



Somaliland Development Fund (SDF)

Procurement Manual

March 2014



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List of Abbreviations

CDD	Community Driven Development
CIP	Carriage and Insurance Paid (place of destination)
CQS	Consultants' Qualifications
EOI	Expression of Interest
EXW	Ex-works, ex-factory, or off-the-shelf
FBS	Fixed Budget Selection
FBS	Fixed Budget
GoSL	Government of Somaliland
ICB	International Competitive Bidding
IDC	Indefinite Delivery Contract
ITC	Instructions to Consultants
JSC	Joint Steering Committee
LCS	Least Cost Selection
LIB	Limited International Bidding
LOI	Letter of Invitation
NCB	National Competitive Bidding
NDP	National Development Plan
NGOs	Nongovernmental organizations
NTB	National Tender Board
PFM	Public Financial Management
QBS	Quality-Based Selection
QCBS	Quality- and Cost-Based Selection
REOI	Request for Expression of Interest
RFP	Requests for Proposals
RFQ	Request for Quotations
SBDs	Standard Bidding Documents
SDF	Somaliland Development Fund
SRFPs	Standard Request for Proposals
SSS	Single Source Selection
TOR	Terms of Reference
UN	United Nations

1. Introduction

The Somaliland Development Fund (SDF) is designed to support the Government of Somaliland (GoSL) to fill a critical gap through funding projects that are fully aligned to the National Development Plan (NDP) 2012-2016, while at the same time recognizing the role of GoSL in the delivery of basic services. The SDF will also support GoSL's communication of results to build accountability and transparency. Furthermore, the SDF is designed to strengthen the state-citizenship relationship and enhance accountability and domestic revenue generation. This, in turn, should lead to more stability and prosperity in Somaliland.

The day-to-day management of the SDF is entrusted to a Fund Manager providing Secretarial service to the SDF. The Secretariat has full responsibility for managing the process of project identification, procurement, financial management, monitoring and evaluation, risk management, communication, knowledge management and coordination of technical assistance and auditing activities.

The SDF foresees a gradual hand-over of roles and responsibilities from the Fund Manager to the GoSL. Based on GoSL meeting Public Financial Management (PFM) benchmarks, roles and responsibilities may be gradually transferred. For the moment the Secretariat is required to establish the SDF procurement systems based on international best practices.

This Procurement Manual provides the overall policy, procedures and guidance required to manage the procurement activities of the Somaliland Development Fund. It is expected that this Manual will evolve over time based on the expected gradual hand-over of the management of the Fund to the GoSL.

Following consultations with the Joint Steering Committee (JSC) of the SDF, the present Procurement Manual largely follow World Bank procurement practices which also form the basis of the proposed public procurement methods of the draft Procurement Bill. By using the World Bank guidelines as reference documents it is expected that the SDF can anticipate future legislation in Somaliland and safeguard the fiduciary risks of the SDF by providing a robust procurement system.

The present manual is complemented by two sets of specific guidelines:

- Guidelines for procurement of goods, works and non-consulting services;
- Guidelines for selection and employment of consultants.

2. Procurement in the SDF

The overall objective of these guidelines is to allow the Secretariat to procure high quality goods, works and services as economically as possible. This objective is best achieved through transparent and formal competitive procurement processes.

For the procurement of goods, works and non-consulting services, International Competitive Bidding (ICB) is the procurement method encouraged for use in the majority of cases. Under ICB, cost is the primary factor in determining a winning bid. Other main methods for procuring goods, works and non-consulting services include National Competitive Bidding, and Shopping.

For the selection of consultants, Quality- and Cost-Based Selection (QCBS) is the method encouraged for use in the majority of cases. Under QCBS, proposals are evaluated based on both their technical merit and price. The other methods for selecting consultants include Quality-Based Selection (QBS), Consultants' Qualifications, Individual Consultants, Single Source Selection and Least-Cost Selection.

Standard Bidding Documents (SBDs) and Standard Request for Proposals (SRFPs) are templates that shall be used to procure goods, works, services and consultancies for competitively tendered contracts. In contrast to the procurement guidelines, SBDs and SRFPs set out provisions for a particular bid or request for proposal. Companies, firms and individual intending to participate should consider reviewing these documents.

The SDF Secretariat may proceed with initial procurement activities such as advertising in accordance with the guidelines to ensure eligibility upon approval of the SDF-funded projects.

3. Qualification of bidders

Suppliers, contractors and consultants are permitted to participate in procurement proceedings without limitation or restriction on the basis of their nationality.

Prequalification of bidders will be applied for large or complex works or high value contracts for which the high costs of bid preparation could discourage competition. Prequalification criteria will include (1) general experience of the bidder (2) specific experience of the bidder relevant to the contract (3) financial position (4) Legal capacity to enter into a contract for the procurement and (5) bidder not insolvent, in receivership, bankrupt, or in the process of being wound up; and not the subject of legal proceedings relating to the foregoing.

Bidders may associate for the long term or for a specific assignment with each other in the form of a joint venture or of a sub-consultancy agreement to complement their respective areas of expertise to strengthen the technical responsiveness of their proposals and to make available bigger pools of experts, provide better approaches and methodologies, and in some cases, to offer lower prices.

4. Procurement methods

4.1 Goods, works and non-consulting services

Method	Features
International Competitive Bidding (ICB)	ICB requires international advertisement, adequate notification and opportunity (i.e. time to submit bids, fair contract conditions and broad specification). Awards contracts to the lowest evaluated responsive bid.
Limited International Bidding (LIB)	LIB is essentially ICB by direct invitation without open advertisement. It may be appropriate where (a) there is only a limited number of suppliers, or (b) exceptional reasons justify departure from full ICB procedures.
National Competitive Bidding (NCB)	NCB may be the most appropriate method of procurement of goods, works, and non-consulting services which, by their nature or scope, are unlikely to attract foreign competition. NCB must ensure adequate competition and not exclude foreign firms.
Shopping	Shopping involves comparing price quotations obtained from several suppliers (in the case of goods), from several contractors (in the case of civil works), or service providers (in the case of non-consulting services) with a minimum of three, to assure competitive prices. It is an appropriate method for procuring limited quantities of readily available off-the-shelf goods or standard specification commodities of small value, or simple civil works of small value when more competitive methods are not justified on the basis of cost and efficiency.
Direct contracting	Direct contracting is contracting without competition (single-source). Relates to small value or proprietary items and used in exceptional cases (i.e. response to natural disaster, de-facto monopoly) or to extend an existing contract.
Community participation	Is factored into some projects/programs to achieve sustainability and/or social objectives, or to promote the use of: local know-how; labour intensive means; and local technologies. It is less rigorous than ICB, LIB and NCB and adopts shopping method.
Procurement from UN Agencies	Acting as suppliers, pursuant to their own procedures, this may be the most appropriate way of procuring: small quantities of off-the-shelf goods, primarily in the fields of education and health; and specialised products where the number of suppliers is limited such as for vaccines or drugs.

4.2 Selection and Employment of Consultants

Method	Features
Quality- and Cost Based Selection (QCBS)	QCBS uses a competitive process among short-listed firms that takes into account the quality of the proposal and the cost of the services in the selection of the successful firm. The relative weight to be given to the quality and cost shall be determined for each case depending on the nature of the assignment. (Normally 80% quality and 20% cost)

Method	Features
Quality Based Selection (QBS)	Used for complex and highly specialized assignments which can be implemented in different ways, require innovation and TOR is difficult to define. Only technical proposals may be requested or with financial proposal in separate envelopes.
Consultants' Qualifications (CQS)	CQS may be used for small assignments or emergency situations for which organizing full QCBS is not justified. Expression of Interests will be solicited including relevant experience and qualifications. Only selected firm will be requested to submit a combined technical and financial proposal, and if found responsive, invited to negotiate.
Fixed Budget Selection (FBS)	Used for simple assignments that can be precisely defined and TOR aligned with the budget.
Least Cost Selection (LCS)	Used to select consultants for standard and routine assignments with set minimum qualifying quality.
Single Source Selection (SSS)	Does not provide benefit of competition on quality and cost and is less transparent. Used exceptionally.
Individual Consultants	Individual consultants are employed on assignments for which a team of experts is not required and no additional home office support is required. Selection is based on qualifications followed by negotiations with most experienced and best qualified consultant.

5. Procurement thresholds

Procurement Category	Procurement Threshold USD	Procurement or Selection Method
Goods and non-consulting services	Above 200,000	International Competitive Bid
	20,001 to 200,000	National Competitive Bid
	1,000 to 20,000	Shopping
	<1,000	Direct purchase
Works	Above 300,000	International Competitive Bid
	Above 50,000 to 300,000	National Competitive Bid
	Above 10,000 to 50,000	Shopping
	<20,000	Direct Contracting
Consultancies – Firms	Above 200,000	QCBS / QBS
	Above 20,000 to 200,000	CQS
	<20,000	Comparison of Qualifications
Consultancies - Individuals	Any Value	Comparison of Qualifications

6. Roles and responsibilities in procurement

6.1 Responsibilities of the Fund Manager

The SDF Secretariat through the Fund Manager shall be responsible for the following among others:

- Overseeing the procurement activities of the SDF;
- Establishing Procurement and Evaluation Committees;
- Endorsing award recommendations;
- Reviewing complaints by suppliers, contractors, consultants and stakeholders;
- Reporting the complaints and findings;
- Signing contracts on behalf of the Somaliland Development Fund prior to endorsement by the Project Holder, Ministry of National Planning and Development, Ministry of Finance and execution by the contractor/consultant.

6.2 Procurement and Evaluation Committees

The SDF Secretariat shall establish a High-Value Procurement and Evaluation Committee for all procurement activities valued above USD 20,000.

The High-Value Procurement and Evaluation Committee will consist of five (5) members constituted as follows:

- Chairperson, non-voting, from the SDF Secretariat;
- Secretary, non-voting, from the SDF Secretariat;
- 3 Voting members, of which two (2) will be nominated by the SDF Secretariat and one (1) by the Project Holder.

In case one of the voting members is not present during the session, the Chairperson may be a voting member or the Chairperson may adjourn the session.

A representative of the National Tender Board (NTB) will be invited as Observer to the Procurement and Evaluation Committee.

The Procurement Committee may engage the services of consultants, advisers, or other persons with specialized expertise as may be required for the proper and efficient discharge of its functions.

The Procurement and Evaluation Committee is responsible for the proper conduct of the bid openings and bid evaluations based on the principles of efficiency, economy and transparency.

All members of the Procurement and Evaluation Committee shall sign a declaration that they do not have a conflict of interest in the procurement requirement.

The meetings of the Procurement and Evaluation Committee, the conduct of the evaluation, and the evaluation methodologies shall be executed in accordance with the criteria defined in the bidding documents.

The Procurement and Evaluation Committee submits its recommendation for award to the Fund Manager.

The SDF Secretariat shall establish a Low-Value Procurement and Evaluation Committee for all procurement activities valued below USD 20,000. This Committee will consist of members of the Secretariat only. The functioning of the Committee will be determined on a case-by-case basis by the Fund Manager.

6.3 Functions of the Procurement Manager

The Procurement Manager will ensure the proper conduct of all procurement activities of the SDF in line with all provisions of the Procurement Manual. The responsibilities shall include :

- Procurement planning;
- Keeping procurement records;
- Preparation, publication, and distribution of invitations to bid/proposal and bidding documents;
- Receiving and safeguarding of bids/proposals;
- Conducting bid and proposal opening;
- Coordination and provision of guidance in the evaluation process of bids and proposals;
- Providing secretarial services to the Procurement and Evaluation Committees, including organizing its meetings and providing bid and evaluation reports, and all other materials necessary for adjudication by the Procurement Committee;
- Follow up the status of implementation of contracts;
- Profiling of suppliers, contractors, and consultants, and the maintenance of a database for use under limited competitive bidding and restricted bidding procedures; and
- Providing advice on all procurement-related matters to the Fund Manager.

7. Main procurement processes

Activity	Features
Procurement Planning	Every Project will have an overall Procurement Plan included in the Project Proposal. Procurement Plans include a brief description of the goods, works and services, estimated costs, proposed procurement method and provisional time schedule. Procurement Plan will be updated annually or earlier if required by the relevant Project Holder with support of the SDF Secretariat.
Publication of Procurement Notices	Invitations to prequalify or to bid, requests for expression of interest, as the case may be, shall be advertised as Specific Procurement Notices in at least one newspaper of national circulation and the SDF Website.
Preparation of bidding documents	For goods and works the bidding documents shall furnish all information necessary for a prospective bidder to prepare a bid for the goods, works, and non-consulting services to be provided. While the detail and complexity of these documents may vary with the size and nature of the proposed bid package and contract, they generally include: invitation to bid; instructions to bidders and bid data sheet; form or letter of bid; form of contract; conditions of contract, both general and particular; specifications and drawings; relevant technical data (including of geological and environmental nature); list of goods or bill of quantities; delivery time or schedule of completion; or terms of references, and necessary appendices, such as formats for various securities. In the selection of consultants, the request for expression of interest and proposal shall include all necessary information that would help consultants express interest and prepare responsive proposals. The shortlisting and selection procedure will clearly include the evaluation process, criteria and factors with their respective weights, and the minimum passing quality score.
Bid Opening, Examination and Evaluation	The Openings of Bids and Proposals will be conducted in Public Session. The Procurement and Evaluation Committee will examine whether the bids (a) meet the eligibility requirements established in the tender documents and in these guidelines, (b) have been properly signed, (c) are accompanied by the required securities or required declaration signed (d) are substantially responsive to the bidding documents, and (e) are otherwise generally in order. Only responsive bids will be considered for evaluation. Evaluation of bids is conducted to determine the costs of each to permit comparison. In selection of consultants, all technical proposals received by the deadline will be opened in the presence of consultants wishing to attend. The submitted proposals shall be read out aloud by names of the consultants together with the presence or absence of duly sealed financial envelopes, and any other information deemed appropriate. The financial proposals shall remain sealed until they are opened as appropriate.

Contract Award	The Secretariat shall award the contract, within the period of the validity of bids, to the bidder who meets the appropriate standards of capability and resources and whose bid has been determined (i) to be substantially responsive to the bidding documents and (ii) to offer the lowest evaluated cost. A bidder shall neither be required nor permitted, as a condition of award, to undertake responsibilities for work not stipulated in the bidding documents or otherwise to modify the bid as originally submitted.
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8. Complaints procedure

When a candidate, tenderer or applicant believes to have been adversely affected by an error or irregularity allegedly committed as part of a selection procedure or procurement, or that the procedure was violated by any misadministration, they may file a complaint to the SDF Secretariat clearly stating the complaint.

The basis of the complaint shall be how the person was adversely affected and not to merely obtain a second evaluation or express disagreement with the final award decision.

The channel for reporting of complaints shall be a written submission to the SDF Fund Manager through info@sdf-secretariat.org. The SDF Fund Manager shall investigate the complaint and respond within 15 working days. If the candidate, tenderer or applicant is not satisfied with the answer received, they may refer the issue to the attention of Joint Steering Committee for further consideration.

Transparency being one of the key pillars of procurement at SDF, each complaint shall receive due attention and prompt resolution. In the procurement section of the quarterly report to JSC, SDF Secretariat shall include a report of complaints raised, how they were resolved or measures taken, time taken to resolve complaints and any pending complaints or issues.

9. Contracts Administration

Contract awards proposed by the Procurement and Evaluation Committee shall be forwarded to the Fund Manager for approval. The Fund Manager may refer back the recommendation for further clarifications.

The signed contract shall be forwarded to the relevant Project Holder, Ministry of National Planning and Ministry of Finance for endorsement prior to execution by the contractor /consultant.

The Secretariat will be responsible for preparing of any contract amendments or addendum that are within the project budget. These amendments may include extension of the time for performance of a contract; modification of the scope of services or other changes to the terms and conditions of the contract and variation orders. The amended contracts shall be forwarded to the relevant Project Holder, Ministry of National Planning and Ministry of Finance for endorsement prior to execution by the contractor /consultant

Amendments requiring increase of budget amounts will be referred to the JSC for decision first. Following this approval, the amended contracts shall be forwarded to the relevant Project Holder, Ministry of National Planning and Ministry of Finance for endorsement prior to execution by the contractor /consultant.

Termination of contracts shall be prepared by the Secretariat and shall be forwarded to the relevant Project Holder, Ministry of National Planning and Ministry of Finance for endorsement.

The day to day Contract Management and Implementation measures shall be governed by the provisions stated in the contract signed between the Parties. The Project Holder in collaboration with SDF Secretariat will ensure the contracts are implemented as contracted through to the preliminary handover, performance liability period and final handover.

Annex 1. Guidelines for Procurement of goods, work and non-consulting services

1.1 Introduction

1.1.1 Purpose and applicability

The purpose of these Guidelines is to inform of the policies that govern the procurement of goods, works, and non-consulting services required for the SDF (Somaliland Development Fund) projects. The rights and obligations of parties are governed by the bidding documents, and by the contracts signed by the SDF Secretariat with the providers of goods, works, and non-consulting services.

The principles, rules, and procedures outlined in herein apply to all contracts for goods, works, and non-consulting services financed from SDF. The Secretariat shall ensure the procurement is carried out diligently and efficiently, and that the goods, works, and non-consulting services procured meet the following:

- Are of satisfactory quality and are compatible with the requirements of the project;
- Will be delivered or completed timely; and
- Are economic and financially viable for the projects.

1.1.2 General Considerations

The responsibility for contracting rests with the SDF Secretariat hereinafter referred to as the Secretariat. The Secretariat, is required to ensure the proceeds of the SDF are used only for the purposes for which the fund was granted, with due considerations of economy and efficiency and without regard to political or other non-economic influences or considerations. In particular the following four considerations guide the requirements:

- The need for economy and efficiency in the implementation of the project;
- Giving all eligible bidders from developed and developing countries the same information and equal opportunity to compete in providing goods, works, and non-consulting services;
- Encouraging the development of domestic contracting and manufacturing industries in Somaliland;
- The transparency in the procurement process.

Open competition is the basis for efficient public procurement. The Secretariat shall select the most appropriate method for each specific procurement. In most cases, International Competitive Bidding (ICB), properly administered, and where appropriate with the allowance for preferences for domestically manufactured goods or domestic contractors for works under prescribed conditions is the most preferred method.

Where ICB is not the most appropriate method of procurement, other methods of procurement may be used as specified in the Procurement Plan.

1.1.3 Conflict of Interest

The policy requires that a firm participating in a procurement process under SDF-funded projects shall not have a conflict of interest. Any firm found to have a conflict of interest shall be ineligible for award of a contract. A firm shall be considered to have a conflict of interest in a procurement process if:

- a. Such firm is providing goods, works, or non-consulting services resulting from or directly related to consulting services for the preparation or implementation of a project that it provided or were provided by any affiliate that it directly or indirectly controls. This provision does not apply to the various firms (consultants, contractors, or suppliers) which together are performing the Contractor's obligations under a turnkey or design and built contract; or
- b. Such firm submits more than one bid, either individually or as a joint venture partner in another bid, except for permitted alternative bids. This will result in the disqualification of all bids in which the bidder is involved. However, this does not limit the inclusion of a firm as a sub-contractor in more than one bid. Only for certain types of procurement, the participation of a bidder as a sub-contractor in another bid may be permitted if allowed by the SDF's Standard Bidding Documents applicable to such types of procurement; or
- c. Such firm (including its personnel) has a close business or family relationship with a professional staff of the Secretariat who: (i) are directly or indirectly involved in the preparation of the bidding documents or specifications of the contract, and/or the bid evaluation process of such contract; or (ii) would be involved in the implementation or supervision of such contract unless the conflict stemming from such relationship has been resolved in a manner acceptable to the Secretariat throughout the procurement process and execution of the contract; or
- d. Such firm does not comply with any other conflict of interest situation as specified in the Standard Bidding Documents relevant to the specific procurement process.

1.1.4 Eligibility criteria

To foster competition, the SDF permits firms and individuals from all countries to offer goods, works, and non-consulting services for SDF-funded projects. Any conditions for participation shall be limited to those that are essential to ensure the firm's capability to fulfil the contract in question.

The SDF does not permit denial of participation in a procurement process or award to a firm for reasons unrelated to: (i) its capability and resources necessary to successfully perform the contract; or (ii) the conflict of interest situations covered herein.

Exceptions:

- a. Firms of a country or goods manufactured in a country may be excluded if, (i) as a matter of law or official regulation, Somaliland prohibits commercial relations with that country, provided that the Secretariat is satisfied that such exclusion does not preclude effective competition, or (ii) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the funded country prohibits any import of goods from, or payments to, a particular country, person, or entity. Where the funded country prohibits payments to a particular firm or for particular goods by such an act of compliance, that firm may be excluded.
- b. Government-owned enterprises or institutions of the Somaliland may participate in the bids only if they can establish that they (i) are legally and financially autonomous, (ii) operate under commercial law, and (iii) are not dependent agencies of the Government of Somaliland.
- c. A firm sanctioned by the SDF or the World Bank Group Anti-Corruption policies and sanctions procedures, shall be ineligible to be awarded a contract or to benefit from a SDF contract, financially or in any other manner, during the period of time determined by the Secretariat.

1.1.5 Joint Ventures

Any firm may bid independently or in joint venture either with domestic firms and/or with foreign firms. A joint venture may be for the long term (independent of any particular bid) or for a specific bid. The joint venture shall appoint one of the firms to represent it, and all its members shall sign the contract and be jointly and severally liable for the entire contract. The SDF Secretariat does not accept conditions of bidding or contracting which require mandatory joint ventures or other forms of mandatory association between firms.

1.1.6 Misprocurement

The SDF will not fund expenditures that: (a) has not been awarded in accordance with the provisions of these guidelines; (b) was awarded to the bidder otherwise determined successful due to wilful dilatory conduct or other actions of unjustifiable delays, the successful bid being no longer available, or the wrongful rejection of any bid; or (c) involves the engagement of a representative of a recipient of any part of the fund proceeds, in fraud and corruption. In such cases, the Secretariat will declare misprocurement, and cancel misprocured activity. The cancellation may even be after the contract is awarded, if it is found that the award was issued on the basis of incomplete, inaccurate, or misleading information furnished by the parties or the terms and conditions of the contract had been substantially modified without SDF approval.

1.1.7 Fraud and Corruption

The SDF requires that the beneficiaries, bidders, suppliers, contractors and their agents (whether declared or not), sub-contractors, sub-consultants, service providers or suppliers, and any personnel thereof, to observe the highest standard of ethics during the procurement and execution of SDF-funded contracts.

In pursuance of this requirement, the SDF:

- a. Defines for the purpose of this provision the following terms set forth below:
 - i. "Corrupt practice" is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
 - ii. "Fraudulent practice" is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
 - iii. "Collusive practice" is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
 - iv. "Coercive practice" is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
 - v. "Obstructive practice" is
 - (i) deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or
 - (ii) acts intended to materially impede the exercise of the Secretariat inspection and audit rights provided for under the contracts;
- b. Will reject a proposal for award if it determines that the bidder recommended for award, or any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
- c. Declare misprocurement and cancel the contract if it determines at any time that representatives of the recipient of any part of the proceeds of the fund engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices during the procurement or the implementation of the contract in

question, without the recipient having taken timely and appropriate action to satisfactorily address such practices when they occur, including by failing to inform the Secretariat in a timely manner at the time they knew of the practices;

- d. Sanction a firm or individual, at any time, in accordance with the prevailing sanctions conditions, including by publicly declaring such firm or individual ineligible, either indefinitely or for a stated period of time: (i) to be awarded SDF-financed contract; and (ii) to be a nominated; sub-contractor, consultant, supplier, or service provider of an otherwise eligible firm being awarded a contract;
- e. Will require that a clause be included in bidding documents and in contracts financed by SDF, requiring bidders, suppliers and contractors, and their sub-contractors, agents, personnel, consultants, service providers, or suppliers, to permit the Secretariat to inspect all accounts, records, and other documents relating to the submission of bids and contract performance, and to have them audited by auditors appointed by the SDF Secretariat; and sub-contractor, consultant, supplier, or service provider of an otherwise eligible firm being awarded a SDF-financed contract;
- f. Require that, when the Secretariat procures goods, works or non-consulting services directly from a United Nations (UN) agency, the provisions regarding sanctions on fraud or corruption shall apply in their entirety to all suppliers, contractors, service providers, consultants, sub-contractors or sub-consultants, and their employees that signed contracts with the UN agency.

As an exception to provision (d) and (e) of fraud and corruption will not apply to the UN agency and its employees, and paragraph (e) will not apply to the contracts between the UN agency and its suppliers and service providers. In such cases, the UN agencies will apply their own rules and regulations for investigating allegations of fraud or corruption subject to such terms and conditions as the Secretariat and the UN agency may agree, including an obligation to periodically inform the Secretariat of the decisions and actions taken.

When conducting the evaluation of bids, the committee shall check the eligibility of bidders from the lists of firms and individuals debarred and suspended by other international organizations such as the World Bank. For contracts signed prior to debarment, SDF Secretariat shall apply additional due diligence by closely supervising and monitoring any on-going contract executed by a firm or individual which has been sanctioned.

1.1.8 Procurement Plan

The preparation of a realistic procurement plan for a project is critical for its successful monitoring and implementation. As part of the project preparation, the Secretariat shall prepare a preliminary procurement plan, however tentative, for the entire scope of the project.

At a minimum, a detailed and comprehensive procurement plan including all contracts for which procurement action is to take place in the first 18 (eighteen) months of project implementation. The Secretariat shall update procurement plans throughout the duration of the project at least annually by including contracts previously awarded and to be procured in the next 12 (twelve) months. All procurement plans and their updates or modifications shall be subject to SDF Secretariat review.

1.1.9 Procurement methods

The following Procurement Methods will be applied in the SDF for goods, works and non-consulting services:

Method	Features
International Competitive Bidding (ICB)	ICB requires international advertisement, adequate notification and opportunity (i.e. time to submit bids, fair contract conditions and broad specification). Awards contracts to the lowest evaluated responsive bid.
Limited International	LIB is essentially ICB by direct invitation without open advertisement. It may

Method	Features
Bidding (LIB)	be appropriate where (a) there is only a limited number of suppliers, or (b) exceptional reasons justify departure from full ICB procedures.
National Competitive Bidding (NCB)	NCB may be the most appropriate method of procurement of goods, works, and non-consulting services which, by their nature or scope, are unlikely to attract foreign competition. NCB must ensure adequate competition and not exclude foreign firms.
Shopping	Shopping involves comparing price quotations obtained from several suppliers (in the case of goods), from several contractors (in the case of civil works), or service providers (in the case of non-consulting services) with a minimum of three, to assure competitive prices. It is an appropriate method for procuring limited quantities of readily available off-the-shelf goods or standard specification commodities of small value, or simple works of small value when more competitive methods are not justified on the basis of cost and efficiency.
Direct contracting	Direct contracting is contracting without competition (single-source). Relates to small value or proprietary items and used in exceptional cases (i.e. response to natural disaster, de-facto monopoly) or to extend an existing contract.
Community participation	Is factored into some projects/programs to achieve sustainability and/or social objectives, or to promote the use of: local know-how; labour intensive means; and local technologies. It is less rigorous than ICB, LIB and NCB and adopts shopping method.
Procurement from UN Agencies	Acting as suppliers, pursuant to their own procedures, this may be the most appropriate way of procuring: small quantities of off-the-shelf goods, primarily in the fields of education and health; and specialised products where the number of suppliers is limited such as for vaccines or drugs.

1.2 International Competitive Bidding

1.2.1 General

Introduction

The objective of International Competitive Bidding (ICB), is to provide all eligible prospective bidders with timely and adequate notification of the requirements and equal opportunity to bid for the required goods, works, and non-consulting services.

The bidding documents shall clearly state the type of contract to be entered into and contain the proposed contract provisions such as contracts providing for payments on the basis of a lump-sum, unit prices, reimbursable cost plus fees, or combinations thereof. Generally, separate contracts are issued for goods and works. In some complex situations a single responsibility turnkey contract in which one entity assumes total responsibility may be issued.

In complex procurement such as for information and communication technology that are subject to rapid technology advances it may be desirable to have a two-stage bidding where: First, un-priced technical proposals are invited on the basis of a conceptual design or performance specifications, subject to technical as well as commercial clarifications and adjustments, followed by amended bidding documents and the submission of final technical and priced bids in the second stage.

Notification and Advertising

Invitations to prequalify or to bid, as the case may be, shall be advertised as Specific Procurement Notices in at least one newspaper of national circulation in Somaliland and a website with national and international access in English. Notification shall be given in sufficient time to enable prospective bidders to obtain prequalification or bidding documents and prepare and submit their responses.

Prequalification of Bidders

Prequalification is necessary for large or complex works, or in circumstances in which the high costs of preparing detailed bids could discourage competition, such as custom-designed equipment, industrial plant, specialized services, some complex information and technology and contracts to be let under single responsibility (including turnkey), design and build, or management contracting. This also ensures that invitations to bid are extended only to those who have adequate capabilities and resources.

Prequalification shall be based entirely upon the capability and resources of prospective eligible bidders to perform the particular contract satisfactorily, taking into account objective and measurable factors, including: (a) relevant general and specific experience, and satisfactory past performance and successful completion of similar contracts over a given period; (b) financial position; and, where relevant, (c) capability of construction and/or manufacturing facilities.

The invitation to prequalify for bidding on specific contracts shall include clear statement of the requirements for qualification sent to those who responded to the invitation. Standard Prequalification Document shall be issued to all applicants that meet the specified criteria to bid. SDF Secretariat shall inform all applicants of the results of prequalification. As soon as the prequalification is completed, the bidding documents shall be made available to the qualified prospective bidders.

Verification of the information upon which bidders were prequalified, including their current commitments, shall be carried out at the time of the award of contract, along with their capability with respect to personnel and equipment. The award may be denied to a bidder that is judged to no longer meet the required qualification criteria with respect to technical capability and financial resources to successfully perform the contract. If none or very few applicants are found to be prequalified, which would result in a lack of competition, the Secretariat may issue a revised prequalification invitation subject to procurement committee approval.

1.2.2 Bidding Documents

General

The bidding documents shall furnish all information necessary for a prospective bidder to prepare a responsive bid for the goods, works, and non-consulting services to be provided. While the detail and complexity of these documents may vary with the size and nature of the proposed bid package and contract, they generally include: invitation to bid; instructions to bidders and bid data sheet; form or letter of bid; form of contract; conditions of contract, both general and particular; specifications and drawings; relevant technical data (including of geological and environmental nature); list of goods or bill of quantities; delivery time or schedule of completion; and necessary appendices, such as formats for various securities. The basis for bid evaluation and selection of the lowest evaluated bid shall be clearly outlined in the instructions to bidders and/or the specifications.

Electronic system may be used to distribute bidding documents, provided that it is secure to avoid modifications to the bidding documents and shall not restrict the access of Bidders to the bidding documents. The basis of SDF standard bid documents shall be internationally accepted standard conditions of contract.

Validity of Bids and Bid Security

Bidders shall be required to submit bids valid for a period specified in the bidding documents which shall be sufficient to enable the Secretariat to complete the comparison and evaluation of bids, and obtain all the necessary approvals, recommend award and award contract. When a bid security is required it shall be in the amount and form specified in the bidding documents and shall remain valid for a period (generally 4 (four) weeks beyond the validity period for the bids) sufficient to provide reasonable time for the Secretariat to act if the security is to be called. Bid securities shall be released to unsuccessful bidders once the contract has been signed with the winning bidder.

Language and Clarity of Bid Documents

Prequalification and bidding documents shall be prepared in English. The contract signed with the winning bidder shall always be written in the language in which its bid was submitted.

Bidding documents shall be so worded as to permit and encourage international competition, setting forth clearly and precisely the work to be carried out, the location of the work, the goods to be supplied, the place of delivery or installation, the schedule for delivery or completion, minimum performance requirements, and the warranty and maintenance requirements, as well as any other pertinent terms and conditions.

The bidding documents shall specify any factors, in addition to price, which will be taken into account in evaluating bids, and how such factors will be quantified or otherwise evaluated. If bids based on alternative designs, materials, completion schedules, payment terms, etc. are permitted, conditions for their acceptability and the method of their evaluation shall be expressly stated.

All prospective bidders shall be provided the same information, and equal opportunities to obtain additional information on a timely basis.

Pre-bid conference may be arranged for potential bidders to meet with SDF Secretariat representatives to seek clarifications (in person or online). Minutes of the conference shall be provided to all prospective bidders. All modifications of bidding documents, including additional information, clarifications, and corrections of errors, shall be sent to each recipient of the original bidding documents and all bidders on record in sufficient time before the deadline for receipt of bids to enable bidders to take appropriate actions.

Standards and Use of Brand Names

Standards and technical specifications quoted in bidding documents shall promote the broadest possible competition, while assuring the critical performance or other requirements for the goods or works under procurement.

Specifications shall be based on relevant characteristics and/or performance requirements. References to brand names, catalogue numbers, or similar classifications shall be avoided. If it is necessary to quote a brand name or catalogue number of a particular manufacturer to clarify an otherwise incomplete specification, the words "or equivalent" shall be added after such reference. The specification shall permit the acceptance of offers for goods which have similar characteristics and which provide performance at least substantially equivalent to those specified.

Pricing and Price Adjustment

Bids for goods shall be invited on the basis of CIP (Cost Insurance Paid to place of destination) for all goods manufactured abroad and to be imported. Bids for goods that were previously imported shall be invited on the basis of CIP (place of destination) separately indicating the actual amount of customs duties and import taxes already paid. Bids for goods manufactured in Somaliland shall be invited on the basis of EXW (ex-works, ex-factory, or off-the-shelf) plus cost of inland transportation and insurance to the place of destination.

Where installation, commissioning, or other similar services are required to be performed by the bidder, as in the case of supply and installation contracts, the bidder shall be required to quote for these services. Turnkey and works contracts price shall include all duties, taxes, and other levies.

Bidding documents shall state either that (a) bid prices will be fixed or (b) that price adjustments will be made to reflect any changes (upwards or downwards) in major cost components of the contract, such as labour, equipment, materials, and fuel. Price adjustment provisions are usually not necessary in simple contracts involving delivery of goods or completion of works within 18 (eighteen) months. Where allowed, prices shall be adjusted by the use of a prescribed formula and the base date and index for application shall be clearly defined in the bidding documents.

Transportation and Insurance

Bidding documents shall permit suppliers and contractors to arrange transportation and insurance from any eligible source. Bidding documents shall state the types and terms of insurance to be provided by the bidder. For all contracts, usually an All Risk form of policy shall be specified. For goods, 110% of CIP indemnity shall be specified to enable prompt replacement in the event of loss. The selection of the lowest evaluated bid shall be on the basis of the CIP (place of destination) price.

Currency Provisions

Bidding documents shall state the currency or currencies in which bidders are to state their prices, the procedure for conversion of prices expressed in different currencies into a single currency for the purpose of comparing bids, and the currencies in which the contract price will be paid. The provisions are intended to (a) ensure that bidders have the opportunity to minimize any exchange risk with regard to the currency of bid and of payment, and hence may offer their best prices; (b) give bidders in countries with weak currencies the option to use a stronger currency and thus provide a firmer basis for their bid price; and (c) ensure fairness and transparency in the evaluation process.

Bidding documents shall state that the bidder may express the bid price in any currency. Bidders wishing to express the bid price as a sum of amounts in different foreign currencies, may do so, provided the price includes no more than three foreign currencies. In bidding documents for works, the bidders may state the bid price entirely in the local currency, along with the requirements for payments in up to three foreign currencies of their choice for expected inputs from outside the country, expressed as a percentage of the bid price, together with the exchange rates used in such calculations.

For the purpose of comparing prices, bid prices shall be converted to a single currency selected (local currency or fully convertible foreign currency) and stated in the bidding documents. Conversion will be based on the selling (exchange) rates for those currencies quoted by an official source (such as the Central Bank) or by a commercial bank or by an internationally circulated newspaper for similar transactions on a date selected in advance, with the source and date specified in the bidding documents, provided that the date shall not be earlier than 4 (four) weeks prior to the deadline for the receipt of bids, nor later than the original date for the expiry of the period of bid validity.

Payment of the contract price shall be made in the currency or currencies in which payment has been requested in the bid of the successful bidder. When the bid price is required to be stated in the local

currency but the bidder has requested payment in foreign currencies expressed as a percentage of the bid price, the exchange rates to be used for purposes of payments shall be those specified by the bidder in the bid, so as to ensure that the value of the foreign currency portions of the bid is maintained without any loss or gain.

Terms and Methods of Payment

- a. Contracts for supply of goods shall provide for full payment on the delivery and inspection, or upon installation and commissioning, in which case a portion of the payment may be made after the Supplier has complied with all its obligations under the contract. Letters of credit are used to assure prompt payment to the Supplier. In major contracts for equipment and plant, provisions shall be made for suitable advances and, in contracts of long duration, for progress payments during the period of manufacture or assembly.
- b. Contracts for works shall provide, in appropriate cases for mobilization advances, advances on Contractor's equipment and materials, regular progress payments, and reasonable retention amounts to be released upon compliance with the Contractor's obligations under contract.

Any advance payment shall be related to the estimated amount of expenses specified in the bidding documents. Amounts and timing of other advances to be made, such as for materials delivered to the site for incorporation in the works, shall also be specified. The bidding documents shall specify the arrangements for any security required for advance payments. Bidding documents shall specify the payment method and terms offered.

Alternative Bids

The bidding documents shall clearly indicate when bidders are allowed to submit alternative bids, how alternative bids should be submitted, how bid prices should be offered, and the basis on which alternative bids shall be evaluated.

Conditions of Contract

The contract documents shall clearly define the scope of work to be performed, the goods to be supplied, the services to be provided, the rights and obligations of the contracting authority and of the Supplier or Contractor, and the functions and authority of the Engineer, Architect, or Construction Manager, as appropriate, in the supervision and administration of the contract. In addition to the general conditions of contract, any particular conditions for the specific goods, works, and non-consulting services to be procured and the location of the project shall be included. The conditions of contract shall provide a balanced allocation of risks and liabilities.

Performance Security and Retention Money

Contracts for works and single responsibility contracts shall require security in an amount sufficient to protect the contracting authority in case of breach of contract by the Contractor. This security shall be provided in an appropriate form and amount, as specified in the bidding document.

In contracts for the supply of goods, the need for performance security depends on the market conditions and commercial practice for the particular kind of goods. A portion of security shall extend sufficiently beyond the date of completion of the works or facilities to cover the defects liability or maintenance period up to final acceptance. Contractors may be allowed to replace retention money with an equivalent security in the form of a Bank security or guarantee after provisional acceptance.

Liquidated Damages and Bonus Clauses

Provisions for liquidated damages in an appropriate amount shall be included in the conditions of contract when delays in the delivery of goods, completion of works, or failure of the goods, works, and non-consulting services to meet performance requirements would result in extra cost, or loss of revenue, or loss of other benefits to the beneficiaries. Bonus may be paid to suppliers or contractors for completion of works or delivery of goods ahead of the times specified in the contract when such earlier completion or delivery would be of benefit to the SDF Secretariat.

Force Majeure

The conditions of contract shall stipulate that failure on the part of the parties to perform their obligations under the contract will not be considered a default if such failure is the result of an event of force majeure as defined in the conditions of contract.

Applicable Law and Settlement of Disputes

The conditions of contract shall include provisions dealing with the applicable law and the forum for the settlement of disputes. International commercial arbitration is a neutral venue and has practical advantages over other methods for the settlement of disputes and is recommended. Dispute settlement provision shall include mechanisms such as dispute review boards or adjudicators, which are designed to permit a speedier dispute settlement.

1.2.3 Bid Opening, Evaluation, and Award of Contract

Time for preparations of bids

The time allowed for the preparation and submission of bids shall be determined with due consideration of the particular circumstances of the project and the magnitude and complexity of the contract. Generally, not less than 6 (six) weeks from the date of the invitation to bid or the date of availability of bidding documents, whichever is later, shall be allowed for ICB. In large works or complex items of equipment not less than 12 (twelve) weeks may be allowed to enable bidders conduct investigations before submitting their bids, convention of pre-bid conferences and arrangement of site visits. Bidders shall be permitted to submit bids by mail or in person. Use of electronic systems permitting bidders to submit bids by electronic means, may be allowed if satisfied with the adequacy of the system, security, integrity, confidentiality, and authenticity of bids submitted, and uses an electronic signature system or equivalent to keep bidders bound to their bids. The deadline and place for receipt of bids shall be specified in the invitation to bid.

Bid Opening Procedures

The time for the bid opening shall be the same as for the deadline for receipt of bids or promptly thereafter, and shall be announced, together with the place for bid opening, in the invitation to bid. SDF secretariat shall open all bids received by the deadline for bid submission at the designated place stipulated in the bidding documents, irrespective of the number of bids received by such deadline. At the bid opening, neither the merits nor rejection of any bid shall be discussed. Bids shall be opened in public; bidders or their representatives shall be allowed to be present (in person or online when electronic bidding is used). The name of the bidder and total amount of each bid, and of any alternative bids, if they have been requested or permitted, shall be read aloud (and posted online when electronic bidding is used) and recorded when opened, and a copy of this record shall be promptly sent to all bidders who submitted bids in time. Bids received after the time stipulated, as well as those not opened and read out at bid opening, shall not be considered.

Clarifications or Alterations of Bids

Except as otherwise provided, bidders shall not be requested or permitted to alter their bids, including any voluntary increase or decrease in bid prices, after the deadline for receipt of bids. The SDF Secretariat shall ask bidders for clarification needed to evaluate their bids but shall not ask or permit bidders to change the substance or price of their bids after the bid opening. Requests for clarification and the bidders' responses shall be made in writing, in hard copy or by an electronic system.

Confidentiality

After the public opening of bids, information relating to the examination, clarification and evaluation of bids and recommendations concerning awards shall not be disclosed to bidders or other persons not officially concerned with this process until the publication of the award of contract.

Examination of Bids

SDF Secretariat shall ascertain whether the bids (a) meet the eligibility requirements specified in the bid document, (b) have been properly signed, (c) are accompanied by the required securities or required declaration signed as specified, (d) are substantially responsive to the bidding documents, and (e) are otherwise generally in order.

If a bid, including with regard to the required bid security, is not substantially responsive, that is if it contains material deviations from or reservations to the terms, conditions, and specifications in the bidding documents, it shall not be considered further. The bidder shall neither be permitted nor invited to correct or withdraw material deviations or reservations once bids have been opened.

When conducting the evaluation of bids, the Procurement and Evaluation Committee shall check the eligibility of bidders from the lists of firms and individuals debarred and suspended by other international organizations such as the World Bank. For contracts signed prior to debarment SDF Secretariat shall apply additional due diligence by closely supervising and monitoring any on-going contract executed by a firm or individual which has been sanctioned.

Evaluation and Comparison of Bids

The purpose of bid evaluation is to determine the cost of each bid in a manner that permits a comparison on the basis of their evaluated cost. The bid with the lowest evaluated cost, not necessarily the lowest submitted price, shall be selected for award.

The bid price read out at the bid opening shall be adjusted to correct any arithmetical errors. The adjustments shall be made for any quantifiable non-material deviations or reservations. Price adjustment provisions applying to the period of implementation of the contract shall not be taken into account in the evaluation.

The evaluation and comparison of bids shall be on CIP (place of destination) prices for the supply of imported goods and EXW prices, plus cost of inland transportation and insurance to the place of destination, for goods manufactured within the country, together with prices for any required installation, training, commissioning, and other similar non-consulting services.

Bidding documents shall also specify the relevant factors such as payment schedule, delivery time, operating costs, efficiency and compatibility of the equipment, availability of service and spare parts, and related training, safety, and environmental benefits. The factors other than price to be used for determining the lowest evaluated bid shall be, to the extent practicable, expressed in monetary terms in the evaluation provisions in the bidding documents.

Under works and turnkey contracts, contractors are responsible for all duties, taxes, and other levies, bidders shall take these factors into account in preparing their bids. The evaluation and comparison of bids shall be on this basis. Bid evaluation for works shall be strictly in monetary terms. Any procedure under which bids above or below a predetermined assessment of bid values are automatically disqualified is not acceptable. If time is a critical factor, the value of early completion may be taken into account according to criteria presented in the bidding documents, only if the conditions of contract provide for commensurate penalties for noncompliance. Detailed report on the evaluation and comparison of bids setting forth the specific reasons on which the recommendation is based for the award of contract shall be prepared.

Extension of Validity of Bids

SDF Secretariat shall complete evaluation of bids and the award of contract within the initial period of bid validity so that extensions are not necessary. However, an extension of bid validity, if justified by exceptional circumstances, shall be requested in writing from all bidders before the expiration date. The extension shall be for the minimum period required to complete the evaluation, obtain the necessary approval, and award the contract. Whenever an extension of bid validity period is requested, bidders shall not be requested or be permitted to change the quoted price or other conditions of their bid. Bidders shall have the right to refuse to grant such an extension. If the bidding documents require a bid security, bidders are free to refuse to grant such an extension without forfeiting their bid security and are hence disqualified. Those willing to extend the validity of their bid shall be required to provide a suitable extension of bid security.

Post qualification of Bidders

If bidders have not been prequalified, the SDF Secretariat shall determine whether the bidder whose bid has been determined to offer the lowest evaluated cost has the capability and resources to effectively carry out the contract as offered in the bid. The criteria to be met shall be set out in the bidding documents, and if the bidder does not meet them, the bid shall be rejected. In such an event, a similar determination for the next-lowest evaluated bidder shall be made.

Award of Contract

Award the contract, shall be within the period of the validity of bids, to the bidder who meets the appropriate standards of capability and resources and whose bid has been determined (i) to be substantially responsive to the bidding documents and (ii) to offer the lowest evaluated cost. A bidder shall neither be required nor permitted, as a condition of award, to undertake responsibilities for work not stipulated in the bidding documents or otherwise to modify the bid as originally submitted.

Publication of the Award of Contract

The results of ICB, LIB and NCB shall be published on the SDF website within two weeks of the award decision. The following information shall be published: (a) the name of each bidder that submitted a bid; (b) bid prices as read out at bid opening; (c) evaluated prices of each bid that was evaluated; (d) the names of bidders whose bids were either rejected as nonresponsive or not meeting qualification criteria, or not evaluated, with the reasons thereof; and (e) the name of the winning bidder, the final total contract price, as well as the duration and summary scope of the contract.

Rejection of All Bids

Bidding documents will provide that the SDF Secretariat may reject all bids. Rejection of all bids is justified when there is lack of effective competition, or all bids are not substantially responsive, or no bidder meets the specified qualification criteria, or the bid price of the lowest evaluated winning bid is substantially higher than the estimated cost or available budget. Lack of competition shall not be determined solely on the

basis of the number of bidders. Even when only one bid is submitted, the bidding process may be considered valid, if the bid was satisfactorily advertised, the qualification criteria were not unduly restrictive, and prices are reasonable in comparison to market values. If all bids are rejected, then the Secretariat shall review the causes justifying the rejection of all bids and make appropriate revisions to the bidding documents.

If for justified reasons, re-advertisement is not practical or the rejection is due to all of the bids being nonresponsive, new bids may be invited, from the initially prequalified firms, or, in the absence of prequalification, from all firms that purchased the initial bidding documents. The revision of qualification criteria may be justified only when they were set too stringently.

All bids shall not be rejected and new bids invited on the same bidding and contract documents solely for the purpose of obtaining lower prices. If the lowest evaluated responsive bid exceeds the updated cost estimates by a substantial margin, the Secretariat shall investigate causes for the excessive cost and consider requesting new bids as described herein. Alternatively, the Secretariat may negotiate with the lowest evaluated bidder to try to obtain a satisfactory contract through a reduction in the scope and/or a reallocation of risk and responsibility which can be reflected in a reduction of the contract price. However, substantial reduction in the scope or modification to the contract documents may require rebidding.

Debriefing by the SDF Secretariat

Any bidder who wishes to ascertain the grounds on which its bid was not selected, should request an explanation from the SDF Secretariat. The Secretariat shall promptly provide in writing an explanation of why such bid was not selected. If a bidder requests a debriefing meeting, the bidder shall bear all their costs of attending such a debriefing meeting.

1.2.4 Modified ICB

The Secretariat may provide for modified ICB which allow simplified advertising and currency provisions. Under modified ICB, the simplified provisions for notification of ICB procurement do not require a General Procurement Notice. Specific Procurement Notices shall be inserted in at least one newspaper of national circulation, or on a widely used website or electronic portal with free national and international access. The period allowed for submission of bids may be reduced to 4 (four) weeks. Bidding and payment may be limited to one currency widely used in international trade.

1.3 Other procurement methods

This Section describes the other methods of procurement that can be used where ICB would not be the most economic and efficient method of procurement, and where other methods are deemed more appropriate.

1.3.1 Limited International Bidding (LIB)

LIB is essentially ICB by direct invitation without open advertisement. It is appropriate method where (a) there is only a limited number of suppliers, or (b) other exceptional reasons justify departure from full ICB procedures.

Under LIB, bids are invited from a list of potential suppliers broad enough to assure competitive prices, such list to include all suppliers when there are only a limited number. In all respects other than advertisement, ICB procedures shall apply, including the publication of the award of contract.

1.3.2 National Competitive Bidding (NCB)

NCB may be the most appropriate method of procurement where foreign bidders are not expected to be interested because (a) of the size and value of the contract, (b) works are scattered geographically or spread over time, (c) works are labour intensive, or (d) the goods, works, and non-consulting services are available locally at prices below the international market.

The advertisement shall be published in at least one national newspaper and the SDF website. The bidding documents shall provide clear instructions on how bids should be submitted, how prices should be offered, and the place and time for submission of bids. Adequate response time for the preparation and submission of bids shall be provided.

The procedures shall provide for adequate competition in order to ensure reasonable prices and methods used in the evaluation of bids and the awards of contract shall be objective and made known to all bidders in the bidding documents and not be applied arbitrarily. The comparison of all bids and the award of contract may be based on the total cost at destination including all taxes and duties. The procedures shall also include public opening of bids, publication of results of evaluation and of the award of contract. An effective and independent protest mechanism shall be in place allowing bidders to protest and have their protests handled in a timely manner. Foreign firms wishing to participate in NCB shall be allowed to do so on the prevailing NCB terms and conditions that apply to national bidders.

1.3.3 Shopping

Shopping procurement method is based on comparing price quotations obtained from several suppliers (in the case of goods), from several contractors (in the case of civil works), or service providers (in the case of non-consulting services) with a minimum of three, to assure competitive prices, and is an appropriate method for procuring limited quantities of readily available off-the-shelf goods or standard specification commodities of small value, or simple civil works of small value. Requests for quotations shall indicate the description and quantity of the goods or specifications of works, as well as desired delivery (or completion) time and place. Quotations may be submitted by letter, facsimile, or by electronic means. The evaluation of quotations shall follow the same principles as of open bidding. The terms of the accepted offer shall be incorporated in a purchase order or brief contact.

1.3.4 Direct Contracting

Direct contracting is contracting without competition (single-source) and may be justified under the following circumstances:

- Extension of an existing contract for goods, works, and non-consulting services, awarded in accordance with procedures;
- Standardization of equipment or spare parts, to be compatible with existing equipment;
- The required equipment is proprietary and obtainable only from one source;
- If certain goods from a particular supplier is essential to achieve the required performance or functional guarantee;
- Procurement from UN or in exceptional circumstances such as disasters and emergency situations.

1.3.5 Procurement from United Nations Agencies

Procurement directly from UN agencies using own procedures may be appropriate under the following:

- Procurement of small quantities of off-the-shelf goods, primarily in the fields of education and health;
- Procurement of health-related goods for the treatment of humans and animals, including vaccines, drugs and pharmaceuticals, preventive health and contraceptive devices, and biomedical

equipment, provided that: (i) the number of suppliers is limited; (ii) the UN agency is uniquely or exceptionally qualified to procure such goods and related non-consulting services,

- Small value contracts for works of a simple nature when the UN agencies act as contractors, or directly hire small contractors, and skilled or unskilled labour; or
- In exceptional cases, such as in response to natural disasters and emergency situations which are recognized.

1.3.6 Community Participation in Procurement

Where, in the interest of project sustainability, or to achieve certain specific social objectives of the project, it is desirable in selected project components to (a) call for the participation of local communities and/or nongovernmental organizations (NGOs) in civil works and the delivery of non-consulting services, or (b) increase the utilization of local know-how, goods, and materials, or (c) employ labour-intensive and other appropriate technologies, the procurement procedures, specifications, and contract packaging shall be suitably adapted to reflect these considerations provided that these are acceptable to the SDF Secretariat. The procedures proposed and the project activities to be carried out by community participation shall be outlined in the memorandum of understanding and further elaborated in the Procurement Plan or the relevant Project Implementation Document (or Manual) and made publicly available by the SDF Secretariat. Given the demand-driven nature of Community Driven Development (CDD) projects, it may not always be practical to prepare detailed procurement plans at the time of negotiations for the CDD component of the projects, especially when the procurement of activities or the activities themselves are carried out directly by the community. Simplified procurement plans may be prepared, if practical, based on an indicative list of eligible activities to be implemented.

1.4 Complaints

When a candidate, tenderer or applicant believes to have been adversely affected by an error or irregularity allegedly committed as part of a selection procedure or procurement, or that the procedure was violated by any misadministration, they may file a complaint to the SDF Secretariat clearly stating the complaint.

The basis of the complaint shall be how the person was adversely affected and not to merely obtain a second evaluation or express disagreement with the final award decision.

The channel for reporting of the complaints shall be a written submission to the SDF Fund Manager through info@sdf-secretariat.org. The SDF Fund Manager shall investigate the complaint and respond within 15 working days. If the candidate, tenderer or applicant is not satisfied with the answer received, they may refer the issue to the attention of Joint Steering Committee for further consideration.

Transparency being one of the key pillars of procurement at SDF, each complaint shall receive due attention and prompt resolution. In the procurement section of the quarterly report to JSC, SDF Secretariat shall include a report of complaints raised, how they were resolved or measures taken, time taken to resolve complaints and any pending complaints or issues.

Annex 2. Guidelines for selection and employment of consultants

2.1 Introduction

2.1.1 Purpose and applicability

The purpose of these guidelines is to define the policies and procedures for selecting, contracting, and monitoring consultants required for projects under SDF. The guidelines apply to the selection and employment of consultants for all the projects approved under SDF. The rights and obligations of the parties shall be governed by the contract signed with the consultant.

For the purpose of these Guidelines, the term consultants includes a wide variety of private and public entities, including consulting firms, engineering firms, Construction Managers, management firms, Procurement Agents, inspection service providers, auditors, United Nations (UN) agencies and other multinational organizations, investment and merchant banks, universities, research institutions, government agencies, nongovernmental organizations (NGOs), and individuals.

Consultants provide a range of activities, such as policy advice; institutional reforms; management; engineering services; construction supervision; financial services; procurement services; social and environmental studies; and identification, preparation, and implementation of projects to complement beneficiary capabilities in these areas.

The SDF Secretariat is responsible for selecting the consultant, awarding and administering the contracts. The Secretariat will ensure that the funds of SDF are used only for the purposes for which the fund was intended and in particular, the following five main considerations shall guide the SDF's policy on the selection process:

- a. The need for high-quality services;
- b. The need for economy and efficiency;
- c. The need to give all eligible consultants an opportunity to compete for services to SDF;
- d. Encourage the development and use of national consultants in the country; and
- e. The need for transparency in the selection process.

In the majority of cases, these considerations can best be addressed through competition among qualified short-listed firms in which the selection is based on the quality of the proposal and, where appropriate, on the cost of the services to be provided. Sections 2 and 3 of these Guidelines describe the different methods of selection of consultants by the SDF Secretariat and the circumstances in which they are appropriate. Since Quality- and Cost-Based Selection (QCBS) is the most commonly recommended method, Section 2 of these Guidelines describes in detail the procedures for QCBS. However, QCBS is not the most appropriate method of selection for all cases; therefore, Section 3 describes other methods of selection and the circumstances in which they are more appropriate.

The particular methods that may be followed for the selection of consultants under a given project are as provided in this operations manual. The specific contracts under the projects, and their method of selection, shall be specified in the Procurement Plan.

The consulting services to which these Guidelines apply are of an intellectual and advisory nature. These Guidelines do not apply to other types of services for which the physical aspects of the activity predominate, are bid and contracted on the basis of performance of a measurable physical output, and for

which performance standards can be clearly identified and consistently applied, such as drilling, aerial photography, satellite imagery, mapping, and similar operations, as well as construction of works, manufacture of goods, and operation and maintenance of facilities or plant.

2.1.2 Conflict of Interest

SDF policy requires that consultants provide professional, objective, and impartial advice and at all times hold the client's best interests, without any consideration for future work, and that in providing advice they avoid conflicts with other assignments and their own corporate interests. Consultants shall not be hired for any assignment that would be in conflict with their prior or current obligations to other clients, or that may place them in a position of being unable to carry out the assignment in the best interest of the SDF Secretariat. Consultants shall not be hired under the circumstances set forth below:

- Conflict between consulting activities and procurement of goods, works, or non-consulting services. A firm that has been engaged by the SDF Secretariat to provide goods, works, or non-consulting services for a project, or any affiliate that it directly or indirectly controls, shall be disqualified from providing consulting services resulting from or directly related to those goods, works, or non-consulting services. Conversely, a firm hired to provide consulting services for the preparation or implementation of a project, or any affiliate that it directly or indirectly controls, shall be disqualified from subsequently providing goods, works, or services (other than consulting services covered by these Guidelines) resulting from or directly related to the consulting services for such preparation or implementation. This provision does not apply to the various firms (consultants, contractors, or suppliers) which together are performing the Contractor's obligations under a turnkey or design and build contract.
- Conflict among consulting assignments: Neither consultants (including their personnel and sub-consultants), nor any affiliate that it directly or indirectly controls, shall be hired for any assignment that, by its nature, may be in conflict with another assignment of the consultants. Example, consultants assisting a client in the privatization of public assets shall neither purchase, nor advise purchasers of, such assets. Similarly, consultants hired to prepare Terms of Reference (TOR) for an assignment shall not be hired for the assignment in question.
- Relationship with SDF Secretariat's staff: Consultants (including their experts and other personnel, and sub-consultants) that have a close business or family relationship with a professional staff of the SDF Secretariat who are directly or indirectly involved in any part of: (i) the preparation of the TOR for the assignment, (ii) the selection process for the contract, or (iii) the supervision of such contract may not be awarded a contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to the Secretariat throughout the selection process and the execution of the contract.
- A consultant shall submit only one proposal, either individually or as a joint venture partner in another proposal. If a consultant, including a joint venture partner, submits or participates in more than one proposal, all such proposals shall be disqualified. This does not, however, preclude a consulting firm to participate as a sub-consultant, or an individual to participate as a team member, in more than one proposal when circumstances justify and if permitted by the RFP.

2.1.3 Unfair Competitive Advantage

Fairness and transparency in the selection process require that consultants or their affiliates competing for a specific assignment do not derive a competitive advantage from having provided consulting services related to the assignment in question. Therefore, the SDF Secretariat shall make available to all the short-listed consultants, together with the request for proposals, all information that would in that respect give a consultant a competitive advantage.

2.1.4 Eligibility

To foster competition, the Secretariat permits consultants (firms and individuals) from all countries to offer consulting services for SDF-funded projects. Any conditions for participation shall be limited to those that are essential to ensure the firm's capability to fulfil the contract in question.

Participation in a short-listing or selection process or award to a consultant shall not be denied for reasons unrelated to: (i) its capability and resources to successfully perform the contract; or (ii) the conflict of interest situations covered under conflict of interest section herein.

Exceptions are as follows:

- Consultants may be excluded if: (i) as a matter of law or official regulations, Somaliland prohibits commercial relations with the consultant's country, provided that the SDF Secretariat is satisfied that such exclusion does not preclude effective competition for the procurement of the consulting services required; or (ii) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the country prohibits any payments to any country, person, or entity.
- Government-owned enterprises or institutions of the Somaliland may participate only if they can establish that they (i) are legally and financially autonomous, (ii) operate under commercial law, and (iii) are not dependent agencies of the Government of Somaliland.
- As an exception to (b), when the services of government-owned universities or research centers or other institutions in Somaliland are of unique and exceptional nature including because of the absence of a suitable private sector alternative, and their participation is critical to project implementation, the SDF Secretariat may agree on the hiring of those institutions on a case-by-case basis. On the same basis, university professors or scientists from research institutes can be contracted individually under SDF.
- Government officials and civil servants of the Somaliland may only be hired under consulting contracts, either as individuals or as members of the team of experts proposed by a consulting firm, provided that such hiring does not conflict with any employment or other laws or regulations, or policies of the country and if they (i) are on leave of absence without pay, or have resigned or retired; (ii) are not being hired by the agency they were working for before going on leave of absence without pay, resigning, or retiring, (iii) their hiring would not create a conflict of interest.
- A firm or an individual sanctioned by SDF Secretariat or by the World Bank Group anti-corruption policies and sanctions procedures or other international organizations; shall be ineligible to be awarded contract under SDF over the sanction period.

2.1.5 Associations between Consultants

Consultants may associate with each other in the form of a joint venture or of a sub-consultancy agreement to complement their respective areas of expertise, strengthen the technical responsiveness of their proposals and make available bigger pools of experts, provide better approaches and methodologies, and, in some cases, offer lower prices. Such an association may be for the long term (independent of any particular assignment) or for a specific assignment.

In an association in the form of a joint venture, the association shall appoint one of the firms to represent the association; all members of the joint venture, or their representative with a power of attorney, shall sign the contract. All members of the joint venture shall be jointly and severally liable for the entire assignment. Once the short list is finalized, and Requests for Proposals (RFP) are issued, any association in the form of joint venture or sub-consultancy among short-listed firms shall be permissible only with the approval of the SDF Secretariat.

SDF shall not require consultants to form associations with any specific firm or group of firms or include any particular individual in their proposals, but may encourage association with qualified national firms.

2.1.6 Fraud and corruption

The SDF requires that the beneficiaries, bidders, suppliers, contractors and their agents (whether declared or not), sub-contractors, sub-consultants, service providers or suppliers, and any personnel thereof, to observe the highest standard of ethics during the procurement and execution of SDF-funded contracts.

In pursuance of this requirement, the SDF:

- a. Defines for the purpose of this provision the following terms set forth below:
 - i. “Corrupt practice” is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
 - ii. “Fraudulent practice” is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
 - iii. “Collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
 - iv. “Coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
 - v. “Obstructive practice” is
 - (i) deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or
 - (ii) acts intended to materially impede the exercise of the Secretariat inspection and audit rights provided for under the contracts;
- b. Will reject a proposal for award if it determines that the consultant recommended for award, or any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
- c. Declare misprocurement and cancel the contract if it determines at any time that representatives of the recipient of any part of the proceeds of the fund engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices during the procurement or the implementation of the contract in question, without the recipient having taken timely and appropriate action to satisfactorily address such practices when they occur, including by failing to inform the Secretariat in a timely manner at the time they knew of the practices;
- d. Sanction a firm or individual, at any time, in accordance with the prevailing sanctions conditions, including by publicly declaring such firm or individual ineligible, either indefinitely or for a stated period of time: (i) to be awarded SDF-financed contract; and (ii) to be a nominated; sub-contractor, consultant, supplier, or service provider of an otherwise eligible firm being awarded a contract;
- e. Will require that a clause be included in the RFP requiring consultants, and their agents, personnel, sub-consultants, sub-contractors, service providers, or suppliers, to permit the SDF Secretariat to inspect all accounts, records, and other documents relating to the submission of proposals and contract performance, and to have them audited by auditors appointed by the SDF;
- f. Require that, when the Secretariat procures goods, works or non-consulting services directly from a United Nations (UN) agency, the provisions regarding sanctions on fraud or corruption shall apply in their entirety to all suppliers, contractors, service providers, consultants, sub-contractors or sub-consultants, and their employees that signed contracts with the UN agency.

As an exception to provision (d) and (e) of fraud and corruption will not apply to the UN agency and its employees, and paragraph (e) will not apply to the contracts between the UN agency and its suppliers and service providers. In such cases, the UN agencies will apply their own rules and regulations for investigating allegations of fraud or corruption subject to such terms and conditions as the Secretariat and the UN agency may agree, including an obligation to periodically inform the Secretariat of the decisions and actions taken.

When conducting the evaluation of bids, the committee shall check the eligibility of bidders from the lists of firms and individuals debarred and suspended by other international organizations such as the World Bank. For contracts signed prior to debarment SDF Secretariat shall apply additional due diligence by closely supervising and monitoring any on-going contract executed by a firm or individual which has been sanctioned.

2.1.7 Training or Transfer of Knowledge

If the assignment includes an important component for training or transfer of knowledge to Government of Somaliland staff or national consultants, the TOR shall indicate the objectives, nature, scope, and goals of the training program, including details on trainers and trainees, skills to be transferred, time frame, and monitoring and evaluation arrangements. The cost for the training program shall be included in the consultant's contract and in the budget for the assignment.

2.1.8 Language

The RFP and the proposals shall be prepared in English. The SDF Secretariat has the option to issue translated versions of these documents in another language which should either be: (i) the national language of the Somaliland or (ii) the language used nation-wide in the country for commercial transactions, hereinafter called the National Language.

The contract signed with the winning consultant shall always be written in the language in which its proposal was submitted which shall be the language that governs the contractual relations between the SDF Secretariat and the consultant. If the contract is signed in the National Language, the SDF shall maintain an accurate translation of the contract in English. Consultants shall neither be required nor permitted to sign contracts in more than one language.

2.1.9 Methods of Selection and Employment of Consultants

The following six methods are used in selection and employment of consultants as follows:

- Quality and cost based selection;
- Quality based selection;
- Fixed budget selection;
- Least cost selection;
- Consultants qualification selection;
- Individual consultant selection.

Method	Features
Quality- and Cost Based Selection (QCBS)	QCBS uses a competitive process among short-listed firms that takes into account the quality of the proposal and the cost of the services in the selection of the successful firm. The relative weight to be given to the quality and cost shall be determined for each case depending on the nature of the assignment. (Normally 80% quality and 20% cost)
Quality Based Selection	Used for complex and highly specialized assignments which can be

Method	Features
(QBS)	implemented in different ways, require innovation and TOR is difficult to define. Only technical proposals may be requested or with financial proposal in separate envelopes.
Consultants' Qualifications (CQS)	CQS may be used for small assignments or emergency situations for which organizing full QCBS is not justified. Expression of Interests will be solicited including relevant experience and qualifications. Only selected firm will be requested to submit a combined technical and financial proposal, and if found responsive, invited to negotiate.
Fixed Budget Selection (FBS)	Used for simple assignments that can be precisely defined and TOR aligned with the budget.
Least Cost Selection (LCS)	Used to select consultants for standard and routine assignments with set minimum qualifying quality.
Single Source Selection (SSS)	Does not provide benefit of competition on quality and cost and is less transparent. Used exceptionally.
Individual Consultants	Individual consultants are employed on assignments for which a team of experts is not required and no additional home office support is required. Selection is based on qualifications followed by negotiations with most experienced and best qualified consultant.

2.2 Quality- and Cost Based Selection

2.2.1 The Selection Process

QCBS uses a competitive process among short-listed firms that takes into account the quality of the proposal and the cost of the services in the selection of the successful firm. Cost as a factor of selection shall be used judiciously. The relative weight to be given to the quality and cost shall be determined for each case depending on the nature of the assignment.

The selection process shall include the following steps among others:

- a. Preparation of the TOR;
- b. Preparation of cost estimate and the budget, and short-listing criteria;
- c. Advertising (REOI);
- d. Preparation of the short list of consultants;
- e. Preparation and issuance of the RFP (which should include: the Letter of Invitation (LOI), Instructions to Consultants (ITC), the TOR, and the proposed draft contract);
- f. Receipt of proposals;
- g. Evaluation of technical proposals: consideration of quality;
- h. Public opening of financial proposals;
- i. Evaluation of financial proposal;
- j. Final evaluation of quality and cost; and
- k. Negotiations and award of the contract to the selected firm.

2.2.2 Terms of Reference (TOR)

The SDF Secretariat shall be responsible for preparing the TOR for the assignment. The TOR shall be prepared by a person(s) or a firm specialized in the area of the assignment. The scope of the services described in the TOR shall be compatible with the available budget. The TOR shall define clearly the objectives, goals, and scope of the assignment and provide background information (including a list of existing relevant studies and basic data) to facilitate the consultants' preparation of their proposals. If transfer of knowledge or training is an objective, it should be specifically outlined along with details of the number of staff to be trained, and so forth, to enable consultants to estimate the required resources. The

TOR shall list the services and surveys necessary to carry out the assignment and the expected outputs (for example, reports, data, maps, surveys, etc.). However, the TOR should not be too detailed and inflexible, so that competing consultants may propose their own methodology and staffing. Firms shall be encouraged to comment on the TOR in their proposals. The Secretariat's and consultants' responsibilities should be clearly defined in the TOR.

2.2.3 Cost Estimate (Budget)

Preparation of a well-thought-through cost estimate is essential if realistic budgetary resources are to be allocated. The cost estimate shall be based on the Secretariat's assessment of the resources needed to carry out the assignment: experts' time, logistical support, and physical inputs (for example, vehicles, laboratory equipment). Costs shall be divided into two broad categories: (a) fee or remuneration (according to the type of contract used), and (b) reimbursable items, and further divided into foreign and local costs. The cost of experts' time inputs shall be estimated based on a realistic assessment of required international and national expertise. The RFP shall indicate the estimated level of experts' time inputs or the estimated total cost of the contract, but not detailed estimates such as fees.

2.2.4 Advertising

Invitations to prequalify or to express interest or for proposals, as the case may be, shall be advertised as Specific Procurement Notices in at least one newspaper of national circulation and the SDF Website.

The information requested shall be the minimum required to make a judgment on the firm's suitability and shall not be complex to discourage consultants from expressing interest. REOIs shall at a minimum include the following information applicable to the assignment: required qualifications and experience of the firm, but not individual experts' bio data; short-listing criteria; and conflict of interest provisions. No less than 14 (fourteen) days from date of posting shall be provided for responses, before preparation of the short list. The late submission of a response to an REOI shall not be a cause for its rejection unless the Secretariat has already prepared a short list, based on received EOIs, that meets the conditions set.

2.2.5 Short List of Consultants

The SDF Secretariat is responsible for preparing short lists. The Secretariat shall give first consideration to those firms expressing interest that possess the relevant qualifications. Short lists shall comprise six firms with a wide geographic spread, with (i) no more than two firms from any one country unless there are no other qualified firms identified to meet this requirement; and (ii) at least one firm from a developing country unless no qualified firms from developing countries could be identified.

When any of the above requirements cannot be met on the basis of received EOIs, the Secretariat may directly solicit interest from qualified firms based on its own knowledge or request for assistance from UN agencies. Exceptionally, the Secretariat may agree to short lists comprising a smaller number of firms when there are not enough qualified firms having expressed interest for the specific assignment, when enough qualified firms could not be identified, or when the size of the contract or the nature of the assignment does not justify wider competition. If deemed fit, the firms that expressed interest, as well as any other firm or entity that specifically requests so, shall be the final short list of firms by the Secretariat.

The short list may comprise entirely national consultants (firms registered or incorporated in the country), if the assignment is below the ceiling (or ceilings) established in the Procurement Plan approved by the Secretariat, and a sufficient number of qualified national firms is available for having a short list of firms with competitive costs, and when competition including foreign consultants is not justified or foreign consultants have not expressed interest. Foreign firms who express interest shall be considered.

The short list should normally comprise consultants of the same category with similar business objectives, corporate capacity, experience and field of expertise, and that have undertaken assignments of a similar nature and complexity. Government-owned enterprises or institutions and not-for-profit organizations (NGOs, Universities, UN Agencies, etc.) should not normally be included in the same short list along with private sector firms, unless they operate as commercial entities meeting the requirements under eligibility section (b) of these Guidelines. If mixing is used, the selection should normally be made using Quality-Based Selection (QBS) or Selection Based on the Consultants' Qualifications (CQS) (for small assignments).

The short list shall not include Individual Consultants. Finally, if the same firm is considered for inclusion in short lists for concurrent assignments, the SDF Secretariat shall assess the firm's overall capacity to perform multiple contracts before including it in more than one short list.

The RFP shall include: (a) a Letter of Invitation, (b) Instructions to Consultants and Data Sheet, (c) the TOR, and (d) the proposed type of contract. The Secretariat shall use an applicable standard RFPs. Any such changes to the standard RFP shall be introduced only through the RFP data sheet. The Secretariat shall list all the documents included in the RFP. The Secretariat may use an electronic system to distribute the RFP, provided it is satisfied with the adequacy of such system. If the RFP is distributed electronically, the electronic system shall be secure to avoid modifications to the RFP and shall not restrict the access of short-listed consultants to the RFP.

Note: For the purpose of establishing a short list, the nationality of a firm is that of the country in which it is registered or incorporated, and, in the case of Joint Ventures, the nationality of its lead partner.

2.2.6 Preparation and issuance of the RFP

The Request for Proposals will include the Letter of Invitation (LOI), Instruction to Consultants (ITC), the TOR, and the proposed draft contract.

The LOI shall state the intention to enter into a contract for the provision of consulting services, the source of funds, the details of the client, and the date, time, and address for submission of proposals.

The ITC shall contain all necessary information that would help consultants prepare responsive proposals, and shall bring as much transparency as possible to the selection procedure by providing information on the evaluation process and by indicating the evaluation criteria and factors, their respective weights, and the minimum passing quality score. The ITC shall indicate either an estimate of the key experts' inputs (in person-months) required of the consultants or the estimated budget, but not both. Consultants, however, shall be free to prepare their own estimates of experts' time to carry out the assignment and to offer the corresponding cost in their proposals. When, under time-based contracts, the services are of a routine nature or do not require an innovative approach, the Secretariat may, require the consultants to include in their proposal the same level of experts' time inputs as indicated in the RFP, failing which their financial proposal shall be adjusted for the purpose of comparison of proposals and decision for award. The ITC shall specify the proposal validity period, which should be adequate for the evaluation of proposals, decision on award and finalization of contract negotiations. A detailed list of the information that should be included in the ITC is provided in Section 2.8 herein.

Section 4 of these Guidelines briefly outlines the most common types of contracts. SDF Secretariat shall use the appropriate Standard Form of Contract as necessary to address specific Somaliland and project issues. Any changes shall be introduced only through Contract Data Sheets or through Special Conditions of Contract and not by introducing changes in the wording of the General Conditions of Contract included in the Standard Form. These forms of contract cover the majority of consulting services. When these forms are not appropriate (for example, for pre-shipment inspection, procurement services, training of students in

universities, or advertising activities in privatization, the Secretariat shall use other contract forms acceptable.

2.2.7 Receipt and Opening of Proposals

The Secretariat shall allow enough time for the consultants to prepare their proposals. The time allowed shall depend on the assignment, but normally shall not be less than four weeks or more than three months (for example, for assignments requiring establishment of a sophisticated methodology, preparation of a multidisciplinary master plan). During this interval, the firms may request clarifications about the information provided in the RFP. The SDF Secretariat shall provide these clarifications in writing and copy them to all firms on the short list (who intend to submit proposals). If necessary, the Secretariat shall extend the deadline for submission of proposals. The technical and financial proposals shall be submitted at the same time. No amendments to the technical or financial proposal shall be accepted after the deadline, although amended proposals may be submitted before such deadline. To safeguard the integrity of the process, the technical and financial proposals shall be submitted in separate sealed envelopes. A committee of officials drawn by the SDF Secretariat and relevant ministries and government department representatives (technical, finance, legal, as appropriate), shall open all technical proposals received by the deadline for the submission of proposals at the designated place stipulated in the RFP irrespective of the number of proposals received by such deadline. At the opening of technical proposals, in the presence of consultants wishing to attend, the tender opening committee shall neither reject nor discuss the merits of any proposal.

All proposals received after the deadline shall be declared late and rejected and promptly returned unopened. The tender opening committee shall read aloud the names of the consultants that submitted proposals, the presence or absence of duly sealed financial envelopes, and any other information deemed appropriate. The financial proposals shall remain sealed and shall be separately kept until they are opened in accordance with procedures.

The Secretariat may use electronic systems permitting consultants to submit proposals by electronic means, provided they are satisfied with the adequacy of the system, including, *inter alia*, that the system is secure; maintains the integrity, confidentiality, and authenticity of proposals submitted; and uses an electronic signature system or equivalent to keep consultants bound to their proposals.

Except as otherwise provided in Section 8 of these Guidelines, consultants shall neither be requested nor permitted to alter their proposals in any way after the deadline for the submission of proposals. While evaluating proposals, the Secretariat shall conduct the evaluation solely on the basis of the submitted technical and financial proposals, and shall not ask consultants for clarifications, except to understand unclear queries.

2.2.8 Evaluation of Proposals: Consideration of Quality and Cost

The evaluation of the proposals shall be carried out in two stages: first the quality, and then the cost. Evaluators of technical proposals shall not have access to the financial proposals until the technical evaluation is concluded. Financial proposals shall be opened only thereafter. The evaluation shall be carried out in full conformity with the provisions of the RFP.

Evaluation of the Quality

Given the need for high quality services, the quality of the evaluation of technical proposals is paramount. The Secretariat together with representative of relevant government departments shall evaluate each technical proposal using an evaluation committee of at least 3 (three) and not more than 7 (seven), members including qualified specialists in the sector of the assignment under consideration. Each member of the committee shall not be in a conflict of interest as per conflict of interest paragraph, and certify to that

effect before participating in the evaluation. When it is determined that the technical evaluation is inconsistent with the RFP or does not properly evaluate the strengths or weaknesses of the proposals, and the committee fails to address the situation in a timely manner, a new evaluation committee may be formed, including international experts in the sector of the assignment, if necessary.

The technical evaluation shall take into account the criteria and the sub-criteria indicated in the RFP. The RFP shall describe each such criterion and sub-criterion along with their relative maximum scores and disclose the overall minimum technical score below which a proposal will be rejected as nonresponsive. The indicative range for the overall minimum technical score is 70 to 85 (seventy to eighty-five) on a scale of 1 to 100. The maximum score for each criterion and the minimum overall technical score shall be determined based on the nature and complexity of the specific assignment.

The criteria shall include: (a) the consultant's relevant experience for the assignment, (b) the quality of the methodology proposed, (c) qualifications of the key experts proposed, (d) the transfer of knowledge, if required in the TOR, and (e) the extent of the participation of nationals among key experts in the performance of the assignment. The scores shall be within the indicative range specified below. The maximum score for the participation by national experts as indicated below shall not exceed 10 (ten).

Consultant's specific experience:	0 to 10
Methodology:	20 to 50
Key experts:	30 to 60
Transfer of knowledge:	0 to 10
Participation by national experts:	0 to 10
Total:	100

The SDF Secretariat shall normally divide these criteria into sub-criteria. Each criterion shall then be scored on the basis of the weights assigned to respective 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. Use of exceedingly detailed lists of sub-criteria that may render the evaluation a mechanical exercise than a professional assessment of the proposals should be avoided. The weight given to experience can be relatively modest, since this criterion has already been taken into account when short-listing the consultant. More weight shall be given to the methodology in the case of more complex assignments (for example, multidisciplinary feasibility or management studies).

Only the key experts should be evaluated. Since they ultimately determine the quality of performance, more weight shall be assigned to this criterion if the proposed assignment is complex. The Secretariat shall review the qualifications and experience of proposed key experts in their curricula vitae, which must be accurate, complete, and signed by an authorized official of the consulting firm and the individual proposed. The individuals shall be rated in the following three sub-criteria, as relevant to the task:

- a. General qualifications: general education and training, length of experience, positions held, previous assignments as team expert, experience in developing countries, 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: knowledge of the local language, culture, administrative system, government organization, and so forth.

Each proposal shall be evaluated on the basis of its responsiveness to the TOR. A proposal shall be considered unsuitable and shall be rejected at this stage if it fails to comply with important aspects described in the RFP. Technical proposals containing any material financial information shall be declared nonresponsive.

The members of the evaluation committee shall evaluate proposals in accordance with the evaluation criteria specified in the RFP, independently of each other, and without any external influence from any person or entity. A proposal shall be rejected if it fails to achieve the overall minimum technical score specified in the RFP. At the end of the evaluation process, the SDF Secretariat shall prepare a Technical Evaluation Report using the standard form of evaluation report or another report in acceptable form. The report shall substantiate the results of the evaluation and justify the total technical scores assigned to each proposal by describing the relative strengths and weaknesses of the proposals. Large differences in the individual scores given to a proposal for the same criterion or sub-criterion by different members shall be addressed and a justification be provided in the technical evaluation report. The technical evaluation report including the detailed evaluation sheets of each committee member shall be maintained. All records relating to the evaluation, such as individual score sheets, shall be retained.

Opening of Financial Proposals and Evaluation of Cost

After the Technical Evaluation Report is completed, the SDF Secretariat shall inform consultants whose proposals did not meet the minimum qualifying technical score or were considered nonresponsive to the RFP and TOR that their financial proposals will be returned unopened after the signature of the contract. In addition, the Secretariat shall inform each of the above consultants of their overall technical score as well as scores obtained for each criterion and sub-criterion if any. The Secretariat shall simultaneously notify the consultants that have secured the minimum overall technical score of the date, time, and place set for opening the financial proposals. The opening date shall be set allowing sufficient time for consultants to make arrangements to attend the opening of the financial proposals. The financial proposals shall be opened in the presence of representatives of the consultants who choose to attend (in person or online). The name of the consultant, the technical scores, including the break-down by criterion, and the offered total prices shall be read aloud (and posted online when electronic submission of proposals is used) and recorded when the financial proposals are opened. The opening committee shall also prepare the minutes of the opening and a copy of this record shall be promptly be shared with all consultants who submitted proposals.

The Evaluation Committee shall then evaluate and compare the financial proposals in accordance with the following procedures. Prices shall be converted to US \$ as stated in the RFP. Any conversion shall apply the selling (exchange) rates for those currencies quoted by an official source (such as the Central Bank) or by a commercial bank or by an internationally circulated newspaper or portal for similar transactions. 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 date of expiration of the period of validity of the proposal. For a time-based contract, any arithmetical errors shall be corrected, and prices shall be adjusted if they fail to reflect all inputs that are included in the respective technical proposals. For a lump-sum contract, the consultant is deemed to have included all prices in its financial proposal, so neither arithmetical corrections nor price adjustments shall be made, and the total price, net of taxes understood as per the next paragraph below, included in the financial proposal shall be considered as the offered price.

For the purpose of evaluation, the offered prices shall exclude local identifiable indirect taxes on the contract and income tax payable to the country on the remuneration of services rendered in the country by non-resident experts and other personnel of the consultant. In exceptional circumstances, when indirect taxes cannot be fully identified by the committee when evaluating the financial offers, the Secretariat may agree that prices, for the purpose of evaluation only, include all taxes payable to Somaliland. The offered total price shall include all consultants' remuneration and other expenses such as travel, translation, report printing, or secretarial expenses. The proposal with the lowest offered total price may be given a financial score of 100 (one hundred) and other proposals given financial scores that are inversely proportional to their prices. Alternatively, a directly proportional or other methodology may be used in allocating the scores to the financial proposals. The methodology to be used shall be described in the RFP.

Combined Quality and Cost Evaluation

The total score shall be obtained by weighting the quality and cost scores and adding them. The weight for the cost shall be chosen, taking into account the complexity of the assignment and the relative importance of quality. Except for the type of services specified in Section 3, the weight for cost shall normally be 20 (twenty) points out of a total score of 100 (one hundred). The proposed weightings for quality and cost shall be specified in the RFP. The firm obtaining the highest total score shall be invited for negotiations.

2.2.9 Negotiations and the Award of Contract

Negotiations shall include discussions of the TOR, the methodology, SDF Secretariat's inputs, and special conditions of the contract. These discussions shall not substantially alter the original scope of services under the TOR or the terms of the contract, lest the quality of the final product, its price, and the relevance of the initial evaluation be affected. Major reductions in work inputs should not be made solely to meet the estimated cost or available budget. The final TOR and the agreed methodology shall be incorporated in the description of Services which shall form part of the contract.

The selected firm should not be allowed to substitute key experts, unless both parties agree that undue delays in the selection process make such substitution unavoidable or that such changes are critical to meet the objectives of the assignment. If this is not the case and if it is established that key experts were included in the proposal without confirming their availability, the firm may be disqualified and the process continued with the next ranked firm. The key experts proposed for substitution shall have qualifications equal to or better than the key experts initially proposed.

Financial negotiations shall include clarification of the consultants' tax liability in the country (if any) and how this tax liability has been or would be reflected in the contract. Payments under lump-sum contracts are based on the delivery of outputs (or products), hence the offered price shall include all costs (experts' time, overhead, travel, hotel, etc.). Consequently, if the selection method for a lump-sum contract included cost as a factor in evaluation, the offered price shall not be negotiated. In the case of time-based contracts, payment is based on inputs (experts' time and reimbursables) and the offered price shall include experts' rates and an estimation of the amount of reimbursables. When the selection method includes cost as a factor in evaluation, negotiations of experts' rates shall not take place, except in special circumstances, like for example, experts' rates offered are much higher than typically charged rates by consultants for similar contracts.

Consequently, the prohibition of negotiation does not preclude the right of the client to ask for clarifications, and, if the fees are very high, to ask for their change, after due consultation. Reimbursables are to be paid on actual expenses incurred at cost upon presentation of receipts and therefore are not subject to negotiations. However, if the client wants to define ceilings for unit prices of certain reimbursables (like travel or hotel rates), they should indicate the maximum levels of those rates in the RFP or define a per diem in the RFP.

If the negotiations with the highest ranked consultant fail, the SDF Secretariat shall inform the concerned consultant in writing of all pending issues and disagreements, and provide them a final opportunity to respond in writing. Contract negotiations shall not be terminated only for budget considerations. If there is still disagreement, the Secretariat shall inform the consultant in writing of its intention to terminate negotiations. Negotiations may then be terminated and the next ranked consultant invited for negotiations. The minutes of negotiations and all relevant communications, as well as the reasons for such termination shall be documented. Once negotiations have commenced with the next ranked firm, earlier negotiations shall not be re-opened. After negotiations are successfully completed SDF Secretariat shall promptly notify other firms on the short list that they were unsuccessful.

2.2.10 Publication of the Award of Contract

SDF shall publish in its website information for all contracts awarded to foreign and national firms. Such publication shall be within two weeks after successful negotiations of contracts. Publications shall include the following information as relevant and applicable for each method: (a) the names of all consultants in the short list, specifying those that submitted proposals; (b) the overall technical scores and scores assigned for each criterion and sub-criterion to each consultant; (c) the prices offered by each consultant as read out and as they have been evaluated; (d) the final combined scores and the final ranking of the consultants; and (e) the name of the successful consultant and the total price, duration, and summary scope of the contract. The same information shall be sent to all consultants who have submitted proposals.

2.2.11 Debriefing by the SDF Secretariat

In the publication of contract, the SDF Secretariat shall specify that any consultant who wishes to ascertain the grounds on which its proposal was not selected should request an explanation from the Secretariat. The Secretariat shall promptly provide in writing an explanation of why such proposal was not selected. If a consultant requests a debriefing meeting, the consultant shall bear all their costs of attending such a debriefing meeting.

2.2.12 Rejection of All Proposals, and Re-invitation

SDF Secretariat may reject all proposals only if: (i) all proposals are nonresponsive because they fail to respond to important aspects of the TOR or present major deficiencies in complying with the TOR or (ii) all proposals fail to achieve the minimum technical score specified in the RFP; or (iii) if the offered price of the successful proposal is substantially higher than the available budget or a recently updated cost estimate. In the latter case, as an alternative to re-invitation, the feasibility of increasing the budget or scaling down the scope of services with the firm should be investigated in consultation with the JSC. However, any substantial reduction in the scope of services will not be acceptable and will require a re-invitation. If cost is a factor in the evaluation for a time-based contract, the number of person-months proposed by the consultant may be negotiated, provided that it does not compromise quality or adversely affect the assignment. Even in such cases, the experts' rates shall not normally be negotiated.

Before all the proposals are rejected and new proposals are invited, the SDF Secretariat shall perform reviews, indicating the reasons for rejection of all proposals, and obtain internal approvals before proceeding with the rejection and the new process. The new process may include revising the RFP, including the TOR, the short list, and the budget.

2.2.13 Confidentiality

Information relating to evaluation of proposals and recommendations concerning awards shall not be disclosed to the consultants who submitted the proposals or to other persons not officially concerned with the process, until the publication of the award of contract, except as provided under publication section of these guidelines

2.3 Other methods of selection

This Section describes the selection methods other than QCBS, and the circumstances under which they are acceptable. All provisions of Section 2 (QCBS) shall apply for other methods of selection under Section 3 unless a different provision has been specifically identified in Section 3, in which case, the latter shall apply.

SDF Secretariat shall use a standard RFP as necessary to address project-specific conditions, except as otherwise provided.

2.3.1 Quality-Based Selection (QBS)

QBS is appropriate for the following types of assignments:

- Complex or highly specialized assignments for which it is difficult to define precise TOR and the required input from the consultants, and for which the client expects the consultants to demonstrate innovation in their proposals (for example, country economic or sector studies, multi-sector feasibility studies, design of a hazardous waste remediation plant or of an urban master plan, financial sector reforms);
- Assignments that have a high downstream impact and in which the objective is to have the best experts (for example, feasibility and structural engineering design of such major infrastructure as large dams, policy studies of national significance, management studies of large government agencies); and
- Assignments that can be carried out in substantially different ways, such that proposals will not be comparable (for example, management advice, and sector and policy studies in which the value of the services depends on the quality of the analysis).

In QBS, the RFP may request submission of a technical proposal only (without the financial proposal), or request submission of both technical and financial proposals at the same time, but in separate envelopes (two-envelope system). The RFP shall provide either the estimated budget or the estimated time of key experts, specifying that this information is given as an indication only and that consultants shall be free to propose their own estimates.

If technical proposals alone were invited, after evaluating the technical proposals using the same methodology as in QCBS, the Secretariat shall ask the consultant with the highest ranked technical proposal to submit a detailed financial proposal. The Secretariat and the consultant shall then negotiate the financial proposal and the contract. All other aspects of the selection process shall be identical to those of QCBS, including the publication of the award of contract, except that only the contract price of the winning firm is published. If consultants were requested to provide financial proposals initially together with the technical proposals, safeguards shall be built in as in QCBS to ensure that the financial proposal of only the selected firm is opened and the rest returned unopened, after the negotiations are successfully concluded.

2.3.2 Selection under a Fixed Budget (FBS)

This method is appropriate only when the assignment is simple and can be precisely defined and when the budget is fixed. The RFP shall indicate the available budget and request the consultants to provide their best technical and financial proposals in separate envelopes, within the budget. The TOR should be particularly well-prepared to make sure that the budget is sufficient for the consultants to perform the expected tasks. The RFP shall clearly indicate whether the budget includes taxes or levies payable in Somaliland, and the price of any inputs provided by the client. The evaluation of all technical proposals shall be carried out first as in the QCBS method. Then the financial proposals shall be opened as stipulated herein. Proposals that exceed the indicated budget shall be rejected. The consultant who has submitted the highest ranked technical proposal among the rest shall be selected and invited to negotiate a contract. The award of contract shall be published as described in Section 7.3.

2.3.3 Least-Cost Selection (LCS)

This method is generally appropriate for selecting consultants for assignments of a standard or routine nature (audits, engineering design of noncomplex works, and so forth) where well-established practices and standards exist. Under this method, a **minimum** qualifying mark for the **quality** is established. Proposals, to be submitted in two envelopes, are invited from a short list. Technical proposals are opened

first and evaluated. Those securing less than the minimum qualifying mark are rejected, and the financial proposals of the rest shall be opened as stipulated under opening of financial proposals and evaluation of cost paragraph. The firm with the lowest price shall then be selected. Under this method, the minimum qualifying mark shall be established, understanding that all proposals above the minimum compete only on **cost**. The minimum qualifying mark shall be stated in the RFP. The award of contract shall be published as per Section 7.3.

2.3.4 Selection Based on the Consultants' Qualifications (CQS)

This method may be used for small assignments or emergency for which the need for issuing an RFP, and preparing and evaluating competitive proposals is not justified. In such cases, the Secretariat shall prepare the TOR and obtain expressions of interest that include information on their experience and qualifications, eventually through an REOI as may be needed, from as many firms as possible, and at least three qualified firms with relevant experience. Firms having the required experience and competence relevant to the assignment shall be assessed and compared, and the best qualified and experienced firm shall be selected. Only the selected firm shall be asked to submit a combined technical and financial proposal and, if such proposal is responsive and acceptable, be invited to negotiate a contract. Both technical and financial aspects of the proposal may be negotiated. If the negotiations fail with the selected firm, the provisions of the paragraph on negotiations and award shall apply. The minutes of negotiations shall be prepared and signed by both parties. Awards of contract shall be published as per Section 7.3.

2.3.5 Single-Source Selection (SSS)

Single-source selection of consultants does not provide the benefits of competition in regard to quality and cost, lacks transparency in selection, and could encourage unacceptable practices. Therefore, single-source selection shall be used only in exceptional cases. The justification for single-source selection shall be examined in the context of the overall interests of the client and the project, to ensure economy and efficiency and provide equal opportunity to all qualified consultants.

Single-source selection may be appropriate in the following cases, and only if it presents a clear advantage over competition: (a) for tasks that represent a natural continuation of previous work carried out by the firm; (b) in exceptional cases, such as, but not limited to, in response to natural disasters and for declared emergency situations; (c) for very small assignments; or (d) when only one firm is qualified or has experience of exceptional worth for the assignment. In all such cases, the SDF Secretariat is not required to issue an RFP and shall submit TOR of the assignment, a sufficiently detailed justification including the rationale for single-source selection instead of a competitive selection process, and the basis for recommending a particular firm, except for contracts below a threshold defined on the basis of risks and the scope of the project, and set forth in the Procurement Plan.

When continuity for downstream work is essential, the initial RFP shall outline this prospect, and, if practical, the factors used for the selection of the consultant shall take the likelihood of continuation into account. Continuity in the technical approach, experience acquired, and continued professional liability of the same consultant may make continuation with the initial consultant preferable to a new competition subject to satisfactory performance in the initial assignment. For such downstream assignments, the Secretariat shall ask the initially selected consultant to prepare technical and financial proposals on the basis of the TOR furnished by the Secretariat, which shall then be negotiated.

If the initial assignment was not awarded on a competitive basis or if the downstream assignment is substantially larger in value, a competitive process is normally followed in which case the consultant carrying out the initial work is not excluded from consideration if it expresses interest. The award of contract shall be published as per Section 2.10.

2.3.6 Selection of Particular Types of Consultants

Selection of UN Agencies

Agencies of the UN may be single-sourced by the Secretariat when they are uniquely or exceptionally qualified to provide technical assistance and advice in their area of expertise. The selected UN agencies shall follow their own procedures for: (a) the selection of their sub-consultants and individual experts, and the supply of the minimum necessary goods to perform the contract; (b) small assignments (less than US \$ 300,000 or very small Less than US \$ 100,000); and (c) under certain circumstances in response to natural disasters and for emergency situations declared by the Country and recognized by the SDF. The Secretariat shall use the standard form of Agreement between herself and a UN agency for the provision of technical assistance as agreed. UN agencies shall not receive any preferential treatment when participating in a competitive selection process, except that SDF Secretariat may accept the privileges and immunities granted to UN agencies and their staff under existing international conventions and may agree with UN agencies on special payment arrangements required according to the agency's charter, provided these are acceptable to the SDF Secretariat. To neutralize the privileges of UN Agencies, as well as other advantages such as tax exemption, facilities, and special payment provisions, the QBS method, or the CQs method for small assignments shall be used.

Use of Nongovernmental Organizations (NGOs)

NGOs are not for profit organizations that may be uniquely qualified to assist in the preparation, management, and implementation of projects, essentially because of their involvement and knowledge of local issues, community needs, and/or participatory approaches. NGOs may be included in the short list if they express interest and provided that the Secretariat is satisfied with their qualifications. For assignments that emphasize participation and considerable local knowledge, the short list may entirely comprise NGOs. If so, an appropriate selection method (QCBS, FBS, LCS, or CQS), based on the nature, complexity, and size of the assignment, shall be followed, and the evaluation criteria shall reflect the unique qualifications of NGOs, such as local knowledge, scale of operation, and prior relevant experience. SDF Secretariat may select the NGO on a single-source basis, provided the SSS criteria as outlined in these Guidelines are fulfilled.

Service Delivery Contractors

Projects may involve hiring large numbers of individuals who deliver services on a contract basis. Their selection, as individual consultants or through a firm. The job descriptions, minimum qualifications, terms of employment, the selection methods when through a contract with a firm.

2.4 Types of contracts and important provisions

2.4.1 Lump-Sum Contract

This type of contract is used mainly for assignments in which the scope and the duration of the services and the required output of the consultants are clearly defined. It is widely used for simple planning and feasibility studies, environmental studies, detailed design of standard or common structures, preparation of data processing systems, and so forth. Payments are linked to outputs (deliverables) such as reports, drawings, bills of quantities, bidding documents, and software programs. The contract shall include a fixed price for the activities to be carried out by the consultant and shall not be subject to any price adjustment, except as provided in these Guidelines. Lump-sum contracts are easy to administer because they operate on the principle of fixed price for a fixed scope, and payments are due on clearly specified outputs and milestones.

2.4.2 Time-Based Contract

This type of contract is appropriate when it is difficult to define or fix the scope and the duration of the services, either because they are related to activities carried out by others for which the completion period may vary, or because the input of the consultants required for attaining the objectives of the assignment is difficult to assess. It is widely used for complex studies, supervision of construction, advisory services, and most training assignments. Payments are based on agreed hourly, daily, weekly, or monthly rates for experts (who are normally named in the contract) and on reimbursable items using actual expenses and/or agreed unit prices. The rates for experts include remuneration, social costs, overhead, profit, and, where appropriate, special allowances. The contract shall include a ceiling amount of total payments to be made to the consultants. This ceiling amount should include a contingency allowance for unforeseen services and duration, and a provision for price adjustment for inflation as provided in the Guidelines. Time-based contracts need to be closely monitored and administered by the client to ensure that the assignment is progressing satisfactorily and that payments claimed by the consultants are appropriate.

2.4.3 Percentage Contract

These contracts are commonly used for procurement and inspection service providers. Percentage contracts directly relate the fees paid to the consultant to the estimated or actual project construction cost, or the cost of the goods procured or inspected. The contracts are negotiated on the basis of market norms for the services and/or estimated person-month costs for the services, or competitively bid. It should be borne in mind that in the case of architectural or engineering services, percentage contracts implicitly lack incentive for economic design and are hence discouraged. Therefore, the use of such a contract for architectural services is recommended only if it is based on a fixed target cost and covers precisely defined services (but not, for example, works supervision).

2.4.4 Indefinite Delivery Contract (IDCs) or Price Agreement

IDCs are used when there is need to have quick and continuing access to “on call” specialized advisory services for a particular activity, the extent and timing of which cannot be defined in advance. IDCs are commonly used to retain advisers, expert adjudicators, members of panels, or experts to participate in the design or implementation of sub-projects or complex tasks (for example, dam panel, dispute resolution boards, institutional reforms, procurement advice, technical troubleshooting, evaluation of safeguard issues, etc.), normally for a period of at least a year. The services are offered by qualified firms through a list of proposed experts they commit to make available in letters of intent in response to a REOI setting selection criteria focusing on the relevant qualifications and expertise of the required experts. SDF Secretariat shall establish a long list of qualified experts and agree with the firms on pre-established fee rates to be paid for the experts and on standard conditions of contract, and payments are made on the basis of the time actually spent. Experts shall be selected from the long list on the basis of a “call off” request with specific TOR for the assignment, based on the qualitative evaluation/comparison of the CVs of the proposed experts or the fees level, and a specific contract is signed for each assignment.

2.5 Other Provisions

2.5.1 Currency

RFPs shall clearly state that firms may express the price for their services in any fully convertible currency. If the consultants wish to express the price as a sum of amounts in different foreign currencies, they may do so, provided the proposal includes no more than three foreign currencies. Payment under the contract shall be made in the currency or currencies in which the payment is requested in the proposal. However in Somaliland, the commonly used currency is US \$ and shall form the basis of RFQ.

2.5.2 Price Adjustment

To adjust the remuneration rates in a time-based contract for foreign and/or local inflation, a price adjustment provision shall be included in the contract if its duration is expected to exceed 18 (eighteen) months. Time-based contracts of a shorter duration may include a provision for price adjustment when local or foreign inflation is expected to be high and unpredictable. Lump-sum contracts shall not generally be subject to automatic price adjustment when their duration is expected to be less than 18 (eighteen) months, except for small-value multi-year contracts (for example, with auditors). The price of a lump-sum contract may be exceptionally amended when the scope of the services is extended beyond what was contemplated in the original TOR and contract.

2.5.3 Payment Provisions

Payment provisions, including amounts to be paid, schedule of payments, and payment procedures, shall be agreed upon during contract negotiations. Payments may be made at regular intervals (as under time-based contracts) or for agreed outputs (as under lump-sum contracts). Payments for all advances (for example, for mobilization costs) shall be secured by an advance payment security or guarantee, except in the case of small value contracts. If the amount of the advance is 10% (ten percent) of the contract amount or less, the Secretariat may decide not to require such a security or guarantee, in which case this should be specified in the draft contract included in the RFP.

Payments shall be made promptly in accordance with the contract provisions. To that end:

- Only disputed amounts shall be withheld, with the remainder of the invoice paid in accordance with the contract; and
- The contract shall provide for the payment of financing charges if payment is delayed due to the SDF Secretariat fault beyond the time allowed in the contract; the rate of charges shall be specified in the contract.

2.5.4 Performance Securities and Liquidated Damages

Performance securities are not recommended for consultants' services, but shall, if required, be in a reasonable amount. Their enforcement is often subject to judgment calls, they can be easily abused, and they tend to increase the costs to the consulting industry without evident benefits, which are eventually passed on to the client. In addition, because the timely delivery of services of an intellectual and advisory nature is contingent in many ways upon actions by the client, thereby rendering difficult establishing the sole responsibility of the consultant, when there are delays, the application of liquidated damages is not recommended for consulting services.

2.5.5 Conflict of Interest

The consultant shall not receive any remuneration in connection with the assignment except as provided in the contract. The consultant and its affiliates shall not engage in consulting or other activities that conflict with the interest of the client under the contract. The contract shall include provisions limiting future engagement of the consultant for other services resulting from or directly related to the firm's consulting services in accordance with the requirements of Section 1.2 of these Guidelines.

2.5.6 Professional Liability

The consultant is expected to carry out its assignment with due diligence and in accordance with prevailing standards of the profession. As the consultant's liability will be governed by the applicable law of the country, the contract need not deal with this matter unless the parties wish to limit this liability. If they do so, they should ensure that (a) there must be no such limitation in case of the consultant's gross negligence or wilful misconduct; (b) the consultant's liability to the SDF Secretariat may in no case be limited to less than a multiplier of the total value of the contract to be indicated in the RFP and in the

special conditions of the contract (the amount of such limitation will depend on each specific case); and (c) any such limitation may deal only with the consultant's liability toward the client and not with the consultant's liability toward third parties.

2.5.7 Substitution of Experts

During an assignment, if substitution is necessary (for example, because of ill health or because an expert proves to be unsuitable or becomes otherwise ineligible), the consultant shall propose other experts of at least the same level of qualifications for approval by the Secretariat.

2.5.8 Applicable Law and Settlement of Disputes

The contract shall include provisions dealing with the applicable law and the forum for the settlement of disputes. Consultants' contracts shall always include a clause for settlement of disputes. International commercial arbitration in a neutral venue has practical advantages over other methods for the settlement of disputes. The use of this type of arbitration in contracts awarded to foreign consultants is required unless the Secretariat has specifically waived this requirement for justified reasons, such as equivalent national regulations and arbitration procedures. The SDF Secretariat shall not be named an arbitrator or be asked to name an arbitrator.

2.6 Selection of individual consultants

Individual consultants are employed on assignments for which (a) a team of experts is not required, (b) no additional outside (home office) professional support is required, and (c) the experience and qualifications of the individual are the paramount requirement. When coordination, administration, or collective responsibility may become difficult because of the number of individuals, it would be advisable to employ a firm. When qualified individual consultants are unavailable or cannot sign a contract directly with SDF Secretariat due to a prior agreement with a firm, the Secretariat may invite firms to provide qualified individual consultants for the assignment.

Advertisement for seeking expressions of interest (EOI) is encouraged, particularly when the SDF Secretariat does not have knowledge of experienced and qualified individuals or of their availability, or the services are complex, or there is potential benefits from wider advertising, or if it is mandatory under national law. It may not, however, be required in all cases and should not take place for small value contracts (less than US \$ 50,000) or as may be determined. All invitations for EOIs should specify selection criteria that are solely based on experience and qualifications. When firms are invited to propose individual consultants, EOIs shall clarify that only the experience and qualifications of individuals shall be used in the selection process, and that their corporate experience shall not be taken into account, and specify whether the contract would be signed with the firm or the proposed individuals.

Individual consultants are selected on the basis of their relevant experience, qualifications, and capability to carry out the assignment. They do not need to submit proposals and shall be considered if they meet minimum relevant requirements which shall be determined by the SDF Secretariat on the basis of the nature and complexity of the assignment, and assessed on the basis of academic background and relevant specific experience, and, as appropriate, knowledge of local conditions such as national language, culture, administrative systems, and government organization. The selection shall be carried out through the comparison of the relevant overall capacity of at least three qualified candidates among those who have, directly or through a firm, expressed interest in the assignment or have been approached directly by the Secretariat. Individuals selected to be employed by the Secretariat shall be the most experienced and best qualified, and shall be fully capable of carrying out the assignment. The Secretariat shall negotiate a

contract with the selected individual consultant, or the firm as the case may be, after reaching agreement on satisfactory terms and conditions of the contract, including reasonable fees and other expenses.

The Secretariat shall use internal process to approve instances: (a) when it has not been able to compare at least three qualified candidates before hiring, in which case it shall provide the reasons; (b) before it invites firms to offer the services of individual consultants (c) when negotiations with the selected individual fail before proceeding to negotiate with the next best individual, or firm as the case may be; and (d) of single-source selection as per SSS in these Guidelines.

When a contract is signed with a consulting firm to provide individual consultants, either its permanent staff or associates or other experts it may recruit, the conflict of interest provisions described in these Guidelines shall apply to the parent firm. No substitution of any individual who was initially proposed and evaluated shall be permitted, and in such a case, the contract will be signed with the next ranked consultant.

Individual consultants may be selected on a single-source basis with due justification in exceptional cases such as: (a) tasks that are a continuation of previous work that the consultant has carried out and for which the consultant was selected competitively; (b) assignments with a total expected duration of less than 6 (six) months; (c) urgent situations; and (d) when the individual is the only consultant qualified for the assignment. The TOR of the assignment, shall sufficiently include detailed justification, including the rationale for single-source selection instead of a competitive selection process, and the basis for recommending a particular individual consultant in all such cases, except for contracts below a threshold defined on the basis of risks and the scope of the project, and set forth in the Procurement Plan.

2.7 Complaints

When a candidate, tenderer or applicant believes to have been adversely affected by an error or irregularity allegedly committed as part of a selection procedure or procurement, or that the procedure was violated by any misadministration, they may file a complaint to the SDF Secretariat clearly stating the complaint.

The basis of the complaint shall be how the person was adversely affected and not to merely obtain a second evaluation or express disagreement with the final award decision.

The channel for reporting of the complaints shall be a written submission to the SDF Fund Manager through info@sdf-secretariat.org. The SDF Fund Manager shall investigate the complaint and respond within 15 working days. If the candidate, tenderer or applicant is not satisfied with the answer received, they may refer the issue to the attention of Joint Steering Committee for further consideration.

Transparency being one of the key pillars of procurement at SDF, each complaint shall receive due attention and prompt resolution. In the procurement section of the quarterly report to JSC, SDF Secretariat shall include a report of complaints raised, how they were resolved or measures taken, time taken to resolve complaints and any pending complaints or issues.

2.8 Instructions to Consultants and Data Sheet (ITC) of the RFP

The SDF Secretariat shall use a standard RFPs based on the World Bank template appropriately amended to suit Somaliland situation, which include the ITC, covering relevant instructions as applicable for most of the methods of selection. Under exceptional circumstances, the Secretariat may amend the standard ITC, only through the technical data sheet and not by amending the main text. The ITC shall include adequate information on the following aspects of the assignment:

- A brief description of the assignment;

- Standard formats for the technical and financial proposals;
- The names and contact information of officials to whom clarifications shall be addressed and with whom the consultants' representative shall meet, if necessary;
- Details of the selection procedure to be followed, including: (i) a description of the two-stage process, if appropriate; (ii) a listing of the technical evaluation criteria and weights given to each criterion; (iii) the details of the financial evaluation; (iv) the relative weights for quality and cost in the case of QCBS; (v) the minimum pass score for quality; and (vi) the details on the opening of financial proposals;
- An estimate of the level of key experts' inputs (in person-months) required of the consultants or the total budget, but not both;
- Indication of minimum experience, academic achievement, and so forth, expected of key experts;
- Details and status of any external financing;
- Information on negotiations and financial and other information that shall be required of the selected firm during negotiation of the contract;
- The deadline for submission of proposals;
- Currencies in which the costs of services shall be expressed, compared, and paid;
- Reference to any laws of Somaliland that may be particularly relevant to the proposed consultants' contract;
- A statement that the firm and any of its affiliates shall be disqualified from providing downstream goods, works, or services under the project if, such activities constitute a conflict of interest with the services provided under the assignment;
- The method in which the proposal shall be submitted, 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 is not influenced by price;
- A request that the invited firm (i) acknowledges receipt of the RFP and (ii) informs the Secretariat whether or not it will be submitting a proposal;
- The short list of consultants being invited to submit proposals and whether or not associations between short-listed consultants are acceptable;
- The period for which the consultants' proposals shall be held valid and during which the consultants shall undertake to maintain, without change, the proposed key experts, and shall hold to both the proposed rates and total price; in case of extension of the proposal validity period, the right of the consultants not to maintain their proposal. If the consultants agree to extend the validity of their proposal, they shall do so without any change in their original proposals and also confirm the availability of all key experts as originally proposed except as provided hereunder. If any of the key experts is unavailable at this time and the consultants, while extending the validity of their proposal, request to replace such expert with another one, they shall provide adequate justification and evidence to the satisfaction of the Secretariat. The proposal shall be rejected if it is established that the unavailable expert was proposed without his/her confirmation, if the provided reasons for the replacement or the justification is unacceptable, or the qualifications and experience of the replacement expert are not equal or better to those of the originally proposed expert. If acceptable, no other changes in the technical or financial proposal shall be permitted. The technical evaluation scores based on key experts, the financial proposals, and other details of the original proposal shall remain un-changed;
- The anticipated date on which the selected consultant shall be expected to commence the assignment;
- A statement indicating (i) whether or not the consultants' contract and personnel shall be tax-free or not; and if not, (ii) what the likely tax burden will be or where this information can be obtained in a timely basis and a statement requiring that the consultant shall include in its financial proposal a separate amount clearly identified, to cover taxes;
- If not included in the TOR or in the draft contract, details of the services and facilities, to be provided;
- Phasing of the assignment, if appropriate, and likelihood of follow-up assignments;
- The procedure to handle clarifications about the information given in the RFP; and

- Any conditions for subcontracting part of the assignment.

2.9 Guidance to Consultants

This section provides guidance to consultants wishing to participate in SDF consulting services.

2.9.1 Responsibility for the Selection of Consultants

The responsibility for the implementation and payment of consulting services under the projects rests with the SDF Secretariat. The Secretariat is responsible for the selection and employment of consultants. It invites, receives, and evaluates proposals and awards the contract.

2.9.2 Consultants' Role

When consultants receive the RFP, and if they can meet the requirements of the TOR and the commercial and contractual conditions, they should make the arrangements necessary to prepare a responsive proposal (for example, visiting the country or area of the assignment, seeking associations, collecting documentation, setting up the preparation team). If the consultants find in the RFP documents especially in the selection procedure and evaluation criteria any ambiguity, omission or internal contradiction, or any feature that is unclear or that appears discriminatory or restrictive, they should seek clarification from the Secretariat, in writing within the period specified in the RFP for seeking clarifications.

It is emphasized that the specific RFP issued by the Secretariat governs each selection, in accordance with these Guidelines. If consultants feel that any of the provisions in the RFP are inconsistent with these Guidelines, they should also raise this issue with the Secretariat.

Consultants should ensure that they submit a fully responsive proposal including all the supporting documents requested in the RFP. It is essential to ensure accuracy in the curricula vitae of key experts submitted with the proposals. The curricula vitae shall be signed by the consultants and the individuals and dated. Once technical proposals are received and opened, consultants shall not be required nor permitted to change the substance, the key experts, and so forth. Noncompliance with important requirements will result in rejection of the proposal. Similarly, once financial proposals are received, consultants shall not be required or permitted to change the quoted fee, except at the time of negotiations carried out in accordance with the provisions of the RFP. If an extension of validity of proposals was the reason that key experts were not available for a company, a change of key experts with equivalent or better qualification will be possible as provided in Section 5.8.