

Memorandum of Understanding On Procurement

1. The Government of the Islamic Republic of Iran (GoI) and the World Bank (the Bank) have agreed to formulate a Memorandum of Understanding (MOU) that addresses the generic impediments in execution of procurement actions in the Bank-financed projects in Iran and assert the solutions for the same.
2. This MOU will be an integral part of all Project specific Loan/Trust Fund/Grant Agreements (LA¹) between the Bank and the GoI, and the Farsi translation of these documents (LA & MOU) together with the required national ratification decisions will be disseminated by the GoI (represented by the Ministry of Finance and Economic Affairs (MOFEA), International Affairs Office) to all related Project Implementation Units/Agencies responsible for execution and oversight of the Bank-financed projects in Iran.
3. For the purposes of this MOU, explicit reference is made to:
 - a. latest editions of the Bank Procurement Guidelines (the Guidelines) structured based on the main principles of economy, efficiency, transparency, fairness, and support of local economy (Paragraph 1.2 of the Guidelines). These include *Guidelines GUIDELINES-Procurement under IBRD Loans and IDA Credits (May 2004)*, and *GUIDELINES-Selection and Employment of Consultants by World Bank Borrowers (May 2004)*, together with their related Appendices; and
 - b. the Islamic Republic of Iran's related laws, regulations, and directives (the Law) governing public procurement in Iran as issued by the MOFEA (Public Accounts Law), Management & Planning Organization (MPO) (Procurement of Contractors and Engineering Consultants), and Ministry of Commerce (procurement of Goods including the related import/export laws). *These include: By-Laws on Government Translations (March 1971) and the General Audit Law of 1987 (Articles 68 to 71 and 79 to 89), Government Accounting Law (1987), Cabinet of Ministers Regulations-Guidelines for selecting Contractors (March 2002), Guidelines for selecting Consultants (July 2004), Law on use of national resources-technical, engineering, production and industrial- in projects in Iran (March 1996).*

Main Principles

4. The parties agree that the Bank financed Project preparation and implementation will be governed by "the Guidelines" and the ensuing Project LAs and in case of any and all contradictions between the LA and the Law, the Procurement provisions as stipulated in the LA and the Guidelines will prevail.

¹ For the purposes of this MOU, all Projects, Trust Funds, and Grant Agreements will be referenced as "LA".

5. The designated Implementing Agencies/Units (PIU) as stipulated in the Project LAs will be responsible for all aspects of project implementation, including execution of Procurement actions in accordance with the LA Procurement provisions together with Procurement Plans and related Guidelines. Any and all procurement methods to be utilized in the Project will be specified in the Loan Agreement and in the Project Procurement Plan.
6. The following main Procurement principles will be adhere to in preparation and implementation of all the existing and future Bank financed Projects:

a. Universal Eligibility Principle –For any contract to be financed in whole or in part from a Bank loan, the Implementing Agency/Unit will not deny participation of any firm/company/supplier for reasons unrelated to its capability and resources to successfully perform the contract; nor can it disqualify any bidder for such reasons (*paragraph 1.6 and 1.7 of the Guidelines*). Exceptions to the forgoing are provided in the attached Guidelines (*Paragraph 1.8*)

b. International Competitive Bidding (ICB) – Contracts to be procured under the Bank Financed Projects using ICB method shall fully comply with the Section II of the Guidelines and shall provide all eligible prospective bidders an equal opportunity to bid for the required goods and works. To this effect:

- i. the use of the Bank issued standard documents (Specific Procurement Notice (SPN), Pre-Qualification Documents, Standard Bidding Documents (SBD), standard evaluation reports, and form of contracts) is mandatory;
- ii. Domestic Preference for Goods (15%) could be used as long as it is provided for in the LA and the Bidding Documents (BD).

c. National Competitive Bidding (NCB) – NCB is the competitive bidding procedure normally used for public procurement in the country of the Borrower. To be acceptable for use in Bank-financed procurement, these procedures are reviewed and modified as necessary to assure economy, efficiency, transparency and consistency with the provisions included in Section I of the Guidelines (Paragraph 3.3 of the Guidelines). To this affect, Contracts to be procured under the Bank Financed Projects using NCB method shall comply with the following:

- i. Any prospective bidder from a country eligible under the Guidelines who propose to provide goods produced in or services supplied from any such country shall be eligible to bid for such contracts.
- ii. Tenders will be advertised in at least one newspaper of general circulation with no less than twenty eight (28) days for bid preparation.
- iii. Government owned enterprises shall be eligible provided they are legally and financially autonomous, operate under commercial law, and are not selected or hired by the supervising or reporting authority, and will be subject to the same bid and performance security requirements as other bidders.

- iv. Bidders will be allowed to deliver their bid by hand or by mail.
 - v. Bids shall be opened in public. The time for the bid opening shall be the same as for the deadline for receipt of bids or promptly thereafter.
 - vi. Prospective bidders shall be allowed to submit two envelopes provided the two envelopes are opened at the same time. No rejection should be announced at the bid opening.
 - vii. Bids shall be evaluated based on price and on other criteria fully disclosed in the bid documents and quantified in monetary terms, and no provision for preferential treatment for national companies shall be applied.
 - viii. The contract shall be awarded to the bidder having submitted the lowest evaluated responsive bid, and no negotiation shall take place.
 - ix. All records and related documents of each step of the procurement process should be kept in PIU and made available to the Bank upon request.
- d. To further facilitate the use of the NCB method in Bank financed Projects:
- i. *The Bank will conduct an assessment of the MPO national contractors and consultants ranking system and will make a determination of the possibility of their use in the Bank financed NCB and Shopping procedures;*
 - ii. *A generic NCB Package (including SPN, SBD, evaluation report, and form of contract) that takes the above into consideration is to be used by all 1 PIUs responsible for execution of the Bank financed Projects.*
- e. ***Shopping-Minor Works*** – *A standard package (including Request for Quotation, Evaluation sheets, and Form of Contract) for use of these methods (quotations vs. bids) is to be used by all PIUs responsible for execution of the Bank financed Projects.*
- f. ***Other Procurement Methods*** – Contracts to be procured using other procurement methods as provided for in the Section III of the Guidelines will be specified in the Project Procurement Plan and the provisions as provided for in Section III of the Guidelines will be followed for all these other methods including NCB and Shopping procedures.
- g. ***Selection and Appointment of Consultants*** – The universal Eligibility principle applies to all consultancy contracts to be procured under the Bank Financed Projects and they shall comply with the following:

Firms:

- i. Except in circumstances identified in Section III of the Consultants Guidelines, the selection shall be based primarily on the quality using short lists (six firms with not more than two from the same country and at least one firm from a developing country – Paragraph 2.6 of the Consultants Guidelines) developed through issuance of Expressions of Interests (EOI).
- ii. For small assignments of less than US\$ 200,000, the shortlist may be limited to local consultants (paragraph 2.7 of Consultants Guidelines) provided local expertise is available at a comparative level. However, if foreign firms have expressed interest, they shall not be excluded from consideration.
- iii. The use of the Bank standard documents including the EOI, Request for Proposal (RFP), Evaluation Report, and form of contract is mandatory for contracts above US\$200,000.

Individuals:

- iv. Selection of individual consultants shall be based on comparison/evaluation of at least three CVs.

Agreed:

The Islamic Republic of Iran

By: 

Name: **Dr. Safdar Hosseini**

Title: **Minister of Economic Affairs and Finance**

Date: 02/10/04

The World Bank

By: 

Name: **Christiaan J. Poortman**

Title: **Vice President,
Middle East and North Africa**

Date: October 2, 2004