



SELECTION OF CONSULTANTS

FIDIC Guidelines for the Selection of Consultants

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Fédération Internationale des Ingénieurs-Conseils
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PREFACE

The Consulting Engineering Industry remains largely responsible for the planning, design, delivery and maintenance of the world's infrastructure and built-environment. This makes the sector a critical player at a time when the world faces an ever-increasing demand for food, water, sanitation, shelter, health services, transportation and energy. It tackles on a daily basis the problems of how to improve the quality of people's lives while working with finite resources in a world with a growing population and significant climate changes.

The role of the professional Consulting Engineer or firm (Consultant) is at least as important today as it was fifty or more years ago. A certain degree of mystery still surrounds the expertise offered by these professionals and firms, together with a lack of understanding of the fine balance of art, science and skilled judgment that is engineering. Some Clients and authorities have attempted to understand more by using prescriptive tender and selection procedures. A number of these procedures are in widespread use. However, it should be recognised that few, if any, of these procedures acknowledge the underlying value of the Consultant's expertise – that of the 'trusted advisor'. Most of these selection procedures concentrate on deliverables. As a result technical expertise becomes a tactical resource (a report, a set of drawings), not a strategic resource (a solution, a path forward).

The overriding concern should be to maintain the desired quality of the professional services provided, paying due attention to suitability of purpose, economy and value, sustainability, efficiency, integrity, risk management, public welfare, equal opportunities for all Consultants and transparency of processes.

Selection of the right Consultant for each particular project is of paramount importance. Experienced senior officials of major multilateral development banks have consistently stated 'Clients should become better aware of the importance of Consultant selection and the impact of the choice of the Consultant on the overall quality of the completed project' and 'Consultant selection is highly critical to the success of the entire project over its complete life-cycle; to save a small percentage (from the Consultant's fee), perhaps 1% or less of project cost is not seen as prudent considering the potential risks.'

Procurement processes are sometimes carried out through e-procurement by the Clients. The main principles of making announcements, short listing, requests for proposals and evaluation of proposals are not different from the conventional method but there are modifications in receipt and opening of proposals etc. Since the e-procurement method is not yet well recognised for Consultant selection, the subject is left aside for the time being and only the conventional selection systems are examined in this guide.

The purpose of these guidelines is to present the commonly used methods of Consultant selection, to explain the respective procedures and to integrate them all in one concise document, while highlighting and elaborating upon FIDIC selection policies.





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DEFINITIONS

A/E services: architectural and engineering Consultancy (especially design) Services

Client: the party named in the Agreement that employs the Consultant, and legal successors to the Client and permitted assignees

Concessionaire: a person or firm that operates a business within the premises belonging to another (the grantor) under a concession

Consultancy Firm: Independent for-profit firm (or a joint venture/consortium partnership) which provides Consultancy Services.

Consultancy Services: technology based intellectual services in the built or natural environment, which may include those listed below:

- Project planning and feasibility studies
- Project assessment studies including financial analysis
- Environmental studies and environmental impact assessments (EIAs)
- Sustainability studies
- Field investigation and surveys; maps
- Architectural services
- Economic/financial studies
- Conceptual, developed and detailed engineering design
- Preparation of tender documents
- Evaluation of bids
- Design supervision
- Construction supervision
- Project/programme management
- Quality management
- Construction management
- Cost and financial management
- Contract management
- Consultancy for commissioning and decommissioning
- Valuation services
- Failure/forensic investigation
- Technical training
- Risk analysis and management
- Operation and maintenance
- Research and development
- Technical assistance
- Health & Safety studies
- Institutional development
- Quantity surveying and value engineering
- Social impact studies
- Claim and variation management
- Dispute adjudication

- Mediation
- Similar technology-based intellectual services

Consultant: either an individual Consultant or a Consultancy Firm.

Consulting Engineering Industry: companies and individuals who provide Consultancy Services as a commercial activity.

Contract: Contract signed between the Client (employer) and the Contractor for provision of Works and/or Goods

Contractor: either a construction Contractor, or a firm that provides Goods

Cost: expenditure properly incurred, or to be incurred, by a party for the purpose of the services including overhead and other charges properly allocated to it but excluding profit.

Design-build: the system where the Contractor undertakes the final (detailed) design as well as the construction of a project, conforming to the preliminary design and/or technical performance specifications pre-prepared by the Client. (FIDIC recognises that there are a number of variations on the form of Design-Build contractual arrangements, but the basic feature is that the design is undertaken by the Contractor and not by the Client.)

Fee (Price): full charge of the Consultancy Services rendered, including profit and tax.

FIMS (FIDIC Integrity Management System): FIDIC standards-based management system that can be easily integrated into an organisation's quality management system, which may also be based on ISO 9001:2000.

Foreign Consultancy Firm: a Consultancy Firm which is not a National Consultancy Firm, in that it does not comply with the two criteria defined for a National Consultancy Firm.

Goods: (in the construction sector) Contractor's equipment, materials, plant and temporary works, or any of them as appropriate.

Individual Consultant: independent engineer, architect or scientist (e.g. environmental scientist) who provides Consultancy Services for a fee.

ITC (Information/Instructions to Consultants): necessary information and instructions prepared by the Client that would help the Consultancy Firms prepare responsive proposals. (ITC is a part of the RFP).

Life-Cycle Cost (LCC): total cost of a project over the full life of the facility. The cost includes construction, operation & maintenance and disposal costs; LCC is sometimes referred to as 'total ownership cost'.

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Locally-Based Foreign Consultancy Firm: a Foreign Consultancy Firm with a registered company in the country where the project will be realised.

National Association: an association of Consultants established in the country where the Consultants render Consultancy Services; Association usually being a FIDIC member.

National Consultancy Firm: a Consultancy Firm with a registered office and centre of activities in the country where a project is realised, and the majority (more than 50%) of the firm's capital is provided independently of foreign interests, by nationals of the subject country

Non-governmental organisation (NGO): an organisation eligible for favorable tax treatment and often capable of covering core expenses through donations (e.g., foundations, associations).

Not-for-profit organisations: organisations providing Consultancy Services which are not legally and financially autonomous and/or do not operate under commercial law and/or are not-for-profit entities, such as government owned institutions, UN agencies, universities, etc.

Owner: individual or organisation which holds the ownership of an investment, including beneficiary ownership.

PIPs (Price Included Selection Practices or Practices Incorporating Price): selection methods for Consultancy Services which range from price only selection to selections which include price as a component in the proposal.

Private Finance Initiative (PFI): the system where the Client, usually a Government, defines quality and service to be provided, and where the Private Sector Partner (Concessionaire) provides managerial, commercial, technical and creative skills for the provisioning of a public service, through private funds. Financing is, to a large degree from the private sector with or without some contribution from government and the user fees are paid by the government or directly by the public using the service.

Procurement: the process through which works and goods are contracted/purchased.

RFP (Request for Proposals): the Client's directives formally written to each short-listed firm for inviting proposals. (Sometimes called RFT — Request for Tender.

Selection: the process through which the Consultant is engaged.

Services: professional services (particularly engineering services).

TOR (Terms of Reference): the Client's specification of the Services, which may be based on input, output or activity. It is used to evaluate the Consultants' proposals, finalise Clients' expectations of the services and manage or monitor Agreement provisions. TOR is a part of the RFP.

Works (construction): the works to be executed by the construction Contractor (including the goods and equipment to be supplied to the Client) for the execution of the project.



1 INTRODUCTION

1.1 Purpose

The purpose of these guidelines is to present the commonly used methods of Consultant selection, to explain the respective procedures and to combine all in one concise document, as well as to emphasise and explain FIDIC policies on the subject.

The overriding concern should be to maintain the desired quality in the professional services provided, paying due attention to suitability of purpose, economy and value, sustainability, efficiency, integrity, management of risks, public welfare, equal opportunities for all Consultants, and transparency in the process.

1.2 Importance of proper Consultant selection

Selecting a Consultant is one of the most important decisions an owner or Client makes. Every project is unique and each has its own challenges. At the outset of many projects, it is difficult for most of the Clients to prejudge the likely complexity of his/her project or issue, or the variety of professional services that may be required to develop a solution. The success of any project depends upon obtaining the most appropriate expertise available in terms of skill, knowledge, past experience, managerial abilities and reputation. Logic and experience have shown that Clients who shop around for Consultancy Services on the basis of appropriate qualifications will obtain a quality of service commensurate with their needs. Correct selection will have a major bearing on the quality, overall project cost, success and hence on the overall value of the end result.

Selection of the right Consultant for each particular project is of paramount importance. The cost of Consultancy Services including design is usually in the region of 1-2% of the Life-Cycle Costs of a project. Experienced senior officials of major development banks have consistently stated 'Clients should become better aware of the importance of Consultant selection and the impact of the choice of the Consultant on the overall quality of the completed project' and 'Consultant selection is highly critical to the success of the entire project over its complete life-cycle; to save a small percentage (from the Consultant's fee), perhaps 1% or less of project cost is not worthwhile considering the potential risks.'

The best project results are achieved when a true professional relationship of absolute trust between the Client and the Consultant can be built. This is because the Consultant must make sound, objective decisions and act in the best interests of the Client (and the owner (where not the Client), as well as the public. The method of selection should therefore seek to develop mutual confidence and trust.

A consulting engineering industry comprising Consultancy Firms operating independently in a competitive market can make substantial contributions to sustainable development, by undertaking work that is performed less effectively by government entities, and by increasing the industry's maturity and effectiveness. These are other strong reasons for the adoption of proper selection of Consultants.

1.3 Preparatory steps

As a first step, a prospective Client should carefully assess the needs for Consultancy Services, comparing them with the other alternatives available. An outline of the services required should be worked out as a basis for determining the appropriate type of Consultant and the selection method to be used, as well as for initially securing financing (see below). If appropriate, and particularly for larger projects, a Consultant serving as a Client's adviser during the selection process would be engaged at this stage

In the initial stage, the Client should prepare an initial cost i.e. scope and the corresponding estimate based on the Client's own assessment of the resources needed to carry out the Consultancy assignment: staff time, logistical support and physical inputs such as vehicles, site office and laboratory equipment. If the Client does not have the expertise in-house to estimate these costs, then it should hire the expertise. Consultancy costs should be divided into two broad categories:

- Consultancy fee (engineering costs inclusive of foreseen profit and tax)
- Reimbursable expenses (inclusive of foreseen profit and tax)

This cost estimate should be confidential and kept for the Client's own use only, for comparison and budget purposes, as well as for securing any external financing that may be needed. However, the pre-estimated construction cost must be disclosed during the announcement of the tendering of Consultancy Services.

2 FIDIC RECOMMENDATIONS

2.1 Recommended selection method

FIDIC stresses the pre-eminence of quality in the selection process. The fees paid to a Consultant are invariably a small fraction of the total project Life-Cycle Cost and yet the Consultant's work is key to project success. Ultimate project quality is greatly leveraged on the quality of the Consultancy service at every stage of its' development and delivery.

For these reasons, FIDIC recommends that the preferred selection method for Consultancy Services be the Quality-Based Selection (QBS) method (see Section 4.1 and Ref. F5). QBS is beneficial for all project types; complex and straight forward, big and small, national and international. If not applied to all, FIDIC recommends the QBS method as the only method for those projects where there is significant complexity, or where there is a multiplier effect i.e. where the consequences of failure are significant, or where the competing candidates will all be National Consultancy Firms.

The 2010 draft World Bank Consultant Selection Process document describes quality plus Cost-Based selection (QCBS) as their preferred method except in situations where a case can be made for another method. 'For example', it continues, 'Quality-Based Selection (QBS) is appropriate for the following types of assignments:

Complex or highly specialised assignments for which it is difficult to define precise TOR and the required input from the Consultants, and for which the Client expects the Consultant to demonstrate innovation; assignments that have a high downstream impact and in which the objective is to have the best experts; and assignments that can be carried out in substantially different ways, such that proposals may not be comparable.

In QBS, the RFP may request submission of a technical proposal only (without a financial proposal) or request submission of both technical and financial proposals at the same time but in separate envelopes.

If technical proposals alone are invited, after evaluating the technical proposals, the Borrower shall ask the Consultant with the highest ranked technical proposal to submit a detailed financial proposal. The Borrower and the Consultant shall then negotiate the financial proposal and the contract.'

If the Quality- and Cost-Based Selection method is considered (QCBS, see Section 4.2.1), then the maximum weight given to the financial component should be within the range of 0 — 10%, with 20% as the absolute maximum in exceptionally simple or straight-forward cases. (Even if the weight of the cost proposal is 0%, there is still a cost proposal, which makes QCBS differ from QBS.)

FIDIC strongly recommends that Cost-Based Selection (CBS), i.e. selection of a Consultant only on the basis of price never be used for Consultancy Services.

2.2 Transparency

FIDIC recommends, in the interests of all parties in a project, that the maximum degree of transparency be maintained during Consultant selection, regardless of the method used and the source of the project financing.

To improve transparency, FIDIC recommends that the scope of work for each assignment be clearly defined at tender stage, that the quality standards for all projects be clearly set forth and rigorously enforced, and that risk allocation be fair and clearly understood to all parties.

It is also recommended that details of the evaluation system, including weighting, be disclosed with the request for proposals (RFP), or at least before any proposals are due to be submitted. Furthermore, it is recommended that Consultants having submitted proposals have the right to an open debriefing following the selection.

FIDIC also recommends that Clients be informed purchasers (see Section 6.6), and that the selection panel has the necessary skills and independence to make a fair and proper selection.

2.3 Capacity building

FIDIC favors and works for building the capacity of the Consulting Engineering Industry at large, and especially of National Consultancy Firms in developing and transition economies (Ref. F11). FIDIC therefore recommends that, in international or internationally financed projects, special attention be paid during the selection process to meaningful partnerships between National or Local Consultancy Firms and internationally operating Foreign Consultancy Firms or Locally Based Foreign Consultancy Firms. FIDIC stresses that QBS is the best method for selecting national bids in order to build up the capacities of the National/Local Consultancy Firms.

FIDIC also considers that important contributions to the development of a country's Consultancy industry are made by the involvement in international assignments of National or Local Consultancy Firms rather than of individual Consultants.

2.4 Integrity

FIDIC recommends that Consultancy firms adopt the FIDIC Integrity Management System (FIMS) (Ref. F1) and that Clients give consideration to this policy during selection.

It is recommended that Clients should also subscribe to FIDIC Integrity Management System principles within their own organisations. Experience has shown that lack of integrity in Client authorities is self-defeating in that good quality Consultants will not bid.



2 FIDIC RECOMMENDATIONS

2.5 Fair competition

FIDIC recommends that, in the public interest, Consultancy Firms compete with each other for providing Consulting Services on a transparent, 'level-playing field' basis.

Furthermore, whenever publicly funded bodies such as government enterprises, universities and their related companies and Not-For-Profit Organisations compete (upon acceptable reasoning) with independent Consultancy Firms, selection should be made exclusively by QBS. Normally, these Not-For-Profit Organisations having special expertise will be best employed in a sub-consultant role and not permitted to compete with independent Consultants.

A detailed Request for Proposals (RFP) with a well defined Terms of Reference (TOR) considerably contributes to fair competition. Sometimes pre-proposal conferences and filed visits are considered desirable for clarification about the information provided in the RFP including TOR. Procedures shall include formal process of dealing with clarifications requests during the tender process. Care is needed to assure that adequate response time is provided to allow all potential candidates to develop teams and provide quality proposals/ submittals.

2.6 Harmonisation

FIDIC recommends that Consultancy Firms and/or their National Associations be consulted on the development or implementation of selection procedures, particularly where these differ from standard selection procedures. The costs to an economy of any unilaterally developed procedures can be high, and may impede the future export of services.

2.7 Limitation of liability

FIDIC recommends that it is in the interest of Clients as well as Consultants to limit the liability of the Consultant at a fair level, and in accordance with the principles reflected in the provisions of Clauses 16–18 of FIDIC Client – Consultant Model Services Agreement (Ref. F2). Liability should be limited to a Consultant's responsibilities stated in a particular Agreement.

2.8 Professional Liability (Indemnity) Insurance

FIDIC recommends that Professional Liability (Indemnity) Insurance required from the Consultant be limited to what is provided for in Clauses 19 and 20 of FIDIC Client – Consultant Model Services Agreement (Ref. F2), and in no case be requested for risks that are insured by other parties, or otherwise reasonably to be carried by them.

2.9 Life-Cycle Cost (LCC)

FIDIC draws the attention of owners and Clients to the Life-Cycle Costs of projects, which can generally be shown to be many times the initial capital cost, depending on the nature of the project. Life-Cycle Costs should be identified, with expert advice provided where necessary: this will logically influence the choice of design solution and emphasise the importance of quality in the selection of the Consultant. (Please refer to Appendix 1, LCC Pie-Chart).

2.10 Monitoring outcomes

Clients such as government agencies, being involved in successive projects over time, have the opportunity to monitor and analyse the outcomes and thereby assess the performance of Consultants against the methods adopted for selection. FIDIC recommends that this be done, since it will assist the Client in assessing the information so gained in order to modify or at least fine-tune their approach.

The overriding concern should be to maintain an appropriate quality of the professional services provided, paying due attention to suitability of purpose, economy and value, sustainability, efficiency, integrity, management of risks, public welfare, fair opportunity for all Consultancy Firms, and transparency of the process.

3 SELECTION OF INDIVIDUAL CONSULTANTS

Individual Consultants are normally employed on assignments for which:

- the project size is such that teams of personnel are not required
- no additional professional support is required
- expertise is needed in a limited and specialised field
- the experience and qualifications of the individual are the paramount requirement.

Individual Consultants are generally engaged to carry out the following assignments:

- to prepare, review, supplement or update feasibility studies
- to offer specialist Consultancy or sub-consultancy services
- to assist Clients in carrying out sector studies and development plans
- to assist Clients in the tender preparation, evaluation and selection processes
- to assist Clients as extension of their own staff,.
- to undertake peer reviews
- to assist in forensic studies
- to work as short- or long-term advisers for policy development and application, institutional development, capacity building and training.

Individual Consultants are selected on the basis of their qualifications and experience for the assignment. They may be selected on the basis of references, or through a comparison of capabilities among those expressing interest in the assignment or approached directly by the Client.

Some Clients who regularly have the need for individual Consultants maintain a data bank to choose from. Individuals employed in this way shall meet all relevant qualification requirements and shall be fully capable of carrying out the assignment. Ideally, Individual Consultants assignments should be advertised in freely accessible (preferably web-based) media.

Capability is judged on the basis of academic background, skills, experience and, as appropriate, knowledge of the local conditions such as language, culture, building codes and practices, administrative systems, etc. The Consultancy fee is established through negotiations between the Client and the Consultant, similar to the Quality-Based Selection method. (Ref. F5.)

From time to time, permanent staff or associates of a Consultancy Firm may be available as individual Consultants. In such cases, the conflict of interest provisions described in these guidelines shall apply to the parent Consultancy Firm.



4 SELECTION OF CONSULTANCY FIRMS

In general, FIDIC recommends the QBS process described in Section 4.1 below. The Client, taking advice if necessary, should decide the selection method at the outset of the selection process.

4.1 Quality-Based Selection (QBS)

QBS is a selection process to determine the most appropriately qualified Consultant based on Quality-cum-Technical Competitiveness attributes, leading to a negotiated award of services on a fair and reasonable price basis. In QBS, the 'Q' does not stand for best quality but rather most appropriate quality; in other words, the firm most appropriately qualified to undertake the Services.

The key to ensuring quality and best value from a project lies in selecting the Consultant capable of providing the solution to meet the Client's requirements over the whole Life-Cycle of the project. The Consultant should be selected by an open and transparent process that focuses upon the ability of that Consultant to meet the project's needs. Selection of a Consultant on this basis should ensure appropriate consideration, in conjunction with the Client, of the principles of environmentally sustainable design (Ref.F9, F13, F15), with the benefits of innovation, local knowledge and cost effective practices, to ensure the best quality outcome.

QBS is only correctly applied if it encompasses both selection and appointment. The use of QBS to prequalify Consultants and to then appoint on the basis of price is not what is meant by QBS, such as it is done for Framework Agreements. A fundamental benefit of QBS is that the Consultant is able to develop the scope of work appropriate to the task without fear that he/she will be undercut by a competitor who is prepared to offer less than complete/adequate service.

FIDIC recommends QBS as the preferred method and as best international practice for the selection of Consultants for engineering design and management services.

In the Quality-Based Selection (QBS) method (Ref.F5), the Client selects the Consultant on the basis of professional competence, managerial ability, availability of resources, past performance, rapport and commitment to the Client's objective. The Client prepares the Terms of Reference (TOR, see Section 4.1.3b) together with a budget for the Consultancy Services which should not be disclosed to the candidates. Consultants submit technical proposals only and these are evaluated and used for the selection. However, if even after the negotiations the Consultant's fee exceeds the maximum financing, then this would be a reason to reject the first-ranked Consultant.

Sometimes private sector Clients choose to work with Consultants who they know have appropriate expertise and experience, and negotiate a fee on a mutually developed and agreed scope. This is using the Consultant as 'the trusted advisor'. This approach embodies some of the principles of QBS, but by limiting competition, it fails to achieve identification of the most appropriate consultant and puts project success at risk. Besides, it sacrifices the principles of transparency for selection.

The procedures to be followed are explained in the following sections.

4.1.1 Announcement and pre-qualification (long-listing)

Establishing a list of Consultants potentially qualified for the project is often referred to as pre-qualification, or long-listing. Long-listing does not mean listing of all the firms that submit Expression of Interest (EOI) in the project; a pre-qualification is made among those before the long-listing is done.

When it can reasonably be expected that several competing National Consulting Firms are fully capable of providing the services, the Client normally advertises (announces) the proposed Agreement in one or more national newspapers, or in other media, such as a web site, calling for expressions of interest. Alternatively, a long-list may be prepared using various resources, based on the relevant legislation or procedures of the country (or International Funding Institutions, if applicable). The Client may contact professional organisations (such as FIDIC Member Associations), and persons or organisations that have employed Consultants for similar projects, to prepare a long-list. The client may also use internal and external databases for preparing a long-list. Full and open public announcement of the opportunity substantially improves competition and the likelihood of attracting qualified Consultants. The announcement should incorporate the qualifications criteria to be used for evaluation, outline the TOR and disclose the estimated construction cost. This allows applicants to focus on attaining those criteria and making the appropriate project oriented teaming.

When international expertise is required, the Client should also advertise the job in international newspapers and/or on web sites and/or technical magazines, seeking expressions of interest.

The following information should be included in the announcement (advertisement) which invites Consultants to submit their expressions of interest for the project.

- information about the Client and the contact person
- source of finance and the estimated budget for construction works (only if there are firm limits on the available financing)
- name, location and size of the project
- whether the services will be procured nationally, internationally, or as a combination
- limitations on eligibility (as may be set by sources of financing)
- type and scope of services required (a brief summary of the job)
- areas of expertise deemed to be critical
- estimated time schedule for the project

4 SELECTION OF CONSULTANCY FIRMS

- the forms of Agreement and any special terms or conditions
- insurance requirements
- information required from the applicant Consultancy Firms (general and similar experience, permanent key staff, resources, brochures, financials, etc.)
- method of Consultant selection
- deadline for the submission of expressions of interest
- limit of page count for submittals (when appropriate).

The information requested should be the minimum required to make a judgment on the firms' suitability, and not be so complex as to discourage Consultants from expressing interest nor to create undue cost burden on Consultants. The candidate firms at this phase are evaluated on their general merits and not the particular project team yet. Sufficient time (normally not less than 30 days) should be provided for responses before preparation of the short list.

Firms applying for pre-qualification (long-listing) should be required to give a commitment to proceed with a proposal if short-listed, provided that the Terms of Reference remain in line with the information given during the pre-qualification stage.

Some Clients maintain a data bank of qualified firms from which a short list can be established without the long-listing process. Firms on such a data bank should be required to update their information at regular intervals.

4.1.2 Short-listing

The Client (or a Consultant adviser) shall examine the expressions of interest submitted by eligible Consultants, and prepare a short list. Consideration of firms other than those which have expressed interest in accordance with the Client's announcement and pre-qualification conditions is not recommended.

Short lists should comprise three to six firms (seven for EU projects); normally three or four for complex projects; and four or five for straightforward projects. For international or internationally-financed projects, they should provide a good geographic spread. (The World Bank and similar International Funding Institutions have country-specific limits on the number of short-listed firms.)

As applicable, the Client should bear in mind the following factors during short-listing, ensuring that it is done in accordance with instructions given when requesting expressions of interest:

- general and relevant experience – technical competency
- capacity to complete the work – resources within the firm
- access to support resources and established associations
- availability of key personnel
- managerial capacity to perform
- financial capability to perform (if applicable)

- past performance on Client contracts (e.g., delivered time and to budget)
- location of the firm's office in relation to the work
- knowledge of special local conditions (such as seismic conditions, permafrost, ecological constraints etc.)
- meaningful partnerships/associations with National Consultancy Firms in international projects (as recommended by FIDIC for the capacity building of National Consultancy Firms; Ref. F11)
- Quality Management System established in the firm (if applicable)
- Detailed information of permanent key staff
- Integrity Management System (if applicable)
- political, social, cultural and environmental sensitivity (without conflicting with integrity principles)
- security level required.

FIDIC recommends that the Client have access to appropriately experienced and knowledgeable people when forming the short list. Where the resources are not available in-house, Consultants can be retained. The firm's financial resources must be evaluated realistically to match the needs and must not be exaggerated, keeping in mind that Consultancy Services are intellectual services.

4.1.3 Request for proposals (RFP)

The Client formally writes to each of the firms on the short list and invites proposals that are sometimes called Requests for Tender (RFT). The Client should normally inform the firms which expressed interest but were not invited, that they have not been retained on the short list.

The RFP should contain the following:

a - Letter of invitation

b - Terms of Reference (TOR)

c - Information/instructions to Consultants (ITC)

d - The proposed Agreement

a - Letter of invitation

The letter of invitation shall state the intention of the Client to enter into an Agreement for the provision of Consultancy Services, the source of funds, and the date, time and address for the submission of proposals.

b - Terms of Reference (TOR)

The Client is responsible for drafting the TOR for selection, which should include an assessment of the physical magnitude and resource requirements of the project. The TOR shall be prepared by the Client, or by an independent Consultant(s) retained by the Client and specialised in the area of the assignment. (FIDIC Definition of Services Guide offers advice on this; Ref. F12.)



4 SELECTION OF CONSULTANCY FIRMS

The brief or scope of the services described in the TOR shall be compatible with the available construction budget. The TOR shall define clearly the objectives, goals and scope of the assignment, and provide background information (including a list of existing studies and basic available data) to facilitate the Consultants' preparation of their proposals. If the transfer of know-how or technical training will be an objective, it should be specifically outlined along with details of number of staff to be trained, and so forth, to enable the Consultants to estimate the required resources. The TOR shall list the services and surveys necessary to carry out the assignment and the expected outputs (reports, data designs, tender documents, maps, surveys, etc.).

However, the TOR should not be too detailed and inflexible, and should be such that competing Consultants may propose their own methodology and staffing. The firms should also be encouraged to comment on the TOR in their proposals. By doing so, the Client may benefit from Consultants who apply innovation to the scope to save costs, shorten the schedule or enhance the content/quality of the deliverables. The Client and the Consultant responsibilities should be clearly defined in the TOR.

The minimum information required in the TOR is summarised below:

- scope of services compatible with available budget for the project
- objectives, goals of the project
- background information (listing of existing studies, data, etc.)
- transfer of know-how terms (if applicable)
- training requirements (if applicable)
- list of services, surveys necessary
- expected deliverables (reports, designs, tender documents, maps, etc.)
- a time schedule and phasing of the assignment
- regional factors such as geographic location, language, logistics, allowances, and duration of commission
- the expected input of key professional staff (staff time) required of the Consultancy Firm with indications of minimum experience, academic degrees, and so forth (Consultants should preferably be left free to prepare their own staff time necessary to carry out the assignment)
- respective responsibilities of the Client and the Consultant
- Supply of equipment/software, if included in the Agreement
- Clients' contribution to the assignment (office space, access to information, nominated counterpart staff etc.).

c - Information/instructions to Consultants (ITC)

The ITC shall contain all necessary information that would help the Consultants prepare responsive proposals and without being limited to the following list, shall include adequate information on the following aspects of the assignment:

- a short statement of the assignment
- the contact person(s) of the Client whom the Consultants should apply/refer to, when and if necessary
- the list of invited firms together with clarification about whether or not the short-listed firms can collaborate to submit a proposal
- formalities in preparing and submitting the proposal, such as (and when applicable): language; number of copies; maximum number of pages, if applicable; size and format or other limitations on the submissions; standard formats to be used in the proposals (joint-venture agreement, presentation of past experience, CVs, etc. – these should not be unduly prescriptive); envelopes or the like to be used and their labelling or other identification; latest date and time for submission; address for submission; method or means of submission; requirement for numbering of the pages to be submitted
- the form of Agreement which will apply (see Section 4.1.8)
- details of the evaluation and selection procedures to be followed, including a listing of the technical evaluation criteria and the weight given to each criterion
- the minimum passing score (threshold) for quality if applicable — Care needs to be taken with this approach to avoid misuse and abuse of process
- the date for submission and details of the proposal opening procedure
- a clear Statement of Information required from the Consultant. This would normally include details such as:
 - past experience with projects of a similar nature
 - details of organisation
 - project control means
 - financial control of the construction
 - size and responsibilities of staff
 - type of organisation and managerial method proposed for executing the work
 - Quality Management System (if applicable)
 - Integrity Management System (if applicable)
 - knowledge of local conditions
 - project methodology, availability of resources
 - the alternatives to be considered (invitation for innovation)
 - approach and commitment to transfer of know-how (if applicable)

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- level of participation and roles of National Consultancy Firms in international projects
- compliance with the desired time schedule
- personnel/staff schedule
- Conditions of debriefing.

Note: This Statement of Information required from the Consultant should clearly align with the technical evaluation criteria for selection.

- location where the construction work and Consultancy Services will be performed
- the total construction budget
- details and status of any external financing
- information on negotiation of the Agreement; (financial and other evidence that may be required of the selected firm)
- currency(ies) in which the costs of services shall be paid
- any bonuses or penalties which may be applied as a function of the performance of the Consultants
- whether fee escalation shall be applied or not, and the relevant conditions
- terms of payment including any retention requirements
- reference to any laws of the Client's country that may be relevant to the proposed Agreement, including tax laws
- a statement that the firm and any of its affiliates shall be disqualified from providing goods, works or services that would fall into a conflict of interest with the subject of the Agreement
- brief explanation of conditions of Professional Liability Insurance required under the Agreement (if applicable)
- limitation of liability (see Section 2.7)
- a request for the receipt of the RFP and notification of the Client whether or not the short-listed (invited) firm will be submitting a proposal
- the period for which the Consultants' proposals shall be held valid (normally 60 to 90 days) and during which the Consultants shall undertake to maintain, without change, the proposed key staff; and, in case of a later request for the extension of the validity of the proposal, a statement confirming the right of the Consultants not to maintain their proposal
- for Consultancy Services to be procured internationally, a statement indicating whether or not the Consultant and personnel shall be tax exempt; and if so, under which conditions, and if not, what the likely tax regime will be or where this information can be obtained
- any conditions for sub-consultancy part of the assignment (if applicable)
- the expected date of commencement or duration of the assignment
- likelihood of follow-up assignments or possible downstream work and criteria to be applied for downstream assignment
- the procedures for handling clarifications about the information given in the RFP
- any relevant copyright or intellectual property issues
- a statement of encouragement to visit the site and meet the Client, in order to better evaluate the scope of work, and the conditions for such visits (see Section 4.1.4)
- request for comments on the TOR (this will normally be related to the evaluation criteria)
- a requirement for a brief statement of the methodology proposed, in order to give an indication of the Consultant's understanding of the project
- page number, size, format or other limitations on the submissions (if required). (FIDIC recommends that Clients should sensibly limit the length of proposal to about 10 to 20 pages plus attachments.)

d - The proposed Agreement

The FIDIC Client – Consultant Model Services Agreement (Ref.F2) is recommended as an instrument which establishes a fair, sound and tested Agreement between the Client and the Consultant, with properly and carefully filled in appendices. In any event, the short-listed Consultants must be provided with a full copy of the Agreement which is to be signed by the selected Consultant.

4.1.4 Preparation and submission of proposals

The Client shall allow enough time for the firms to prepare proposals. The time allowed shall depend on the assignment, but normally shall not be less than four weeks or more than three months. During this time, firms may request, in writing and until a deadline, clarification about the information provided in the RFP. The Client shall provide this clarification in writing, and copy it to all firms on the short list, at least a week before the proposals shall be submitted.

It is advantageous for Clients and Consultants to make arrangements for site visits as stated in the ITC, and for providing additional information on the project, as applicable, well before the last day for submission of proposals to maintain their proposal.

All short-listed Consultants invited to submit proposals must be given fair and equal opportunity to participate and to obtain information. A 'pre-proposal' conference convened by the Client and attended by the representatives of all short-listed bidders is considered an advantage, although cost is a factor.

The proposals shall be prepared according to the requirements set out in the RFP. They must be accurate, complete and duly signed by (an) authorised official(s) of the Consultant and, in the case of CVs, by the individuals proposed.



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4.1.5 Receipt and opening of proposals

The proposals submitted shall be registered by the officer-in-charge at the time they are submitted. They shall be kept safe until they are to be opened. Any proposal received after the announced closing time for submission of proposals shall be returned unopened.

Only where there is good reason, should the Client extend the deadline for the submission of proposals. No amendments shall be given and/or accepted after the agreed deadline.

When the deadline has passed, the proposals submitted shall be opened without delay.

The Consultants invited to submit proposals should be invited to attend the opening of proposals. Minutes shall be prepared and signed by the legal representatives of both the Client and the Consultants, at the times of the openings.

4.1.6 Evaluation of proposals

The Client shall systematically evaluate and rank each proposal against the basis for selection criteria outlined in the RFP. This process helps to maintain the integrity of the selection process, and can involve:

- formation of a selection committee/panel (FIDIC recommends balanced inter-agency evaluation teams with appropriate competence and commitment to integrity and independent decision making);
- a weighting or score for each criteria, as set down in the RFP;
- independent evaluation of firms by each member of the selection committee and;
- individual score sheets being collated and a documented record of the selection process retained.

Clients may be assisted in this evaluation process by an independent Consultant or a Consultancy firm. In some countries, it is mandatory for public sector Clients to use a combined public-private panel, with suitably qualified evaluators for certain projects.

If the project size and complexity warrant it, the Client can include the following as part of the evaluations: interviews of key Consultant team members; a visit to the Consultants' premises; discussions with the Consultant's past Clients and project end users; and inspections of past projects. These activities can be carried out by teams of experts including Client representatives and individual Consultants. Care must be taken to ensure that such measures are carried out in a perfectly fair and equitable manner, with appropriate transparency.

The following steps shall be taken during technical evaluation:

- The Client (or the Client's selection committee/panel) shall evaluate each technical proposal, taking into account several criteria, as set out in the RFP:

- a - the Consultant's relevant experience for the assignment;
- b - the quality of the methodology proposed;
- c - the qualifications of the key staff proposed;
- d - training or transfer of know-how provisions (if applicable);
- e - the extent and quality of participation by National Consultancy Firms in the assignment (in internationally financed projects);
- f - the support facilities (if applicable) of the Consultant;
- g - schedule of activities and personnel.

- Each criterion shall be marked on a scale of 1 to 100. Then the marks shall be weighted to become scores. The proposed weightings shall be disclosed in the RFP.

- These criteria are normally divided into sub-criteria. For example, sub-criteria under methodology might be innovation and level of detail. However, the number of sub-criteria should be kept to the essential only. The use of excessively detailed lists of sub-criteria may render the evaluation a mechanical exercise more than a professional assessment of the proposals. General experience should not be evaluated since this criterion has already been taken into account when short-listing the Consultants. More weight shall be given to the methodology in the case of more complex assignments.

- For short-listing purposes, existing key staff of the Consultant should be considered, but for final selection, evaluation of only the key personnel (permanent and/or to be hired) allocated to the specified project is recommended. Since the assigned key personnel ultimately determine the quality of performance, this criterion shall carry more weight if the proposed assignment is complex. The Client shall review the qualifications and experience of proposed personnel in their CVs. When the assignment depends critically on the performance of key staff, such as a project manager in a large team of specified individuals, it may be desirable to conduct interviews. The individuals shall typically be rated under the following three sub criteria, as relevant to the task:

- a - general qualifications (general education and training; length and depth of experience; positions held; time employed with the Consultancy firm; experience in the Client's country; and so forth);
- b - adequacy for the assignment (education, training, and experience in the specific sector, field, subject, and so forth), relevant to the particular assignment; and
- c - experience in the region (as applicable); knowledge of the local language, culture, administrative system, government organisation, and so forth.

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- The Client shall evaluate in short time (for example in 1/5th of the time allocated for proposal preparation) each proposal on the basis of its responsiveness to the TOR. A proposal shall be considered unsuitable, and shall be rejected at this stage if not in line with important aspects of the TOR or if it fails to achieve a minimum technical score (threshold) specified in the RFP. It is also very important that the Client accurately follow the steps described in the RFP when evaluating proposals, and restrict him-/herself to the assessment methods stated in the RFP.
- At the end of the process, the Client shall prepare an evaluation report of the 'quality' of the proposals. The report shall substantiate the results of the evaluation and describe the relative strengths and weaknesses of the proposals. All records relating to evaluation, such as individual marking sheets, shall be retained until the completion of the project and its audit.

4.1.7 Selection of the Consultant and negotiations

The Client selects its preferred Consultant based upon the total quality score. The top ranked firm (the firm with the highest overall technical score) is invited to fine-tune the methodology, the team and price, incorporating budget considerations. The invitation is often called LOI – Letter of Intent. The discussions help foster a team and partner approach and reduce gaps, overlaps, risks and misunderstandings. This exercise is beneficial to any third party as well who facilitates negotiations.

The price will reflect the scope of services to be provided, taking into consideration contractual and legal requirements, time schedules, payment terms and appropriate risk allocation between the parties.

If agreement cannot be reached with the top ranked firm on price, scope and quality, the negotiations are terminated with the firm's acquiescence in standing aside and passing on to the next ranked firm, and so on down the list until agreement is reached. Price negotiations should be conducted in an atmosphere of cooperation. This should strengthen and build the confidence and trust which are absolutely essential to a healthy Client-Consultant relationship. Once a firm has been rejected, it should not be recalled for further negotiations.

How price is negotiated with QBS

When QBS is used for the engagement of Consultants, a preferred Consultancy Firm/Team is chosen on the basis of comparative attributes before the final scope and fee is agreed. By this means the Client and the Consultant can mutually agree to appropriate scope of services to be provided by the Consultant. It is a common misconception that this then places the Consultant in a position to 'write his/her own fee cheque'. While this patently is not true, Clients can be put in a position of not knowing if a proposed fee is appropriate. The Client always has budget control. Clients need to understand how the proposed fee is developed from the scope of services, where the sensitivities are and what their budget will achieve.

This section outlines the principles of fair and appropriate fee determination.

- a) For large and complicated projects the Client and the selected Consultant should jointly fine-tune the pre-prepared scope of services without changing it, and concurrently develop fee estimates. In this manner the Client can understand the connection between such issues as scope risk, scope creep and fees. The two parties can as well quickly distinguish between items which are necessary for project success and those nice to have. Another area of negotiations might be to establish the activities that require inputs of senior Consultants and those that can be undertaken by junior Consultants, while retaining appropriate quality.
- b) For projects which are large, technically complex or with long timelines it is important for the Client to be knowledgeable about the specific requirements of the project. When a Client lacks in-house expertise, FIDIC strongly recommends that it engages an independent Consultant to act as a Client representative for the Consultant engagement phase. Note that it is important for this independent advisor to be knowledgeable in the matter being considered and to act in a neutral manner without favor to the Client or to the Consultant.
- c) For complex projects, the design solution and hence the full scope of Consultancy Services is not known at the start of the project. In such cases it is often appropriate to have an incremental fee agreement. An independent, neutral advisor can also give guidance in relation to this.
- d) A key consideration in negotiations is the sharing of contractual risk between the Client and the Consultant. There should be an acknowledged relationship between risk acceptance by the Consultant and fees.
- e) As part of the negotiation, the two parties should develop and agree upon a schedule of payments and deliverables.
- f) Once the parties have determined the schedule, deliverables, communications plan and the team, the determination of price and payment is quite straightforward. It is recommended that Consultants provide Consultancy service fees not based on multipliers of salary. Divulging salary information related to specific staff may contravene the privacy of a firm and the security of such information may be at risk. The practice of basing fees on salaries is not common outside of engineering Consultancy services. For example, the legal and medical professions have a history of using predetermined prices for defined tasks, resulting in a less intrusive approach.



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The parties can follow any one of several models for price determination including:

- i. Payment by the hour using mutually agreed rates. These rates can be those used on previous similar projects or the FIDIC Member Association in the specific country can recommend a method of quoting rates for various levels of engineers and technical support. The rates may also vary by practice type and by region, but FIDIC never encourages the display of salaries — a practice followed in some FIDIC member countries.
- ii. Payment as a percentage of construction cost. This method is commonly used for building projects. The percentages vary according to project type and complexity as well as with the amount of risk and scope carried by the Consultant. Recommended schedules of appropriate percentages are available from many national and regional associations of engineers and architects.
- iii. Cost or cost plus. With some large Clients, usually governments, international agencies or banks, the parties agree upon an hourly rate based upon engineering costs (the cost of time spent by the engineers), direct project costs (e.g. travel, document reproduction, car rental, air cargo etc.), acceptable overheads which may differ from firm to firm covering costs such as office rent, administrative staff, advertisement and, office equipment maintenance. With the 'cost' approach, a level of acceptable profit inclusive of corporate tax is built into the rate while with the 'cost plus' approach a profit inclusive of corporate tax is added to the costs incurred by the Consultant. This approach is used by many Clients around the world including government agencies in the UK, Australia, New Zealand, the United States and Canada. The practice is also followed by various International Financial Institutions such as the World Bank, Asian Development Bank, African Development Bank and other donors. Their Standard Request for Proposal (SRFP) document includes Appendix for breakdown of remuneration rates of personnel based on elements of basic engineering costs, social charges, overheads, other fees such as overseas allowance etc.
- iv. Fixed fee. This is a true value-based approach. The Client and the Consultant have agreed on the deliverables and how the deliverables are to be attained; now they negotiate on the value of the deliverable to the Client. Sometimes the parties agree on a bonus for the Consultant if it provides the deliverable faster or in a superior condition than originally planned. Conversely, for projects with many unknowns, the fixed fee can be treated as an upper limit at which point the Client and the Consultant review progress to date and decide whether to proceed or not. Independent cost Consultants can, for all these methods, provide a

'market range' of fee percentages and rates.

- v. Gain-sharing. This approach has been used in some energy and environmental projects where the Consultant has been paid from the savings in energy costs, reduction in pollution fines or taxes or greenhouse gas credits. Sometimes this approach is combined with or is a supplement to one of the other price and payment methods described above. This practice has often been used for Contractors and Consultants on Private-Public Partnerships and Design-Build contracts.

Some clients have the ability to develop estimates for costs expected for the professional fees on a project and use those estimates when negotiating with the top ranked Consultant.

4.1.8 Agreement

The recommended form of agreement is the FIDIC Client – Consultant Model Services Agreement (Ref.F2) or at least a recognised standard contract, with appendices filled in as appropriate, reflecting the scope of the work. The final TOR and the agreed methodology shall be incorporated in the scope of Services. The selected firm should not be allowed to change the key staff or any major items included in its proposal, unless both parties agree that undue delay in the selection has made it necessary. The Consultant's team, or team member can only be changed for significant reasons after the Agreement is signed. The Client must be informed and the former team/team member must be replaced with another team/team member of similar qualifications with the Client's approval.

4.1.9 Notification

When the Agreement has been signed, all those firms which have submitted proposals should be informed by the Client within a reasonable time that they were not successful.

All tenderers should receive the following:

- a Name of the preferred Consultant and its technical score;
- b Price of the Agreement;
- c Number of proposals received.

In order to maintain transparency (and to promote competition), the Client should provide the interested parties with the evaluation results limited to the items a, b and c above, by publishing them in national and/or international newspapers, technical magazines and/or on its web site, as appropriate.

4.1.10 Debriefing

If, after notification of award, a Consultancy Firm wishes to ascertain the grounds on which its proposal was not selected, it should address its request to the Client within time given in the ITC and the Client should then invite the firm without delay to discuss the issues. In this discussion, only the merits or otherwise of the Consultant's own proposal should be discussed and not those of competitors. Further detail should then be

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provided on that Consultant's technical scores, as well as where the firm was ranked in the evaluation.

4.1.11 Change in first-ranked Consultant

If there is a change in the preferred Consultant after de-briefing, the following procedure shall be followed:

- a The LOI (Letter of Intent) of the first preferred Consultant shall be withdrawn.
- b The LOI shall be issued to the next preferred Consultant.
- c Appropriate provisions should be incorporated in the RFP accordingly.

If the above procedures are not followed, the Client should explain in the RFP which other procedures are to be followed if the preferred Consultant changes after debriefing.

4.2 Other selection methods

4.2.1 Quality- and Cost-Based Selection (QCBS)

Quality- and Cost-Based Selection (QCBS) uses a competitive process among short-listed firms that takes into account both the technical quality and the cost of the services proposed in the selection of the Consultant. The most commonly used method of QCBS is the cost-weighted method (alternatively referred to as the two envelope system). It should be noted that QCBS has no relation to the Negotiated Procedure method of the European Union projects.

The relative weight to be given to quality and cost should be determined for each case depending on the nature of the assignment. FIDIC recommends that, when cost is an element in the selection process, it should normally be kept between 0 — 10 percent; with 20 percent being the maximum weight in simple and straightforward cases. Price should never be negotiated in QCBS.

The weight of quality in no case should be less than 80 percent. In addition, the Client usually announces a threshold value for technical points. For scores below the threshold, the proposals would be returned to the relevant Consultants, with financial proposals unopened. In this case, such Consultancy Firms are considered as disqualified during the evaluation phase. FIDIC believes it is very important to emphasize to Clients that if they want the thought and attention given to the quality criteria by the Consultancy Firms, to count in the competition, they must be prepared to use the full range of available quality marks to distinguish between the submissions. If they do not, a clustering of quality marks all awarded around the same values, actually neutralises the quality criterion, and amounts to price-based selection by default.

Under certain circumstances (where the overall scope cannot be well defined), the Client may elect to use a modified QCBS system based on unit rates. In this case, the Client estimates the level of effort that might be required, and publishes

these by staff category. This level of effort is then utilised by the Consultant to apply unit rates to obtain an estimated cost that is used in the comparative evaluation.

The procedures for QCBS are explained under the following items. Apart from the price component, the procedures are almost the same as for QBS, and should be applied with equal vigour.

4.2.1.1 Announcement and pre-qualification (long-listing)

Procedures are the same as for Quality-Based Selection (see Section 4.1.1).

4.2.1.2 Short listing

Procedures are the same as for Quality-Based Selection (see Section 4.1.2).

4.2.1.3 Request for Proposals (RPF)

Procedures are generally the same as for Quality-Based Selection (see Section 4.1.3).

a - Letter of invitation

Procedures are the same as for Quality-Based Selection (see Section 4.1.3a).

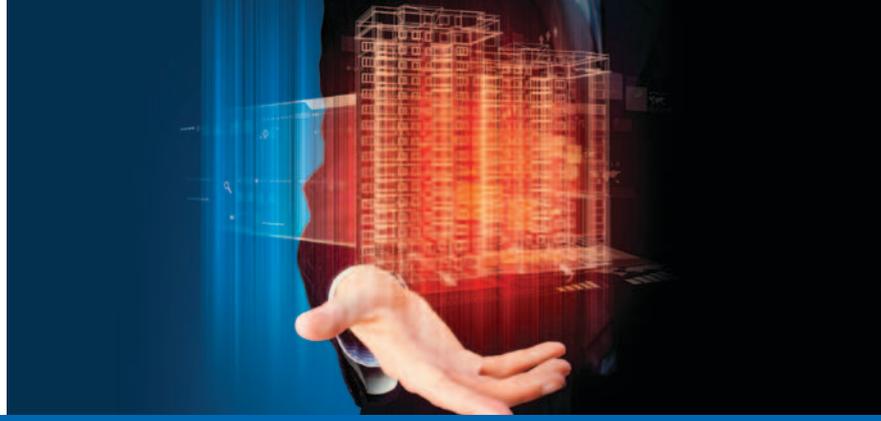
b - Terms of Reference (TOR)

Procedures are the same as for Quality-Based Selection (see Section 4.1.3b).

c - Information/Instructions to Consultants (ITC)

The ITC shall contain the same information as for QBS in Section 4.1.3c, with the following additional requirements relating to price:

- the minimum passing score (threshold) for quality (when applicable)
- a request for cost estimate details in a particular format, including rates (engineering costs) and reimbursable costs. The cost of staff time shall be estimated on a realistic basis for both National and Foreign or Locally Based Foreign Consultancy Firms, separately for each. (These details will form the basis for Agreement negotiations and must be submitted in a separate, sealed envelope.)
- necessary information about the proposal submission procedure, including the requirement that the technical proposals and financial proposals be sealed and submitted separately in a manner that shall ensure that the technical evaluation will not be influenced by price
- details of the two-stage evaluation process, a listing of the technical evaluation criteria and weights given to each criterion, the details of the financial evaluation, the relative weights for quality and cost
- the procedure for the announcement of the technical scores together with the public opening of the financial proposals
- the formula by which the financial scores shall be calculated



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- whether or not a threshold shall be applied to the financial proposals, and the cost below a certain percent of the Client's pre-estimated (see Section 1.3.) cost for Consultancy services shall be announced as non-conforming and shall not be evaluated;
- currency(ies) in which the costs of services shall be expressed, compared and paid;
- the period for which the Consultants' proposals shall be held valid (normally 60 — 90 days) and during which time the Consultants shall undertake to maintain, without change, the proposed key staff while holding to both the rates and total price proposed, in case of an extension of the proposal validity period, the right of the Consultants not to maintain their proposal. This validity period is particularly important where the price is being evaluated.

d - The proposed Agreement

Procedures are the same as for Quality-Based Selection (see Section 4.1.3d).

4.2.1.4 Preparation and submission of proposals.

Procedures are the same as for Quality-Based Selection (see Section 4.1.4) except for the following.

— Both technical and financial proposals shall be submitted in separate, sealed and correspondingly marked envelopes, with both envelopes put together in one outer envelope.—

4.2.1.5 Receipt and opening of proposals

The technical and the financial proposals submitted by the Consultants shall be registered by the officer-in-charge at the time they are submitted. They shall be kept safe until they are to be opened. Any proposal received after the announced closing time for submission of proposals shall be returned unopened.

Only where there is good reason, should the Client extend the deadline for the submission of proposals. No amendments shall be given and/or accepted after the agreed deadline.

When the deadline has passed, the proposals submitted shall be opened without delay. The envelopes containing the technical proposals shall be opened; any financial envelopes shall be retained unopened until the technical evaluation is finished and announced to the Consultants as explained below. In some countries, it has been a common practice to deposit the financial proposals with a reputable notary public or other independent authority until they are opened.

The Consultants invited to submit proposals should be invited to attend the opening of both technical and financial proposals. Minutes shall be prepared and signed by the legal representatives of both the Client and the Consultants, at the times of the openings.

4.2.1.6 Evaluation of proposals

The Client shall systematically evaluate in short time (for example in 1/5th of the time allocated for proposal preparation) and rank each proposal against the basis for selection outlined in the RFP. This process helps to maintain the integrity of the selection process, and can involve:

- Formation of a selection committee/panel. FIDIC recommends balanced inter-agency evaluation teams with appropriate competence and commitment to integrity and independent decision making.
- A weighting or score for each criteria, as set down in the ITC.
- Independent evaluation of firms by each member of the selection committee.
- Individual score sheets being collated and a documented record of the selection process retained.

Clients may be assisted in this evaluation process by an independent Consultant or a Consultancy Firm provided that this Consultant will not take place in any of the further project activities. In some countries, it is mandatory for public sector Clients to use a combined public-private panel, with suitably qualified evaluators for certain projects.

If the project size and complexity warrant it, the Client can include in the evaluations: interviews of key Consultant team members; a visit to the Consultants' premises; discussions with the Consultant's past Clients and project end users; and inspections of past projects. These activities can be carried out by teams of experts including Client representatives and individual Consultants. Care ought to be taken to ensure that such measures are carried out in a perfectly fair and equitable manner, with appropriate transparency.

The evaluation of the proposals shall be carried out in three stages:

a - Evaluation of the technical proposals (quality)

b - Evaluation of the financial proposals (cost)

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c - Combined technical and financial evaluation.

Evaluators of technical proposals shall not have access to the financial proposals until the technical evaluation, including any clarification, Client reviews and/or approvals required are accomplished. Financial proposals shall only be opened publicly, following completion of the technical evaluation. Both evaluations shall be carried out in full conformity with the provisions of the RFP.

a - Evaluation of the technical proposals

The technical proposals shall be evaluated exactly as set down for QBS in Section 4.1.6. If A is the technical score of the highest ranked proposal and B is the technical score of a particular proposal, then the technical score (Q) of this particular proposal as a percentage shall be $B/A \times 100\%$.

b - Evaluation of financial proposals

After the evaluation of the technical proposals is completed, the Client shall notify as soon as possible, those Consultants whose proposals did not meet the minimum passing score, or were considered non-conforming with the RFP and TOR, indicating that their financial proposals will be returned unopened after the completion of the selection process.

The Client shall simultaneously notify the Consultants who have secured the minimum passing score, and indicate the date and time set, for publicly disclosing the technical scores and opening the financial proposals. The opening date shall be as soon as appropriate after the notification date, allowing Consultants sufficient time for making travel arrangements etc., as necessary. The financial proposals shall be opened publicly in the presence of representatives of the Consultants who choose to attend. The names of the Consultants, their technical scores and the proposed prices shall be read aloud and recorded when the financial proposals are opened. It is important that complete sets of the financial proposals which were asked from each Consultant must be brought to the room in their sealed envelopes, where all the proposal owners are invited for openings.

The Client shall then review the financial proposals. If there are any arithmetical errors, they shall be corrected in front of the competitors. For the purpose of comparing proposals, the costs shall be converted to a single currency as selected by the Client (local

currency or fully convertible foreign currency) and stated in the RFP. The RFP shall specify the source of the exchange rate to be used, and the date of that exchange rate, provided that the date shall not be earlier than four weeks prior to the deadline for submission of proposals, nor later than the original deadline for submission of the proposals.

For the purpose of evaluation, 'cost' shall exclude local taxes, but shall include other reimbursable expenses such as travel, translation, report printing, secretarial expenses etc.

Very low and unrealistic financial proposals with respect to a reference cost pre-estimated with regard to Section 1.3 by the Client (e.g., 30 percent lower than a properly prepared budget) should be considered as non-conforming to the RFP and the TOR, and should not be evaluated; provided that this situation is clearly explained in the RFP. FIDIC strongly recommends that proposals with unrealistically low prices should be discarded by the Client.

The proposal with the lowest cost will be given a financial score of 100, and the other proposals given scores that are inversely proportional to their prices, i.e. if the lowest conforming price is A, then the score for price B is $(A/B) \times 100\%$. The proposed overall price must not be negotiated with the preferred Consultant.

Alternatively, a direct proportion, average cost model or other methodology may be used in allocating the marks for the cost component. The methodology to be used for financial scoring must be described in the RFP.

c - Combined technical and financial evaluation

The total score shall be obtained by weighting the technical and financial scores and adding them. The respective weightings for quality and cost shall be specified in the RFP.

The weighting for the 'cost' shall be chosen, taking into account the complexity of the assignment and relative importance of quality. As has been explained above, FIDIC recommends that the weighting for price should normally be in the range of 0 to 10 points, but in no case should exceed 20 points out of a total score of 100 points.

If the scores for quality and cost as percentages are Q and C and the weighting for cost is W (e.g., if the weighting is 10%, '0.1' is used in the formula for W) then the combined score becomes:

$$\text{Score} = (1 - W)Q + WC$$



4 SELECTION OF CONSULTANCY FIRMS

4.2.1.7 Selection of the Consultancy Firm and negotiations

The Consultancy Firm which obtains the highest total score (weighted technical plus weighted financial score) shall be invited for negotiations. The invitation is often called LOI – Letter of Intent. Negotiations shall include discussions of the TOR, the methodology, staffing, Client's inputs and any special conditions of the Agreement and confirmation of availability of all staff, nominated in the proposal submitted by the Consultant. Only minor changes shall be made, if necessary. Financial negotiations shall include clarification of the Consultancy Firm's (or each partner firm's) tax liability in the country of the investment, and how this tax liability has been or would be reflected in the agreement. Proposed unit rates for staff time and reimbursable costs shall not be negotiated, since these have already been a factor of selection in the cost component of the proposal. If the negotiations fail to result in an acceptable Agreement, the Client shall terminate the negotiations and invite the Consultant with the next highest total score. The first invited firm shall be informed of the reasons for this termination and the Client shall not reopen negotiations with the same firm. Negotiations should be conducted in an atmosphere of cooperation. This should strengthen and build the confidence and trust which are absolutely essential to healthy Client - Consultant relationship.

4.2.1.8 Agreement

Procedures are the same as for Quality-Based Selection (see Section 4.1.8).

4.2.1.9 Notification

When the Agreement has been signed, all those firms which have submitted proposals should be informed by the Client within a reasonable time that they were not successful.

All tenderers should receive the following:

a - Name of the successful Consultant and its overall score

b - Price of the Agreement

c - Number of proposals received

In order to maintain transparency (and to returned promote competition), the Client should provide the interested parties with the evaluation results by publishing them in national and international newspapers,

technical magazines and/or on its web site, as appropriate.

4.2.1.10 Debriefing

Procedures are the same as for Quality-Based Selection (see Section 4.1.10).

4.2.1.11 Change in first-ranked Consultant

If there is a change in the preferred Consultant after de-briefing, the following procedure shall be followed:

a - The LOI (Letter of Intent) of the first preferred Consultant shall be withdrawn.

b - The LOI shall be issued to the next preferred Consultant.

c - Appropriate provisions should be incorporated in the RFP accordingly.

If the above procedures are not followed, the Client should explain in the RFP which other procedures will be followed if the preferred Consultant changes after debriefing.

4.2.2 The Budget Method (Target Price Method)

The Budget Method is usually adopted where outputs are difficult for the Client to specify or quantify, and a limited budget exists. The types of Agreements suited to this method are strategic studies, feasibility studies, transportation studies, and site investigations.

The Client supplies a budget figure to short-listed firms accompanied by Terms of Reference (TOR) outlining the Consultancy services required. These TOR need to be flexible enough to enable Consultants to meet the requirements of the Client in an optimum way, and they should clearly state what the Client expects the Consultant's proposal to contain.

Selection is then made on the basis of Quality-Based Selection procedures (see Section 4.1 above). The method allows the Client to budget for the cost of professional services, but it puts more responsibility on Clients to define the Terms of Reference precisely.

Exceptionally, proposals only need to be submitted in one envelope as price is fixed in the information to Clients. If two or more Consultants score the same overall index, the Client should consider the relative outputs proposed in the methodology as a means of selecting the preferred Consultant.

4.2.3 Design competition

On some very large and important projects, Clients may feel that, to obtain the best benefit from the available technology, a design competition should take place among a small group of short-listed Consultancy Firms (see Section 4.1.2 for selection of the short list). The firms are sometimes requested to submit

4 SELECTION OF CONSULTANCY FIRMS

their fee proposals and/or estimates of construction costs with the design proposal. In addition, the form of presentation (i.e., proposal, computer generated graphics, models, etc.) should be specifically limited in size and magnitude (number and scale of drawings, scale of model). The preliminary design services of all competing Consultants are normally paid for, at cost or a pre-fixed price. If this is not done, design competitions have the effect of inflating the overall prices.

The Client has the advantage of having a clear idea of the Consultancy Firm's proposed solutions and the costs, as the quality and scope of work is more clearly defined. The approach has the disadvantage of being expensive and time consuming until selection, and it can mean that too much emphasis is put on technical rather than managerial ability.

In such design competitions, the intellectual property will remain with the Consultancy Firms and only be transferred, if at all, where the submitting firm is awarded an Agreement to continue with the design.

The firms whose proposals are not accepted, shall have the right of not transferring their intellectual property rights to the Client, and are strongly recommended not to do so.

4.2.4 Price negotiation

A small group of Consultancy Firms is short-listed on quality (See Section 4.1.2) and then invited to negotiate fees. The method often results in an auction on which the quoted prices are reduced successively until all but one Consultant drops out.

It is unlikely that reputable firms will agree to these kinds of negotiations and, even if they do, they will not be able to provide Services which bear any resemblance to the quality that they are accustomed to giving or which the Client should be seeking.

FIDIC strongly advises against this approach.

4.2.5 Cost-Based selection (CBS) (Lowest Price Conforming Method)

This system – if used at all – ought only to apply in cases dealing with very small, simple and well-defined projects. It means the Client takes serious risks, and in the long run contributes tremendously to the weakening of the Consultancy industry in the country.

The Client directly calls for proposals, usually through advertisement in local newspapers, etc., and in addition to fee quotations, asks for the preparation of documents such as registration with relevant chambers and various certificates and similar, attesting to eligibility. The firms are given a deadline to submit their price proposals together with the required documents. All the envelopes are opened at a pre-determined time in front of the competitors and the Consultant with the lowest priced proposal is normally invited to sign an Agreement with the Client.

With this method, there is normally no short-listing and therefore no limitation on the number of firms submitting proposals. However, the TOR may specify certain minimum requirements or any features which would be unacceptable. Proposals which do not meet the minimum requirements are considered as non-conforming.

FIDIC strongly advises against this method for Consultant selection.

4.2.6 Single source selection

Single source selection is still being used in some countries where national policies or laws allow for the fast tracking of certain types of tender (particularly within the public sector), usually up to a certain cost limit. Consultants approached to submit proposals under this method will normally be known to the Client, or may have previously been short listed (see Section 4.1.2) or pre-selected under certain quality criteria as outlined under QBS. Certain attributes of these Consultants may already be known to the Client, thereby simplifying the selection process and allowing a focus on criteria such as methodology.

Single Sourcing does not embody the full principles of QBS. FIDIC strongly advises against this method for Consultant selection on the basis that it does not create a level playing field for all Consultants of that country. The method is not permitted in many countries and open bidding is required for every project.



5 EVALUATION OF CONSULTANCY FIRMS WITHIN PFI PROJECTS

Private Finance Initiative (PFI) Contracts have become a popular way for government departments to promote capital projects without revenue demands on the government. PFI projects usually are, and should be, advertised publicly.

Inquiries are generally directed to the Concessionaire. The Concessionaire is normally the prime equity holder in a Special Purpose Vehicle (SPV), which will be established for the duration of the project, e.g., 25 — 30 years. The Concessionaire will then partner with a founder and a Contractor who are also likely to be equity holders.

The Contractor within the SPV usually has the responsibility to select the Consultant (who is unlikely to be an equity holder) for the project, although the Concessionaire may occasionally recommend a Consultant with whom there has been a successful partnership in the past.

It is preferable and normal for the Consultancy Firm to be paid a fee for its services in the bid preparation phase. This fee is usually on a discounted basis with a catch-up payment to full fee, plus a bonus if the project goes through to financial closure. Contractors understand that a large part of the bid success will be a direct result of the Consultant's skill, innovation and ingenuity, and for this reason, many teams offer bonus payments as each stage milestone is achieved.

The Concessionaire and the Contractor select the Consultant on the basis of the past track record, and are particularly interested in innovation and cost saving ideas, especially where these have resulted in previous successes. The SPVs appreciate that, in comparison with the cost of taking the project through to financial closure, the Consultant's fee is small and a wise investment.

Selection of a Consultant by bidding for fees is virtually unknown for PFI projects. Reputation is everything. A Consultant with a good track record also has an important role to play in assuring the Client that the SPV has assembled a quality team, able to understand and correctly interpret the Client's brief.

The selection of the Special Purpose Vehicle tends to follow the procedures set out in Section 4.1 (Quality-Based Selection). Consultants normally are not 'selected' by the Client, but evaluated within the whole PFI group. Clients must pay special attention to the Consultant's quality during the selection process for SPV's, and concrete evaluation criteria must be incorporated for Consultants in the RFP, similar to QBS. At least 10 percent of the technical points for the selection of the SPV should be allocated to the Consultant within the SPV tenderer's team. Details of the selection methodology for SPV's are further described in the FIDIC Draft Guide to Best Practice for PFI projects (Ref. F7).

6.1 Conflict of interest

Consultants shall provide professional, objective, and impartial advice, and at all times hold the Client's as well as the public's interests paramount, without any consideration for future work, and shall avoid conflicts with other assignments or their own corporate interests. Consultants shall not accept any assignment that would be in conflict with their prior or current obligations to existing Clients, or that may place them in a position of not being able to carry out the assignment in the best interest of the Client in an impartial manner.

FIDIC recommends that Consultants shall not be engaged on a particular project under the circumstances set forth below:

- A Consultant previously engaged by the Client for providing Consultancy Services on the project, shall be disqualified from subsequently providing works or services which would be in conflict with the original assignment. Engagement of a Consultant for different components for the same project at different times would not per se be considered a case of conflict of interest.
- A Consultant which takes a role in the preparation of the RFP for the procurement of Consultancy Services of a specific project may be restricted from offering any other kind of Consultancy Services described in the Terms of Reference, for that same project.
- A Consultant, or any affiliates assigned for a specific project, shall not undertake any other assignment which, by its nature, may be in conflict with any of its other past or present assignments.
- A Consultant must advise if it owns any proprietary products or systems which it may recommend to a Client, or if any other interest is held in such products, to ensure transparency and that no conflict shall arise in the evaluation and application of the recommendations.

6.2 Strategic Alliances

Consultancy Firms may associate with other firms to complement their respective areas of expertise and resources, and also to participate in organisations created to maximise capabilities and strengths when bidding for project delivery systems such as PFI turnkey projects. These associations may be for a specific assignment only, and may take the form of a joint venture, a consortium of companies, some other form of alliance, or a Special Purpose Company (SPC) created solely for that purpose (Ref. F3 & F4). (Alliances other than joint venture/consortium partnerships of independent Consultancy Firms cannot be called a Consultancy Firm as given under Definitions above.)

In each case, the Client's selection process will have to carefully address the liability issues related to the association or the SPC, since, depending on its legal structure, the association or SPC members may, jointly or independently, be liable for the entire venture or for a limited participation only. The contracting entity must be clearly identified in the proposal.

Once the short list is finalised and the RFP issued, any association in the form of a joint venture alliance, consortium or sub-consultancy among short-listed firms shall be permissible only with the approval of the Client, unless otherwise stated in the RFP. Any short-listed firm should be free to establish associations with Consultancy Firms other than the Consultants within the short-listed firms before proposal submission, provided that the establishment of any such association is made clear in the proposal, and shall neither cause conflict of interest, nor violate the terms of the RFP.

6.3 Fraud, corruption and the need for business integrity

Corrupt practices, such as bribery, fraud, collusion or extortion are morally, socially and economically damaging, and illegal in most if not all countries. They jeopardise the procurement process, and are objectionable on the basis that they undermine the values of society. More than stealing funds, it is stealing trust.

FIDIC has taken a proactive role in joining the worldwide effort to combat corruption by supporting international anticorruption initiatives, and by promoting high ethical standards. FIDIC has developed and recommends to its member firms the implementation of the FIDIC Integrity Management System (FIMS) (Ref. F1). FIDIC also recommends that Clients subscribe to Integrity Management principles within their own organisations.

FIMS is aimed at assuring business integrity related to the firm's ability to fulfill in practice its commitment to a code of conduct on behalf of all its stakeholders, with Integrity Management encompassing the holistic implications of all elements of the management of a Consultancy Firm's services.

Consultancy Firms are strongly advised to commit to integrity through the implementation of an Integrity Management System involving all levels of management and every employee, focusing on corruption prevention. FIDIC recommends that Clients give credit in the selection process to those Consultancy Firms which have a FIMS in place.

Consultancy Firms should only participate in private or public competitive bidding under the highest standards of corporate ethics and competitive practices, and with total integrity in its transactions. If this is done, then in the long term, the firm, the industry and the public will be the beneficiaries.

6.4 Sustainable development

FIDIC is committed to the principles of sustainability. Sustainable development integrates the environmental, economic and social dimensions of human endeavor into a single, comprehensive concept.

Clients should ask for and give credit during the selection process to Consultants which adopt sustainability principles. In many countries, considerable importance is already being placed on the economic, environmental, social and cultural aspects related to activities impacting on the built and natural environment. Clients should take into account the track record and relevant expertise of Consultancy Firms in this area, as well as the principles adopted within the firms.



6 OTHER ISSUES

The strategy for sustainability (Ref. F9) must focus on two main aspects, namely professional policies (comprising professional attitudes, public relations and co-operation) and professional services. Overall objectives and detailed strategies and action plans for each aspect need to be formulated.

These objectives are in line with the trend towards increased participation during project development, where all parties and disciplines are sustainably integrated at the earliest stage. This active inducement of enhanced communication between stakeholders represents a new role for Consultants (Ref.F13, F15).

Professional policies define the role that Consultants should play in society, as reviewed in the FIDIC report *Engineering Our Future* (Ref.F10).

6.5 Capacity building

In order to contribute to the capacity of the National Consulting Firms in developing countries, FIDIC recommends that Clients include the following provisions in their Consultant selection guidelines, and evaluate each whenever possible during the selection process (Ref. F11):

- Involvement of National Consultancy Firms rather than individuals
- Meaningful participation of National Consultancy Firms that operate competitively in the private sector, throughout the whole assignment
- Presence of Quality Management and Integrity Management systems in the National Consultancy Firms
- Engagement of firms or consortia to provide a complete service for a project, rather than subdividing projects to 'spread the work around'
- Transfer of know-how provisions, whenever appropriate.

6.6 Informed purchasers

FIDIC is strongly committed to the principle that purchasers of Consultancy services must be fully informed on both the technical aspects of specific projects and on proper processes for the procurement of Consultancy services. Well-informed purchasers – whether government or private Clients – are far more likely to carry out successful projects than purchasers who are inadequately informed or who are lacking in expertise. For a project to be successful in the best interests of the Client, the Consultants and the end user (the public), both the purchaser and Consultant must have an identical vision for the project. A well-informed purchaser:

- has the technical knowledge to articulate and share the vision of the project;
- has a clear understanding of the methodology required to execute the project;
- can evaluate the skills of Consultants for projects using a proper selection process;

- understands the risks associated with the project and is willing to allocate these in a fair and appropriate manner;
- understands the adverse impact of demanding an earnest money deposit or a security deposit for Consultancy services;
- knows the significance of specifying a time frame for submissions and for approval of a project, and the monitoring system;
- understands the importance of specifying unambiguous payment terms and methodology for approval; and
- knows the essential difference between a Consultant and a contractor.

At the outset or conceptual stage of a project, purchasers should evaluate their in-house capabilities and assess whether they have the expertise to properly manage the required programme. Proper expertise goes beyond the need for a contract administrator who may not have the technical understanding of the details required for a successful programme.

With the downsizing of government departments around the world, it is particularly important that governments retain staff with core competencies. It may be necessary to retain outside expertise to perform programme development tasks, including the procurement of Consultancy services. FIDIC member firms can provide suitably qualified and experienced experts to assist Clients in preparing RFPs, TORs, and ITCs, and in evaluating bids and negotiating agreements.

7 REFERENCES

Reference to FIDIC documents

FIDIC publications listed below are either referred to throughout these guidelines, or they provide the user and reader with more detailed information relevant to all aspects of Consultant selection.

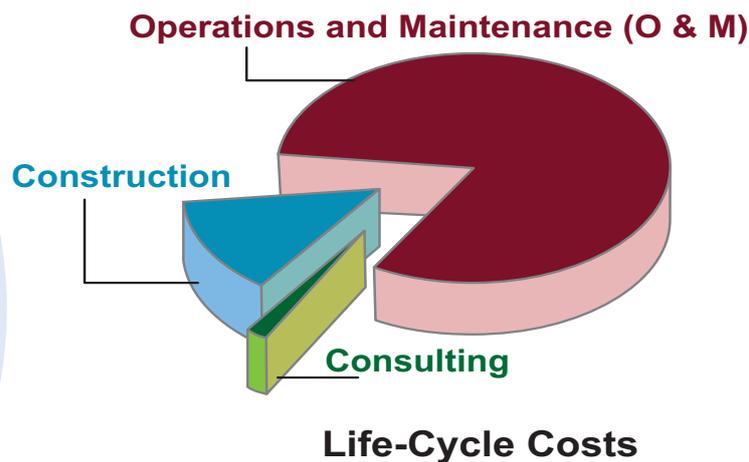
- F1 *Guidelines for FIDIC Integrity Management System in the Consulting Industry*, 1st Edition, 2011.
- F2 FIDIC Client – *Consultant Model Services Agreement (The White Book)*, 4th Edition, 2006. See also Ref. F3 & F4.
- F3 *FIDIC Joint Venture (Consortium) Agreement*, 1st Edition, 1992. (update due in 2013)
- F4 *FIDIC Sub-Consultancy Agreement*, 1st Edition, 1992. (update due in 2013)
- F5 *Quality-Based Selection (QBS) Guidelines*, FIDIC, 2011.
- F6 *FIDIC Guide to Quality Management in the Consulting Engineering Industry*, 2nd Edition, 2001.
- F7 *Draft Guide to Best Practice in PFI*, FIDIC, 2003.
- F8 *FIDIC Procurement Procedures Guide*, 1st Edition, 2011.
- F9 *FIDIC Strategy on Sustainable Development in the Consulting Engineering Industry*, 2000.
- F10 *Engineering Our Future*, FIDIC, 1998.
- F11 *Capacity Building: Building the Capacity of Consulting Firms*, FIDIC, 2001.
- F12 *Definition of Services Guidelines (Building Construction)*, FIDIC 2009.
- F13 *FIDIC Project Sustainability Management Guidelines*, 2004.
- F14 *FIDIC State of the World Infrastructure Report 2009*.
- F15 *FIDIC State of the World Report 2012: Sustainable Infrastructure*.
- F16 *Five Key Areas of Risk in Consultants' Appointments*, FIDIC 2009.

General references

- *Guidelines: Selection and Employment of Consultants under IBRD. Loans & IDA Credits & Grants by World Bank Borrowers*, The World Bank, 2011.
- *Guidelines on the Use of Consultants by the Asian Development Bank and its Borrowers*, Asian Development Bank, 2013
- *Rules and Procedures for the Use of Consultants*, African Development bank, 2008 (revised 2012).
- *Procurement Policies and Rules*, European Bank for Reconstruction and Development, revised 2010.
- *Practical Guide: EuropeAid Development and Cooperation*, European Commission, 2012.
- *Policies for the Selection and Contracting of Consultants*, Interamerican Development Bank, 2006 (amended 2011).
- *Guidelines for the Use of Consultants*, Islamic Development Bank, 2005.

8 APPENDICES

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SUMMARY

This document presents the commonly used methods in Consultant selection and outlines the respective procedures, while stressing and elaborating upon FIDIC selection policies.

The guide has been prepared by the Selection Task Force of the FIDIC Business Practices Committee (BPC) established in the year 2000, members of which came from different regions of the world, as listed below in alphabetical order and the First Edition was printed in 2003. It has been updated in 2013 and also brought into line with the new FIDIC guide 'QBS-Quality-Based Consultant Selection', printed in 2011.

THE TASK FORCE (2003, First Edition)

Richard Kell, BPC Chair – Australia (FIDIC Past President)

Fatma Colasan, Selection TF Chair – Turkey (FIDIC BPC, BIMC, CBC)

Mahbub Haque - Bangladesh

Panos Panagopoulos - Greece

Henning Puggaard - Denmark

Enrico Vink - New Zealand

THE REVIEW BOARD (2013, Second Edition)

Rick Prentice, BPC Chair – Canada (FIDIC BPC)

Fatma Colasan, Review Board Chair – Turkey (FIDIC BPC)

Kiran Kapila – India

Andrew Steeves – Canada

Enrico Vink – Switzerland (FIDIC Managing Director)



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