBS, QBS, FBS, LCS]</i>	<i>42 days (more for complex assignments)</i>
<i>International consultancy assignments [CQS, SSS]</i>	<i>28 days</i>
<i>National Consultancy Organisations only [QCBS, QBS, FBS, LCS]</i>	<i>28 days</i>
<i>National Consultancy Organisations only [SCQ, SS]</i>	<i>21 days</i>
<i>Individual Consultants</i>	<i>7 days</i>

7.3 Submission/Receipt of Proposals

7.3.1 (a) The proposal shall be received only at one location by;

(i) mail under registered post; or

(ii) personal delivery against receipt, to the officer authorized by the PC to receive such proposals at the specified location; or

(b) Except for CQS and SS, for all proposals must be submitted only under sealed cover and the RFP documents should stipulate a

condition to this effect.

- (c) Proposal shall be submitted in one original and a copy as stipulated in the “Instruction to Consultants” sealed separately and clearly marked as “Original” or “Copy”. All these envelopes shall together be enclosed in one envelope and delivered as per (a) above.

7.3.2 Rejection of Late Proposals

Proposals shall be closed at the time specified in the RFP documents. Late Proposals shall not be accepted and shall be returned unopened in the case of QCBS, QBS, LCS, and FBS.

7.4 Public Opening of Proposals

- 7.4.1 (a) Responsibility of opening of the proposals is vested with the CPC. The CPC may delegate such authority to a “proposal opening committee” which shall comprise of a minimum of two members approved by the CPC.

Further details are provided in Procurement Manual 7.4.1

- (b) Except for CQS and SSS, the proposals shall be opened in the presence of the consultants who choose to attend. Only the outer envelope shall be opened and the names and addresses of the consultants who have submitted the proposals shall be announced. The presence or absence of the financial proposal of each consultant shall also be disclosed.

- (b) Responsibility of opening of financial proposals is vested with the CPC. The CPC may delegate such authority to a “proposal opening committee” which shall comprise of a minimum of two members approved by the CPC.

- (b) In the case of QCBS, QBS, LCS and FBS the financial proposals shall be opened in the presence of the consultants or their representative/s who wish to attend, at the financial proposal opening.

- 7.4.2 (a) Only the Proposals marked as “original” shall be opened at the Financial proposal opening. The “copy” shall not be opened.

7.4.3 Procedure of Opening of Financial Proposals

The PE shall inform the organisations whose technical proposal were evaluated as qualified, of the date, time and place where the financial proposals will be opened publicly. The opening date shall be determined allowing sufficient time for consultants to make arrangements to attend the opening of the financial proposal and in no case should be not less than 5 (five) days notice if all the organisations are national, and 10 (ten) days in all other cases. The name of the organisation, the technical quality score (for QCBS), and

proposal prices shall be announced, and recorded when financial proposals are opened.

7.4.4 The proceedings of the financial proposal opening shall be recorded in the prescribed format and should be signed by all members of the proposal opening committee.

*The format for
Proposal
opening minutes
is given in
Consulting
Services Manual
7.4.4*

7.4.5 The original financial proposal together with the minutes pertaining to proposal opening shall be handed over to the chairperson of the CPC.

CHAPTER 8 - EVALUATION OF PROPOSALS

8.1 Meetings of Consultants Procurement Committees (CPCs)

8.1.1 Upon the receipt of Proposals, the chairperson of the CPC shall convene a meeting for the purpose of attending to matters relating to the evaluation of Proposals.

8.2 Confidentiality

8.2.1 After closing of submission of Proposals, information relating to substance, clarification and evaluation of Proposals and recommendations concerning selection shall not be communicated to Consultants nor to any other person, (unless they are formally involved in the process.), until after the date on which the formal announcement is due.

8.3 Services of outside expert/s for Evaluation of Proposals

- 8.3.1 (a) If the evaluation of Proposals is entrusted to outside expert/s, it shall be made under the supervision and guidance of CPC;
- (b) outside experts shall not form part of a CPC;
- (c) The CPC shall prepare its own formal report along with the outside expert's report.

8.4 Time Frame for Proposal Evaluation

8.4.1 Proposal evaluation shall be undertaken expeditiously, leaving ample time to seek all the requisite formal approvals. Hence, Proposals shall be evaluated within the period specified in the PTS.

*The Details
are given in
Consulting
Services
Manual 8..4.1*

8.5 Extension of Proposal Validity

- 8.5.1 (a) CPC must endeavour to make the award in keeping with the PTS and within the Proposal validity period;
- (b) In exceptional situations where this is not possible, the validity period may be extended;
- (c) Any extension of validity so requested, may result the Consultant substituting the original staff proposed during the negotiations.

8.6 Original Proposal to be Evaluated

- 8.6.1 (a) The Proposals marked "original" shall be evaluated by the CPC.
- (b) If required, the CPC may obtain photo copies of the original for evaluation purposes.

8.7 Purpose and Stages of Proposal Evaluation

8.7.1 The evaluation of the Proposals shall be carried out in two stages first the quality and then the cost. The evaluation shall be carried out in full conformity with the provisions of the RFP. The purpose of Proposal evaluation will vary with the selection method used.

8.8 Evaluation of Technical Proposal

8.8.1 CPC to agree on the Rating System in Advance

All members of the CPC should familiarize themselves with the RFP (in particular the TOR), the evaluation criteria and subcriteria specified in the data sheet, and the selection procedure. The CPC should meet before the deadline for submission of the proposals to confirm that there is a common understanding of the evaluation method, the evaluation criteria and subcriteria, and a joint definition of the rating system. It is important not to wait until after the technical proposals are opened to define the rating system, since these definitions could be biased by the knowledge of the contents of the proposals.

*The details of
Technical
Proposal
Evaluation are
given in
Consulting
Services
Manual 8.8.1*

8.8.2 Evaluation Technical Proposal to be carried out Individually

Evaluation shall be carried out by each CPC member other than the chairperson, individually. The CPC first reviews each proposal to confirm that it is substantially responsive, that is, that there are no important omissions or deviations from the stated objectives, TOR, or other key requirements of the RFP. Individual evaluators' results shall be recorded on pre-established worksheets. By applying the criteria and subcriteria specified in the RFP, CPC shall establish the absolute, not the relative, quality of the proposals.

8.8.3 Individual Evaluations shall be Discussed and Consensus Reached.

After each member of the CPC has independently completed the evaluation, the CPC should meet to review, and if necessary discuss the merits of, individual evaluations and scores. Some evaluators tend to be generous while others will be rigid in their judgment and ratings. Such disparity does not matter, provided each evaluator is consistent and differences in scores are not too large. The chairperson of the CPC shall review the large differences and discuss with the members at a joint meeting, since they often are caused by improper or inaccurate use of the rating system. As a result of these discussions, a member may revise some of his or her ratings and scores if necessary; these changes should be recorded. For each proposal, the CPC should then calculate the average of the scores allocated by all members under each criterion, establish the technical ranking of the proposals, and identify the best. The evaluation report must include the joint as well as the individual evaluations.

8.8.4 **Strengths and Weaknesses of Each Proposal to be Recorded**

During the evaluation of technical proposals, the CPC should comment on the strengths and weaknesses of all Proposals. This will help identify any issues in the winning proposal that need to be clarified during negotiations.

8.8.5 **Evaluation Based on Disclosed Criteria**

- (a) The evaluation shall be based on the evaluation criteria defined in the RFP. The CPC shall evaluate each technical proposal, taking into account several criteria:
- i. the consultant's relevant experience for the assignment;
 - ii. the quality of the methodology proposed;
 - iii. the qualifications and experience of the key staff proposed;
 - iv. transfer of knowledge (for assignments where training is needed); and
 - v. the extent of participation by nationals among key staff in the performance of the assignment in situations where the shortlist comprises of national and foreign consultancy organisations.
- (b) Each criterion shall be marked on a scale of 1 to 100. Then the marks shall be weighted to become scores. The following weights are indicative. The actual percentage figures to be used shall fit the specific assignment and shall be within the ranges indicated below. The proposed weights shall be disclosed in the RFP.

Consultant's specific experience	0 to 10 points
Methodology	20 to 50 points
Staff:	30 to 60 points
Transfer of knowledge	0 to 10 points
Participation by nationals	0 to 10 points
Total:	100 points

- (c) The CPC shall normally divide the major criteria, for which more than 10 points is allocated, into subcriteria. In such situations the subcriteria shall be selected in relevance to the assignment. The number of such subcriteria should be limited to three, wherever possible.
- (d) The weight assigned to the criterion, consultants experience may be relatively modest. More weight shall be given to the criterion, methodology in the case of complex assignments, where the

assignment may be completed in different ways.

- (e) The evaluation of only key personnel shall be done for the criterion staff. More weight shall be assigned to the criterion, staff where the experience and qualification of the key personnel is paramount important to the proposed assignment. the qualifications and experience of proposed key personnel shall be reviewed based on their CVs, which must be accurate, complete, and signed by an authorized official of the Consultancy Organisation and the individual proposed. The individuals shall be rated using following subcriteria, as relevant to the task of the each person.
- i. general qualifications: general education and training (if relevant), time with the Consultancy Organisation as staff, and so forth;
 - ii. general experience: length of experience, positions held and so forth
 - iii. experience specific to the assignment: experience in the specific sector, field, subject, and so forth, relevant to the particular assignment; and
 - iv. experience in the region : knowledge of the local language (if appropriate), culture, administrative system, government organization, and so forth.

8.8.6 After the technical quality is evaluated, Consultancy Organisations whose technical proposals do not respond to important aspects of the TOR or do not meet the minimum qualifying score, if specified in the RFP shall be rejected at this stage.

8.8.7 **Technical Proposal Evaluation Form**

Immediately after the evaluation of technical proposal is completed a technical evaluation report shall be prepared in the format published by NPA, by recording and explaining the scores given to each proposal. For each proposal, the report also should indicate technical weaknesses and commercial deviations or alternative proposed by the Consultants, and comment on their acceptability. The technical evaluation report is a confidential document and its contents shall not be disclosed.

8.8.8 **Clarifications from Consultants during evaluation**

During the evaluation CPC may request clarification or additional information from the consultants through the PE. However, CPC shall not seek clarifications or additional information from the consultants that could change the substance of the proposal.

8.9 Evaluation of Financial Proposal

- 8.9.1 The CPC should first establish that the financial proposals are completed (i.e. whether they have priced all the items of the corresponding technical proposal. If not the CPC shall cost them and add those costs to the initial price if Time Based type contract is used). Then the Proposals are checked for arithmetical errors. Arithmetical errors should be corrected, and the corresponding adjustments made to the offered prices to obtain the final evaluated prices. For the purpose of comparing proposals, evaluated prices shall be converted to a single currency using the exchange rate, date and source indicated in the RFP where appropriate.

The evaluation of Financial Proposal for different selection methods is given in Consulting Services Manual 8.9.1

Further factors that should be considered when QBS, CQS and SSS methods are used is given under Guideline 8.11.1.

8.10 Allocating Points for Financial Proposal in QCBS

- 8.10.1 The scores of the evaluated prices shall be computed as follows:

The lowest financial proposal (F_m) shall be given a financial score (S_f) of 100 points. The financial scores (S_f) of the other financial proposals (F) will be computed as:

$$S_f = 100 \times F_m / F$$

Combined Evaluation and Final Score for QCBS

- 8.10.2 The final score shall be obtained by weighing as specified in the RFP and adding the technical and financial scores; this will determine the overall ranking of the consultant's proposals.

8.10.3 Final Ranking of Proposals for QCBS

Proposals will be ranked according to their combined technical (S_t) and financial (S_f) scores using the weights (T = the weight given to the Technical Proposal; P = the weight given to the Financial Proposal; $T + P = 1$)

$$S = S_t \times T\% + S_f \times P\%.$$

Except for very complex assignments the weight for cost (P) shall be 20 out of 100. For very complex assignments the weight for cost (P) shall be between 10 and 20.

The Consultancy Organisation achieving the highest combined technical and financial score (S) shall be invited for negotiations

8.11 Additional Considerations in Evaluating Financial Proposals for QBS, CQS and SSS

8.11.1 In addition to the requirements stated in Guideline 8.9 in evaluation of financial proposals when QBS, CQS and SSS the reasonability of the following in comparison with the supporting documents submitted by the Consulting Organisations shall be considered:

- (a) The remuneration rates made up of not limited to, salaries, social costs, overheads, profit, and any premium or allowance paid; and
- (b) Other costs made up of but not limited to, out-of-pocket expenses, cost of surveys, equipment, office rent, supplies, international and local travel, computer rental, mobilization and demobilization, insurance, and printing.

8.11.2 Final Evaluation Report

Immediately after the evaluation of technical and financial proposals are completed the CPC should prepare a final evaluation report in the format published by NPA.

8.12 Negotiations Before Contract Award

8.12.1 FOR QCBS, FBS and LCS

After completion of the evaluation, the CPC shall negotiate a contract with the first ranked Consultancy Organisation. Negotiations shall include discussions of the TOR, the methodology, staff schedule, PE's counterpart facilities, and special conditions of the contract. These discussions shall not substantially alter the original TOR attached to the invitation.

The details of negotiation practices are given in Consulting Services Manual 7.9

The selected Consultancy Organisation should not be allowed to substitute key staff, unless both parties agree that undue delay in the selection process makes such substitution unavoidable or that such changes are critical to meet the objectives of the assignment. If this is not the case and if it is established that key staff were offered in the Proposal without consulting their availability, the Consultancy Organisation may be disqualified and the process continued with the next ranked Consultancy Organisation. The key staff proposed for substitution shall have qualifications equal to or better than the key staff initially proposed.

During the negotiations on financial proposal, unit rates for staff-months and reimbursable shall not be negotiated, since these have already been a factor of selection in the cost of the proposal, unless there are exceptional reasons.

If the negotiations fail to result in an acceptable contract, the CPC shall terminate the negotiations and invite the next ranked Consultancy Organisation for negotiations. The consultant shall be informed of the reasons for termination of the negotiations. Once negotiations are commenced with the next ranked Consultancy Organisation, the CPC shall not reopen the earlier negotiations. After negotiations are successfully completed, the CPC shall make their final determination of the contract award. After this determination, the PE shall promptly notify other Consultancy Organisations on the short list that they were unsuccessful.

8.12.2 For QBS, CQS and SSS

After completion of the evaluation the CPC shall negotiate a contract with the first ranked Consultancy Organisation. Negotiations shall include discussions of the TOR, the methodology, staff schedule, PE's counterpart facilities, and special conditions of the contract. These discussions shall not substantially alter the original TOR attached to the invitation. The final TOR and the agreed methodology shall be incorporated in "Description of Services," which shall form part of the contract.

The selected Consultancy Organisation should not be allowed to substitute key staff, unless both parties agree that undue delay in the selection process makes such substitution unavoidable or that such changes are critical to meet the objectives of the assignment. If this is not the case and if it is established that key staff were offered in the Proposal without consulting their availability, the Consultancy Organisation may be disqualified and the process continued with the next ranked Consultancy Organisation. The key staff proposed for substitution shall have qualifications equal to or better than the key staff initially proposed.

The negotiations on financial proposal shall include the remuneration rates for staff (breakdown of fees such as salary, social costs, overheads, fee that is profit, and any premium or allowance paid), proposed unit rates and quantities for reimbursable.

If the negotiations fail to result in an acceptable contract, the CPC shall terminate the negotiations and invite the next ranked Consultancy Organisation for negotiations. The PE shall inform the consultant of the reasons for termination of the negotiations. Once negotiations are commenced with the next ranked Consultancy Organisation, the CPC shall not reopen the earlier negotiations. After negotiations are successfully completed, the CPC shall make their final determination of the contract award. After this determination, the PE shall promptly notify other Consultancy Organisations on the short list that they were unsuccessful.

8.13 Rejection of All Proposals

If all proposals are found to be nonresponsive and unsuitable, the CPC may be justified in rejecting all of them. The grounds for rejecting all proposals may be as follows:

- The proposals present major deficiencies in responding to the RFP.
- The cost proposals are substantially higher than the PE's estimated budget.

In the first case there may be technical reasons for the deficiencies. Most frequently the PE and Consultants disagree on which contractual party should be responsible for executing specific assignment activities, or on the exact content and feasibility of specific deadlines affecting the implementation schedule of the PE's project. In other instances consultants may find the estimated man-months and the distribution of risks unacceptable.

In the second case the Consultants may present cost proposals that are substantially higher than the PE's available budget. The PE may be unaware of the actual remuneration levels of consultants for the type of services being considered, the Consultants may misinterpret the TOR, or the PE's plans may be too ambitious for the available budget. In both cases, correct preparation of the proposed TOR and budget and accurate review of the RFP can reduce the risks of nonresponsive proposals. In the second case, before rejecting all proposals, the PE should investigate the feasibility of increasing the budget or scaling down the scope of services to meet the original budget.

The new process may include revising the RFP (including the shortlist) and the budget. Calling for new proposals creates obvious delays and should be the last resort.

CHAPTER 9 - AWARD OF CONTRACT

9.1 Recommendation/Determination of Contract Award

9.1.1 After the CPC has completed the evaluation :

- (i) in the case of CPCC may make a recommendation of contract award to the CAO; and
- (ii) in all other cases convey the determination of contract award to the:
 - a) CAO, in the case of CPCM; or
 - b) Head of Department in the case of CPCD; or
 - c) Project Director in the case of CPCP.

9.2 Award of Contract

9.2.1 (a) Prior to contract award the PE should ensure that budgetary provision is available to meet the cost of contract.

*Standard Letter of
award is given in
Consulting
Services manual
9.2.1*

- (a) The award letter shall be issued within the validity period of the proposals, and no sooner the final determination of contract award is completed.
- (b) Arrangements shall be made to sign the contract as early as possible prior to the commencement of the assignment.

9.3 Publication of the Award of Contract

The PE should publish promptly in its website (if available), the NPA website and/or any other appropriate media, the following particulars in regard to contracts on which awards have been made:

- (a) description of the Consulting Services for which proposals were invited;
- (b) the names of all consultants who submitted proposals;
- (c) name of the successful consultant;
- (d) amount at which the contract was awarded;
- (e) in the case of a contract awarded to a foreign principal who has a local agent, the name of the local agent.

9.4 Debriefing

- 9.4.1 In the publication of contract award referred to in Guideline 9.3 the PE shall specify that any Consultant who wishes to ascertain the grounds on which its proposal was not selected, should request an explanation from the PE. The PE shall promptly provide the explanation as to why such proposal was not selected, in writing and/or in a debriefing meeting, at the option of the Consultant. The requesting Consultant shall bear all the costs of attending such a debriefing. In this discussion, only the Consultant's Proposal can be discussed and not the Proposals of competitors.

9.5 Execution of Contract

- 9.5.1 Following the acceptance of a proposal submitted by a consultant, a formal letter of acceptance shall be issued forthwith to the consultant by the Procuring Entity. This shall be followed by the execution of a formal contract agreement.

- 9.5.2 The formal contract shall be signed by the appropriate authority.

*Limits of authority
for contract
execution and
format for
requesting
contract signature
are given in
Consulting
Services Manual
9.5.2*

9.6 Default

96.1 Data Base of Defaulting Consultants - NPA.

- (a) In every case involving a contract exceeding the value of LKR 1,000,000 (Sri Lanka Rupees One Million), the NPA shall maintain a data base of defaulting consultants which would be updated regularly. The names of defaulting consultants will also be published in its website.
- (b) The NPA will issue half-yearly, a list of such defaulting consultants to all Line Ministries for circulation among departments/corporations under their purview.
- (a) The PEs should not award any contracts to any consultant, as long as their names remain in this data base.

The placement of a defaulting consultant's name in the NPA website is merely for the purpose of informing PEs that they must refrain from dealing with such parties, until such time their names are removed from the data base at the sole discretion of the NPA and is not intended to imply any moral delinquency on the part of such consultant.

9.7 Supervising the Consultants

9.7.1 To enable the consultant to begin work promptly, the PE shall make arrangements for supervision of the assignment, in particular by:

- (a) appointing the counterpart staff where required;
- (b) providing office space, transport and other supplies where applicable;
- (c) informing all concerned institutional parties;
- (d) effecting the advance payment;
- (e) providing authorization, data and background material if needed;
- (f) Acceptance of the deliverables as stated in the contract.

CHAPTER 10- TYPES OF CONTRACT

10.1 Types of Contracts

The following types of contracts may be used as appropriate:

- (a) lump sum;
- (b) time-based;
- (c) retainer and/or success fee;
- (d) percentage; and
- (e) indefinite delivery.

10.2 Main considerations

The selection of type of contract is generally based on both the scope of work of the assignment and the method adopted for the selection of the consultants. Lump sum type contracts are easy to implement and has many advantages over the other types. Hence unless in the situations where the PE can justify the advantages of using the other types of contracts, lump sum contracts shall be used. When scope of assignment and time inputs of the staff can not be estimated accurately, time-based contracts may be more appropriate. For control and training purposes, a time based contract may be more appropriate.

*The suitability of
Different Types of
Contracts are
given in
Consulting
Services Manual
10.2*