



**CABEI**

**Central  
American Bank  
for Economic  
Integration**



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## **Norms for the application of the Policy for obtaining goods, works, services and consultancies with CABEI resources**

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**PRE-40/2020**

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## I. INTRODUCTION

The Central American Bank for Economic Integration (CABEI) is an international multilateral financial development institution, whose resources are constantly invested in projects with development impact for reducing poverty and the inequalities, as well as to strengthen regional integration, providing special attention to the sustainability of the environment and its contribution to the strategic axes of social development, competitiveness and integration.

Therefore, the procurement of goods, works, services and consultancies is one of the activities that has the greatest impact on the proper execution of an operation. The quality of an operation, achievement of the expected objectives, its cost and timely completion will depend to a large degree on the established procurement regime.

The application of strong policies and practices and transparent procedures is an essential tool for creating reliable and stable markets capable of attracting the most experienced and renowned providers of goods, works, services and consultancies to offer their services and to ensure the effective management and use of resources.

## II. OBJECTIVE

These norms are intended to establish guidelines that CABEI borrowers/beneficiaries must meet for the procurement of goods, works, services and consulting services that are required in the framework of the execution of operations, which are financed with CABEI resources or with third-party resources managed by CABEI where specified in the trust fund agreement

The resources allocated to the financing of operations consist of ordinary resources, resources from CABEI suppliers, mixed resources and managed resources.

## III. SCOPE

These Norms apply to operations financed by CABEI, fully or partially, with its own resources or with resources from third parties managed by CABEI.

## IV. ABBREVIATIONS AND TERMS

- CABEI o Bank: Central American Bank for Economic Integration
- CEIA: Internal Executive Procurement Committee (Spanish acronym)
- CGA: Procurement Management Committee (Spanish acronym)
- GPP: General Procurement Plan.

## V. RELATED DOCUMENTATION

- Policy for obtaining Goods, Works, Services and Consultancies with Resources from CABEI
- Standard Bid Documents.

## VI. DEFINITIONS

- **Abbreviated Procedure** A bidding or contest procedure where the deadlines for submission of proposals are shortened and/or with presentation of proposals in a single envelope, with one sole opening.
- **Bid:** The documentation presented by a bidder for a prequalification, bidding or contest process to be considered as a potential supplier of goods, works, services or consultancies.
- **Bidder:** A natural or legal person that participates in a process of prequalification, bidding or contest, offering their skills and/or the provision of requested goods, works, services or consultancies.
- **Borrower/Beneficiary:** A natural or legal, public or private person that has entered into a contract or agreement for the financing of an operation with CABEI and that usually names an executing entity for its implementation.
- **CABEI Member Countries:** These are the founding countries, non-founding regional countries and the non-regional countries, pursuant to the provisions in the Constitutive Agreement of the Central American Bank of Economic Integration.
- **CABEI:** Central American Bank for Economic Integration. In every case, the Borrower/Beneficiary will be represented by the CABEI regional country office or the technical area responsible for the operation.
- **Consortium:** Bidders that join temporarily for the purpose of providing goods, works, services or consulting services.
- **Consultancies:** The required intellectual services for carrying out studies, diagnoses, designs, counsel, supervision and others that require specific intellectual knowledge.
- **Consultant:** A public or private, natural or legal person who is responsible for providing intellectual services for a consultancy related to an area in which they have expertise.
- **Contractor:** A public or private, natural or legal person that is responsible for providing goods or services or carrying out a specific work, related to an area in which they have specialized knowledge and experience.

- **Co-qualification:** Procedure by means of which the bidder's legal, technical and financial background is presented simultaneously with the technical and economic bid, with the purpose of prequalifying the bidders and later evaluating their bids in the framework of the same process.
- **Counterparty Resources:** These are resources that the Borrower/Beneficiary contributes for the execution of an operation.
- **Design-Construction:** Management system in which, based on a conceptual design, the contractor proposes a detailed technical solution for the project, ensuring that the design and the execution is carried out simultaneously; it is also known as Fast Track.
- **Executive Bidding or Contest Committee:** A committee appointed and accredited by the Borrower/Beneficiary that is responsible for the procurement process, CABEI having been previously notified.
- **Financing:** What is granted by CABEI through its different modes to attend one or more operations.
- **Goods:** These are all such articles, materials or products that are necessary for the execution of an operation and that have a fixed purchase price on the market.
- **Internal Executive Procurement Committee (CEIA).** This is CABEI's internal Committee responsible for monitoring of and compliance with the Bank's procurement policies, norms and procedures.
- **Managed Resources:** These involve those third-party resources administered by CABEI for the financing of operations.
- **Mixed Resources:** This is a combination of ordinary resources with providers' resources.
- **No Objection:** In the framework of the Policy and Norms for its Application, this is CABEI's statement, in a letter issued by the country regional office or technical area responsible for an operation, indicating that the documentation submitted by the Borrower/Beneficiary is in conformity with the provisions in the Policy and these Norms; however, it does not imply any legal or technical responsibility regarding its content.
- **Operation:** This term will be used interchangeably for projects, partnerships and reimbursable or non-reimbursable technical assistance, programs, special operations or other modes of financing granted by CABEI.
- **Ordinary Resources** CABEI's own resources.
- **Policy:** Policy for obtaining Goods, Works, Services and Consultancies with CABEI resources.
- **Prequalification or Background Contest:** A formal procedure through which information about bidders' legal, technical and financial background is requested, received and evaluated prior to participating in one or more specific contests or bidding

- **Private Bidding or Contest:** A bidding or contest method in which the invitations to participate as a bidder are sent specifically to certain companies or firms and without public announcement.
- **Procurement Management Committee (CGA):** This is the CABEI internal committee that is responsible for issuing an opinion and recommendation on the application of other policies for carrying out procurement in the framework of operations financed totally or partially by CABEI.
- **Protest:** This involves any claim, objection, challenge, rejection, controversy or other manifestation of disagreement presented in writing in appropriate deliverable form by a bidder to the Executive Bidding or Contest Committee or, subsequently, to the competent authority that has clearly been established in the guideline documents, lodged during the procurement process and only with regard to the results obtained. In every bidding or contest case, it is an indispensable requisite that there not be any pending protests to resolve in order to proceed with the awarding.
- **Providers' Resources:** These will be the lines that are contracted with external sources that are interested in promoting the exports of their respective countries.
- **Public Contest:** A formal and competitive procedure by means of which, through an announcement, technical and economic bids are requested, received and evaluated for the procurement of intellectual services for the purposes of a consultancy.
- **Public Bidding:** A formal and competitive procurement procedure by means of which, through an announcement, technical and economic bids are requested, received and evaluated for the procurement of goods, works or services.
- **Report or minutes (of the process):** Document presented by the Borrower/Beneficiary with the results and recommendations about the process (prequalification of bidders or evaluation of bids) to obtain the no objection of CABEI prior to notifying the results to the bidders.
- **Services:** Those necessary for the execution of an operation; they may be services related to the execution of a work, installation or start-up of equipment, preparation of events, training, appraisals, workshops, rentals or other services required for the implementation of an operation.
- **Works:** These are civil or electromechanical works in whichever field and others that are financed with CABEI resources.



## VII. DEVELOPMENT

### CHAPTER I – GENERAL ASPECTS

#### Article 1. Application

The provisions of these Norms will apply to operations that CABEI total or partially finances to the public sector, notwithstanding the provisions of Article 4 of these Norms. The private sector will be regulated pursuant to the provisions of Chapter VI, Article 26 of the Policy.

When the financing of an operation is granted together with another institution, each shall independently apply the provisions that regulate procurement processes. However, when possible, CABEI will seek the application of its provisions. The opinion about an operation should explicitly indicate that procurement policies different from CABEI's will apply, identifying the procurement and the mechanisms to be used for proper supervision of procurement.

In the following cases, prior to submitting the respective opinion about the operation to the approving bodies, it must be accompanied by the recommendation of the CGA:

- a. In cases when an international credit agency similar to CABEI provides the majority of financing for the execution of an operation in parallel with CABEI, all the procurement processes for the operation may observe the procurement policies applied by said organization, provided that they respect principles similar to those established in the Policy and these Norms.
- b. When it is deemed so convenient, the financing entities in an operation may, by mutual agreement and regardless of the amount of their participation, define the preferential application of procurement policies and norms of a specialized entity or organization acceptable to CABEI, different from or part of the financing entities, provided that these policies or norms respect principles similar to those set forth in the Policy and the present Norms. In addition, this preferential application can be determined by CABEI in event of being the only entity financing the operation.

In addition, this Committee shall issue its opinion and recommendation when requested to replace the procurement regime that has been approved for an operation by another procurement regime, prior to this matter being presented for approval to the corresponding authorities.

In every case, in operations where CABEI methods and modes are applied, the procurement that are 100% financed with resources of the local counterparty will have to apply the provisions established in national law, except in duly justified cases authorized by CABEI.

In order to ensure compliance with the applicable norm, CABEI will grant its no objection to each of the different stages of the procurement processes executed under the procurement modes or methods set out in the CABEI Policy and Norms.

In cases where procurement processes with CABEI resources are executed under procurement regulations different from CABEI's, the Borrower/Beneficiary will be required to present a

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document, issued by the pertinent entity, which provides evidence of compliance with the regulations applicable to the case. This document may be a letter of no objection from another international credit organization, a certification of compliance from the legal unit of the corresponding Borrower/Beneficiary or any other official document issued by an appropriate entity.

Regardless of the procurement policy applied in the operation, the Borrower/Beneficiary must send CABEI the General Procurement Plan duly authorized by the pertinent entity.

## CHAPTER II - COMMON NORMS FOR EVERY PROCUREMENT PROCESS

### Article 2. Basic Procurement Principles

Pursuant to the provisions of the Policy, the principles of procurement are: Integrity, transparency, competition, equality, due process and publicity; CABEI shall ensure strict compliance with them in all procurement processes.

The bidding and the contest are the procurement modes that are best suited for obtaining goods, works, services and consultancies in terms of the application of the basic principles of procurement processes.

### Article 3. Due Process

CABEI will require that all Borrowers/Beneficiaries of operations in which the bidding and contest documents primarily establish arbitration, and without prejudice to other alternatives contemplated in the national laws of the countries, as the obvious body and method that allows for a potential and extensive discussion of disputes, so that bidders may have the legal possibility of formulating objections or defend themselves of those they receive until their full resolution.

In every case, prior to resorting to the established modes and methods, the Executive Bidding or Contest Committee, as responsible for the procurement process, must receive and respond to protests made by the bidders, considering the following:

- a. Complete and detailed information must be provided to the bidder in relation to the results obtained.
- b. Only protests presented by the bidder related to their own bid and the results obtained will be addressed.
- c. No bidder may present protests in relation to bids or results of other bidders.

The period for the submission of protests to the Executive Bidding or Contest Committee will be at least five (5) working days, from the day following notification of the results issued by the Borrower/Beneficiary to the bidders.

When one sole bid is received, the period for the submission of protests will take place only during the phase of communicating final results.

The presentation of a protest has the effect of suspending the procurement process until it is resolved. For the purposes of these Norms, it is understood that a protest will be resolved when the resolution mechanisms established in the guideline document have been exhausted.

If a protest is filed in the framework of a process for which adjudication is established by lot, specifically the lot affected by the protest will be subject to suspension.

The Borrower/Beneficiary must inform CABEI about the presentation and settlement of protests related to the procurement processes carried out and the implementation of the Policy and these Norms.

If a solution is not achieved, CABEI will make an internal analysis of the financing conditions and, specifically, the item affected by the situation. CABEI may make a determination regarding the portion of the financing that is being affected or the operation's total financing, communicating its unappealable decision to the Borrower/Beneficiary. CABEI will not finance those procurements that have not been adjusted to the resolution. The Borrower/Beneficiary will be responsible for notifying the bidders of the decision made by CABEI.

When the laws of the Borrower/Beneficiary's country establishes that executed procurement processes pursuant to the norms of an international organization, such as CABEI, are excluded from the national laws, the Borrower/Beneficiary must expressly state in the base documents that regulate the procurement processes, the competent authorities of the executing agency that must be resolved in an unappealable manner in those protests cases in which bidders require to move on to another instance after the resolution of the Executive Bidding or Contest Committee, and clearly define the procedure to be followed.

#### **Article 4. National Law**

Instead of the Procurement Policy and these Norms, national law may be applied pursuant to the provisions of Article 5 of the Policy.

The Borrower/Beneficiary will be able to apply, in a supplementary manner, the formal requirements or procedural details set forth in the national law of the country where the operation is being executed, solely in the event in that said requirements are not included in these Norms, the Policy or the CABEI procedures and that their application is not against basic procurement principles or the general rules of economy and efficiency that must be respected in the procurement of goods, works, services and consultancies with CABEI resources.

#### **Article 5. Legal Relations**

The legal relations between the CABEI and its Borrowers/Beneficiaries and between the Borrower/Beneficiary and the bidders and future providers of goods, works, services and consultancies to be acquired for the execution of an operation shall be determined pursuant to the provisions of Article 3 of the Policy.

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## Article 6. Responsibility

Responsibility for the implementation and management of operations lies with the Borrowers/Beneficiaries, including the entire procurement process, namely: the definition of terms of reference or technical specifications; definition of criteria and factors and assessment scores and values, which, in addition to price, will be taken into account in the evaluation of bids to determine the most suitable; the preparation of the Bidding or Contest Document; the administration and management of the whole process of procurement, evaluation, selection, award, recruitment, management, execution and completion of the resulting contracts.

CABEL, for its part, will be responsible for ensuring compliance with its procurement norms and procedures, and therefore it will exercise its right to provide its no objection in the different stages of the procurement process, as appropriate.

## Article 7. Provisions of External Sources

When external financing sources establish the mandatory use of their procurement policies, procedures or special methods of procurement or regulations on the origin or forms of association between the contracting and consulting companies, as well as regarding the goods and services to be in used in operations, and these provisions are acceptable to CABEL as being congruent with its procurement principles and procedures, it will be obligatory for the Borrower/Beneficiary to fulfill these provisions.

## Article 8. Procurement Planning

Before its implementation, the Borrower/Beneficiary must present to CABEL for its no objection a General Procurement Plan (GPP), which must contain a description of the procedures that will govern the procurement of goods, works, services and consulting services needed to execute the operation.

The GPP must contain detailed information about procurement that is scheduled to be carried out in a period of eighteen (18) months of execution and, if possible, the global projection for the following years. When necessary, the GPP may be revised and adjusted in accordance with the needs of the operation during its execution with CABEL's no objection to each adjustment or modification that is incorporated. The Borrower/Beneficiary must keep the GPP updated and must consider the level of risk according to the need and nature of the procurement.

The operation's GPP presented by the Borrower/Beneficiary must contain, as a minimum, the following information:

- a. Listing of the operation's main procurement (classified by goods, execution of works, services or consultancies).
- b. Characteristics of the procurement with brief descriptions of the headings involved in each procurement process.
- c. Amount budgeted for each procurement, detailing the origin of the resources (CABEL, counterparty, others).

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- d. Procurement mode or method to apply, pursuant to the provisions in the Policy and these Norms.
- e. Details of prior prequalification or co-qualification procedures to be carried out.
- f. Dates for carrying out procurement processes, including estimated delivery dates for goods, works, services and consultancies.
- g. Other, for example, comments that the Borrower/Beneficiary deems suitable to include.

In order to execute each one of the foreseen procurement processes in the GPP, which are regulated by CABEI's procurement norms, CABEI must review and give its no objection to the specific base documents of the procurement process before utilizing them, as to ensure compliance with the Policy and this Norms.

When the procurement processes are in the framework of a program that includes procurement of goods, execution of works and procurement of services or consultancies from one type of provider in particular, the possibility of grouping such procurement within a bidding or contest should be considered in order to achieve economies of scale; however, types of procurement that by their nature would be not commonly found in a single provider should not be grouped together.

The Borrower/Beneficiary must respect the basic principles of procurement in every procurement process, seeking to clearly define the profile of the required bidder to establish appropriate requirements and evaluation criteria in every process.

#### **Article 9. Procurement Prior to the Approval of Financing**

At the request of the Borrower/Beneficiary, CABEI may recognize, and charge to the financing to be granted, prior procurements, when compliance with all the characteristics described below has been verified:

1. The procurement was carried out by the Borrower/Beneficiary within a maximum period of eighteen (18) months prior to the approval of financing, regardless of the stage of the process.
2. Procurements have been considered as relevant; in other words, they form part of the objectives and scope of the operation, and their technical, financial and legal viability has been documented. The above considerations will have been made at the formulation stage, and the person in charge of that stage will involve the corresponding areas in order to integrate these perspectives into the opinion about the operation.
3. The accumulated amount of previous procurement does not exceed forty percent (40%) of the total amount of CABEI financing.
4. The companies or the signatory individuals of contracts do not appear on the List of Prohibited Counterparties or another CABEI list of ineligibility that has been instituted for that purpose; nor have they been declared guilty by means of firm sentence in areas related with practices prohibited by the competent authorities, while the sanction is in effect.
5. Procurement has been carried out competitively and solely through bidding or contest processes, in compliance with one of the following standards:

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- a. The CABEI Policy and Norms regarding procurement.
- b. Applicable national law regarding procurement in the Borrower/Beneficiary's country.
- c. The policies and norms of other international organizations of a similar nature to CABEI.

For this purpose, regarding subparagraph a), the Borrower/Beneficiary must have CABEI's no objection prior to each procurement, pursuant to the procedures set out in the Policy and these Norms.

With respect to subparagraphs b) and c), the Borrower/Beneficiary must provide CABEI with irrefutable documents that demonstrate compliance with the regulations applied, including as part of such documents at least:

- a. Publications about the process.
- b. Reports on the results of processes carried out, presented and accepted by the responsible party in each case, with their respective annexes.
- c. Copy of no objections or certifications that demonstrate acceptance of the result of the process, on the part of the corresponding entity.
- d. Copy of protests, disagreements or requests for clarification presented and certification of their definitive resolution.
- e. Contracts signed or to be signed.
- f. Any other related documentation that clearly demonstrates the use of the corresponding procurement policies.
- g. Others required by CABEI, including a due diligence statement made by third party contracted, pursuant to the Terms of Reference agreed on with CABEI.

With this information, CABEI will make the analysis and verification of: i) Norms applied, ii) Compliance with competitive public bidding or contest processes, and iii) Compliance with the procurement principles established in these Norms.

If the procurement is considered acceptable, CABEI shall consider it at the analysis stage of the operation, prior to its approval.

In the event of not approving the operation, CABEI will not assume any responsibility for the advance procurement.

## **Article 10. Individual or Consortium Bidders**

In all bidding and contest processes promoted by CABEI Borrowers/Beneficiaries in the framework of operations financed with its resources, suppliers from all CABEI member and non-member countries may participate, individually or in consortium, pursuant to these Norms, except in cases where the resources available for the financing correspond to the provisions of Article 7; especially in international public processes, bidders from CABEI founding countries may participate in

partnership with suppliers from other countries, in particular those from non-regional member countries, to stimulate the transfer of technology and knowledge to the Central American region.

As an international development agency, it is important for CABEI to give bidders from its member countries the possibility of participating under competitive conditions in the provision of goods, works, services and consultancies.

#### **Article 11. Provisions for Bidders, Contractors and Consultants**

- a. In international public bidding or contests, when a bid presented by a CABEI non-member country is selected, it will be verified if any proposal exists, within a range of up to 15% above the selected proposal (when the selection is based on the offered price) or in a range of up to 15% below (when the selection is based on qualification by points assigned), presented by one or more bidders from CABEI member countries. If so, the Borrower/Beneficiary will give the possibility to the best rated of these to meet the conditions of the bid selected as the most convenient.

If the subsequent negotiation fails, the Borrower/Beneficiary shall proceed to carry out the same negotiation with the next best qualified bidder that is within the defined range, continuing until there are no more bidders in this range.

The Borrower/Beneficiary must incorporate the present guidelines in the bid Document of the bidding or contest.

For the purposes of applying this article, a bidder from a member country is defined as one that is legally constituted in a CABEI member country. In case of a consortium, a bidder is considered from a member country when the lead member of the consortium is legally constituted in a CABEI member country.

- b. In compliance with the Policy on Anti-fraud, Anti-corruption and other Practices Prohibited by CABEI, legal or natural persons may not be awardees or subject to contract extensions with total or partial financing from CABEI or from funds administered by it, if they: (i) are included on the CABEI List of Prohibited Counterparties or another CABEI ineligibility list; (ii) have been disqualified, declared ineligible or sanctioned for obtaining resources or the awarding of contracts financed by organizations recognized by CABEI for that purpose or (iii) declared guilty or sanctioned in a final judgment for crimes linked to Prohibited Practices by a competent authority, while the sanction is in force.

#### **Article 12. Notices and Publications on the Financing**

The Borrower/Beneficiary must publicize the approval of funding by CABEI when notified of such approval, by publishing an announcement in the press or in other print or electronic media, pursuant to its agreement with CABEI, which, in turn, will place press releases about the approved financing on its website or any other appropriate media.



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**Article 13. Non-observance of the procedures required by CABEI**

CABEI reserves the right to abstain from financing any procurement when, in its opinion, the Policy and these Norms have not been observed in the corresponding procurement procedure.

During the execution of an operation, CABEI can declare a contract ineligible for financing if it concludes that the opinion or no objection was issued based on incomplete, inexact or deceptive information provided by the Borrower/Beneficiary.

For these cases, and within a reasonable period of time, CABEI will determine the applicable course of action to deal with the corresponding non-compliance and will communicate this decision to the Borrower/Beneficiary.

**Article 14. CABEI Supervision and No Objection**

Pursuant to its current internal regulations, CABEI will oversee the execution of the operations. In procurement processes, to ensure compliance with the Policy and these Norms, CABEI will issue its no objection at the different stages of the procurement process, and, when so required, the opinion of a specialized third party may be considered, pursuant to the procedure CABEI has established for this purpose.

For its part, the Borrower/Beneficiary must collaborate extensively with CABEI, maintaining and making available of all documents and records related to procurement at all stages up to one (1) year after the acceptance or definitive receipt of each stage or, where appropriate, the date of completion of the operation's execution.

The Borrower/Beneficiary will have to provide CABEI with all the information related to the procurement processes when requested, including the documentation related to the later stage of administration of respective contracts until their conclusion to CABEI's satisfaction. These records and documents are essential elements for adequate supervision.

In operations where the CABEI procurement policy applies, the Bank at least will grant no objections to:

- a. General Procurement Plan (GPP).
- b. In the event of procurement that will be governed by the bidding or contest modes established in the Policy and these Norms, it will give its no objection to at least:
  - i. Notifications published in the media regarding prequalification processes, bidding and contests.
  - ii. Prequalification, bidding and contest guideline documents.
  - iii. Amendments to the bid document.
  - iv. Reports or minutes of prequalification, bidding and contest processes.
  - v. The contract resulting these processes prior to signing.
- c. In the event of price or qualifications comparison:
  - i. Terms of reference or technical specifications

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- ii. Comparison matrix that indicates the selection of the most convenient bidder.
- d. In the case of direct contracting:
  - i. Application of the direct contracting method.
  - ii. Contract draft prior to signing.
- e. Amendments to contracts

Notwithstanding the verification of compliance with the provisions of Article 11.b of these Norms, CABEI may at its discretion, in duly qualified cases, carry out supervision of procurement through a review subsequent to the formalization of the contract between the Borrower/Beneficiary and the provider (ex-post review by sampling).

In order to decide how the supervision will be applied to an operation, CABEI will consider the installed capacity of the Borrowers/Beneficiaries to move ahead with the procurement processes and contract execution, considering additional factors, such as the experience of their executing entity, risks, the legal framework that governs procurement in the country of the Borrower/Beneficiary and the auditing processes through which they must undergo.

Ex-post monitoring with regard to procurement is applicable for procurements that involve numerous supply contracts for small amounts, low complexity or relative simplicity, that is carried out using the method of price or qualifications comparison set out in the Policy and these Norms.

The Borrower/Beneficiary is responsible for the execution of the operation until its completion. Therefore, CABEI requires that it have adequate and reliable systems for the execution and supervision of procurement, capable of meeting the Bank's requirements.

Supervision includes CABEI's consideration of any change to the contract signed between the Borrower/Beneficiary and the provider of goods, works, services or consulting services for which no objection, was given, in the case of relevant changes, such as set out in Article 59 of these Norms.

In cases in which CABEI, as a result of contractual considerations and established policies, has to suspend loan disbursements, it is the responsibility of the Borrower/Beneficiary to inform consultants and contractors about any situation that may affect payments to such entities.

#### **Article 15. Conflict of Interest Prohibitions**

To ensure the transparency of CABEI operations and that there is no conflict of interest, the following persons may not participate directly or indirectly in the provision of goods, execution of works, services or consulting for operations financed by the CABEI:

- a. CABEI officials or employees.
- b. The spouses and relatives of such officials or employees up to the fourth degree of consanguinity or second of affinity, inclusive.

- c. In financing to the public sector, individuals with family or business ties to the representatives of the Borrower/Beneficiary or its executing agency, up to the second degree of consanguinity or second of affinity, inclusive.

The prohibition contained in sub-headings b) and c) above will not apply when the persons named there prove that they had been regularly engaged in the business that is object of the respective contract for at least two (2) years before the emergence of the cause of the prohibition; in addition, the costs involved must be in line with the market.

- d. Those, who are or have been directly or indirectly associated with a firm or with any of its affiliates, that have been hired by the Borrower/Beneficiary for the provision of consulting services for the preparation of the design, technical specifications and other documents that will be used in the procurement process, and it is considered that their participation would affect the interests of the operation.
- e. All those that present more than one proposal in a bidding or contest process, except when alternative bids are permitted in the bid documents of the respective process. This does not limit the participation of subcontractors in more than one proposal.

In any case, when CABEI officers or employees are directly or indirectly involved with any operation financed with CABEI resources, they are obligated to excuse themselves from participating in any kind of effort, meeting or internal or external discussion involving a decision related to such operation.

### **Article 16. Prohibited Practices**

CABEI<sup>1</sup> requires that all Borrowers/Beneficiaries and all individuals or legal entities that participate in or provide services for projects or operations with CABEI financing recognize the provisions of the Policy.

In case of complaints received in the reporting channel or other means acceptable to CABEI, related to prohibited practices that occurred during the procurement processes of goods, works, services and consultancies, as well as during the execution of a contract resulting from said processes within the framework of an operation financed with CABEI resources, the Bank will proceed in accordance with its internal policies related to the subject.

Prior to determining the existence of a Prohibited Practice, CABEI reserves the right to execute the required audit and investigation procedures<sup>2</sup> and will grant the counterparties and their related

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<sup>1</sup> For the purposes of the application of this article, the following apply: The CABEI Reporting Channel Regulations, the CABEI Antifraud, Anticorruption and Other Prohibited Practices Policy and the CABEI Policy to Defend and Promote Integrity and Ethics.

<sup>2</sup> This refers to the unrestricted access of CABEI or its duly authorized representatives to visit or inspect the offices or physical facilities used in connection with procurement processes or projects financed with CABEI's own funds CABEI or those managed by it. Likewise, the Bank may conduct interviews and have access to the physical and digital files related to said procurement processes projects or operations, receiving all the collaboration and assistance that may be necessary in order to properly execute the planned activities, at CABEI's discretion.

parties the procedural opportunity to argue their defense, through the execution of an Administrative Procedure.

When the existence of a Prohibited Practice is determined, CABEI will issue one or more of the actions and/or recommendations listed below, without limiting them:

- a. Refer of the corresponding case to the competent local authorities.
- b. Issuance of a written warning.
- c. Adoption of measures to mitigate identified risks.
- d. Suspension of disbursements.
- e. Deobligate funds.
- f. Request advance payments of resources
- g. Cancel the business or contractual relationship.
- h. Suspension of the procurement processes, or execution of contracts, regardless of their status.
- i. Request additional guarantees.
- j. Execute bonds or guarantees.
- k. Request reimbursement of expenses or costs related to the activities and investigations carried out in relation to the commission of prohibited practices.

Actions and/or recommendations determined by CABEI will be of mandatory compliance and enforcement.

In any case, notwithstanding sanctions imposed by the authorities of the Borrower/Beneficiary's country, CABEI reserves the right to request the suspension of the contracting processes or execution of the resulting contracts, regardless of the state in which they are in. If CABEI requests the suspension of the contracting procedures or of the execution of contracts, and this does not happen, the Bank reserves the right to not finance any resulting contract.

As a result of a research process, CABEI may incorporate natural or legal persons in the List of Prohibited Counterparties or another ineligibility list that CABEI has established for this purpose.

The bidder shall declare any commission or bonus that has been paid or to be paid to commission agents or representatives related to the bidding, contest or the execution of the contract. The information provided must include, as a minimum, the name and address of the commission agent or representative, the amount and currency and the intention of the commission or gratification. This information must be included in the proposal submitted by the bidder.

#### **Article 17. Deserted or Failed Bidding or Contest**

The Borrower/Beneficiary will proceed to declare a deserted bidding or contest in the following cases:

- a. When at the reception and opening of bids, there are fewer bids than the acceptable minimum number established in the bidding or contest guideline document defined by the Borrower/Beneficiary.

- b. When the bidding or contest document does not establish an acceptable minimum number of bids, and at the reception and opening of bids, there are fewer than three bids.

The Borrower/Beneficiary will proceed to declare a failed bidding or contest in the following cases:

- a. When, as result of a process of modification of the award, none of the remaining bids are acceptable for the Borrower/Beneficiary, or there are no more qualified bidders.
- b. When all the bidders have omitted some of the essential requirements established in the bidding or contest documents.
- c. When none of the bids is acceptable to the Borrower/Beneficiary as a result of errors considered uncorrectable in the delivery of the documentation.
- d. When none of the bids is substantially adapted to the requirements established in the guideline documents.
- e. When the Borrower/Beneficiary considers that the economic bids are substantially lower than the official budget and can reasonably determine and anticipate that the bidders will not be able to comply with the contract commitments, in application of the provisions of Article 37 and Article 53 of these Norms.
- f. When the Borrower/Beneficiary considers that the bids economic are substantially higher than the official budget. In this event, once declared unsuccessful, the process may request new technical and economic bids from all bidders that were prequalified, without changing the scope and conditions of participation and the process requirements, granting a sufficient term for their presentation.

If CABEI determines that the award does not conform to the provisions of the financing contract or agreement signed with the Borrower/Beneficiary, the procurement in question will not be eligible for CABEI funding; if an agreement is not reached to eliminate this situation, CABEI will cancel the corresponding ineligible expenditure from the amount of funding and will notify the Borrower/Beneficiary of its decision, indicating the reasons why it was taken. In this event, it will become a prior condition to starting disbursements (of the part acceptable to be financed with CABEI resources) that the Borrower/Beneficiary guarantee to CABEI the raising of all the remaining resources necessary to completely carry out the operation.

When the Borrower/Beneficiary carries out a second bidding or contract process after the first effort has failed or been declared deserted, prior to its implementation, the established specifications, terms of reference and conditions should be revised, in such a way that considers and implements adjustments and improvements to the guideline document in order to make participation in a second process more attractive.

## CHAPTER III – BIDDING AND CONTESTS

### Article 18. Bidding and Contests

CABEI has adopted the modes of bidding and contest as general mechanisms for the procurement of goods, works, services and consultancies in the framework of the operations that receive its financing.

Contracts may be for a large variety of activities, in accordance with the following categories, which should not be considered binding:

- a. Prefeasibility studies that involve investigation for the adoption of decisions related to the execution of specific operations or the establishment of investment priorities and sector policies.
- b. Technical and economic feasibility studies that include, among others, analysis of alternative solutions for the operation, costs, profitability, sensitivity, preliminary designs, technical specifications and a tentative execution program.
- c. Final designs, construction plans and bidding or contest bases and/or terms of reference.
- d. Technical and/or administrative supervision of operations, including the inspection of construction works or equipment installation, acceptance tests certification, streamlining of purchases, certification of invoices presented by contractors and suppliers and the interpretation of contractual documents.
- e. Technical assistance for counsel and support to the Borrower/Beneficiary in sector planning, development and institutional strengthening; and preparation of studies on organization, administration, human resources and training.
- f. Other studies, such as document preparation for the procurement of goods, identification of needs regarding insurance and prequalification of construction companies.
- g. Construction of civil works in every field that requires operations that CABEI finances.
- h. Execution of electromechanical works, such as assembly, rehabilitation, tests and others for equipment purchased for operations.
- i. Procurement of equipment.
- j. Services related to execution of works, provision of goods or other necessary or complementary services for the execution of operations, such as training, appraisals, audits, events, among others.

### Article 19. Procurement Modes and Methods

With the CABEI's no objection, the Borrower/Beneficiary may apply the following procurement modes:

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**a. International Public Bidding or Contest**

For the procurement of goods, works, services and consultancies, of any nature, the Borrower/Beneficiary will use an International Public Bidding or Contest when the amount budgeted for procurement corresponds to this mode, according to the limits established in Article 21

The International Public Bidding or Contest mode ensures the participation a greater number of bidders so that the Borrower/Beneficiary can obtain the best quality and price conditions.

The specific procedures and conditions allow the free participation of bidders; consequently, conditions that impede or restrict the offer of the goods, works, services and consultancies required for the operation in question may not be established, except in cases where there are limitations defined in Article 7.

For the presentation of proposals in International Public Bidding or Contest, a period of at least forty-five (45) calendar days shall be established, counted from the following business day after the date of publication of the Base Documents, or from the next business day after the date they are available. With CABEI's no objection, this period may be reduced when a prequalification process has been made or if it is a procurement that does not involve the preparation of complex proposals, such as the case of procurement of standard types of goods, services works or simple consultancies; however, said the period may not be less than thirty (30) calendar days for the presentation of proposals.

**b. Limited International Public Bidding or Contest**

A Limited International Public Bidding or Contest will be provided for bidders from one or several specific countries when, as a result of provisions of the external fund source used by CABEI, it is required that the procurement be contracted from those countries.

**c. National Public Bidding or Contest**

The Borrower/Beneficiary will be able to restrict the publicity of the bidding and contests to the national scope when at least one of the following conditions exists:

- i. It has a procurement budget within the limits established in Article 21 for this mode.
- ii. When the goods, works, services or consultancies to be procured are strictly from the country of origin of the Borrower/Beneficiary.
- iii. When the procurement is financed exclusively with own funds of the Borrower/Beneficiary.

All the procedures for an International Public Bidding or Contest should be applied to this mode, except regarding the deadline for submission of proposals; a deadline of at least thirty (30) calendar days must be established, counted from the next working day after the date of publication of the Guideline Documents, or from the next working day after the date on which they are available. However, this term may be reduced when a prequalification process has been carried or a procurement does not involve the preparation of complex proposals, as in the case of procurement of standard types of goods or services or simple works and consulting; however, the period may not be less than twenty (20) calendar days for the submission of bids.

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Carrying out a National Public Bidding or Contest restricts the publicity the process, but not participation of international bidders who wish to offer their services; therefore, in no case will it be allowed to establish requirements that fail to comply with the basic principles of procurement processes.

#### **d. Private Bidding or Contest**

A Private Bidding or Contest is a similar figure to a Public Bidding or Contest, except the invitations are sent specifically to certain companies or firms and not by a public announcement; these must be qualified and selected in a non-discriminatory form, including international companies when the bidding or contest replaces an international process, in addition to inviting all the possible bidders.

In general, the same principles and policies are applied to this mode as to a Public Bidding or Contest; the deadlines to use will be the same as those corresponding to the type of process that is being replaced.

With respect to the number of bids that should be received, the following is established:

To ensure competition among qualities and prices at the least, the procedure may continue if less than three (3) bids are received or presented in the act of bid reception and opening, provided that the majority of the invited bidders had expressed their interest. In these cases, it shall not apply the provisions of Article 17 related to the number of expected proposals.

This mode of procurement may be used only if there are a limited number of bidders and after receiving CABEI's no objection.

#### **e. Prices or Qualifications Comparison at a Local or International Level**

This method is established in the GPP for procurement with amounts budgeted below the limit set for application of the national law, in the case of goods, works and services, and below the limit established for a National Contest in the case of consultancies.

For the aforementioned cases, the Borrower/Beneficiary may initiate the process with CABEI's no objection to the GPP.

This procurement method does not require the use of formal bidding and contest documents; however, the terms of reference or technical specifications required must be defined clearly with the use of a matrix to compare and select the best option. It is based on the simple comparison of at least three (3) potential bidders and consists of obtaining at least three (3) price quotes if it involves obtaining goods, works or services or three (3) profiles of individual consultants if it involves procuring a consultancy, in the first case to obtain the most competitive price and in the second case to ensure the best general qualifications of academic and work experience in an individual consultant. In every case, each of the potential bidders must express their interest in participating in writing.

This is an appropriate method for procurement of small quantities or low cost involving the contracting of individual consultants for specific assignments for a specific period of time,

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procurement of goods in stock or standard specification, provision of simple and specific services, or contracting of small works.

The Borrower/Beneficiary shall be responsible for not artificially dividing the procurement of goods, works, services or consultancies to use this method and shall ensure that procurements involved are exceptional.

For this purpose, the Borrower/Beneficiary shall provide in the terms of reference or technical specifications that completely meets its procurements needs at least three (3) profiles or evaluated bids in a comparison matrix and the name of the bidder that would be selected so that CABEI may review the case information prior to issuing its no objection to the contracting.

The Bank may recognize comparisons of two (2) resumes (curriculum vitae) or two (2) quotes, if they present evidence of the publication required at least for national processes pursuant to articles 27 and 43 of these Norms.

Contracts made through the method of Price or Qualifications Comparison at local or international level must be framed in the criteria defined in the previous paragraphs.

#### **Article 20. Another Method of Procurement: Direct Contracting**

In the framework of an operation approved by the CABEI, procurement must be carried out using the procedures set forth in the Article 18 of the Policy and the modes established in the Article 19 of these Norms.

In addition to the Bidding and Contest modes and the method of Prices or Qualifications Comparison at the local or international level established in the Policy and these Norms, there is also a method of Direct Contracting, which consists of contracting without following a competitive procedure.

It can only be used in special circumstances which are presented below:

- a. When there is a need to newly contract for technical or financial convenience, contractors or consultants, suppliers of works, goods, services or specific consultancies that had been contracted within a maximum period of twelve (12) months prior to the request for direct contracting, in the framework of the execution of an operation financed by CABEI and that resulted from public or private bidding or contest processes within said operation, the following must be complied with:
  - i. In the case of goods, works or services, the activities or goods to be provided must be substantially included in the original contract, and it must be justified to the satisfaction of CABEI that no advantage can be obtained with a new process and that the prices of the contract are reasonable.
  - ii. In the case of consultancies, the need to maintain a continuity of the technical approach, methodology and lessons learned must be demonstrated.

In both cases, satisfactory performance in the prior contract must be demonstrated and as a priority, CABEI will propose carrying out abbreviated procedures, where deadlines for submission of proposals are reduced; in the case of goods, works or services, the submission of

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proposals should be made in a single envelope, making a single opening in which the economic bid becomes public knowledge.

- b. When it is required to newly contract individual consultants for the execution of an operation, as long as the original contract was the result of a competitive process, satisfactory performance in the previous contract is demonstrated and it is confirmed that the same tasks will be carried out.
- c. Emergency situations duly declared by the competent authority in response to disasters or natural events.
- d. When the need to standardize or normalize services, equipment and/or spare parts has been justified in order to make them compatible with already acquired equipment and spare parts, in which case the following characteristics must be included:
  - i. There is an analysis of the options of equipment to be installed from another brand or specifications, demonstrating the convenience of the equipment to be acquire.
  - ii. Exclusive suppliers, either by patent or registered trademark or when documents are provided that demonstrate their exclusivity in distribution by the manufacturer or supplier.
- e. When it is necessary to ensure adequate maintenance of existing equipment and machinery or that to be acquired, or it is required to acquire the goods or services of a specific supplier to maintain the guarantee. In these cases, an analysis of the options that demonstrates the appropriateness of the procurement will also be required.

To use the Direct Contracting method, the Borrower/Beneficiary must submit a request for CABEI authorization, demonstrating and justifying the existence of some special circumstances listed in this article and attaching the documentation to demonstrate such circumstances. CABEI will examine the application and, if it is in the framework of these Norms, it shall be submitted together with its analysis and the documentation provided to the Internal Executive Procurement Committee or the Procurement Management Committee (as applicable due to the amount budgeted for the procurement) for their consideration and approval, if applicable; subsequently CABEI will grant its no objection to the use of the method.

Any request by the Borrower/Beneficiary for the use of this method must be framed in the provisions of this article.

## **Article 21. Amount limits for Bidding, Contests or other Procurement Modes**

CABEI establishes the modes or methods that should be applied to procurement processes, based on the following thresholds:

Procurement Mode or Method	Amount limits (Thousands of U.S. dollars)		
	Goods and Services	Works	Consultancies
International Public Bidding or Contest	≥ 350	≥ 1,500	≥ 150
National Public Bidding or Contest	≥ 100 and < 350	≥ 200 and < 1,500	≥ 35 and < 150
Application of National Law	> 50 and <100	> 50 and <200	N/A
Prices or Qualifications Comparison	≤ 50		< 35

The Borrower/Beneficiary must ensure to CABEI that procurement required for an operation is not subdivided for processes other than those set forth in this article, in accordance with the predefined budgets.

#### Article 22. The Most Convenient Bid

The Borrower/Beneficiary must always select the most convenient bid, defined as one that:

- If it is a consultancy, after complying with the prequalification requirements, obtain the highest rating when adding the results of the evaluation of technical bids and economic bids, pursuant to the evaluation criteria, weighting values and the established selection method.
- The most convenient bid in the procurement of goods, works or services is generally the one that, after compliance with prequalification requirements, obtains the highest final qualification by adding the weighted values of the technical evaluation and the economic bid or that meets the required minimum technical score and presents the lowest economic bid, in accordance with the predefined selection method and conditions established in the guideline documents with respect to the assessment of the technical and economic bids.

In any case, the Bidding or Contest Guideline Document must clearly establish the factors that, in addition to the price, will be evaluated to define the most convenient bid.

#### Article 23. Publicity

In order to obtain the widest participation of bidders, the Borrower/Beneficiary, with CABEI's no objection, must prepare and publish in press and any other means established by CABEI the prequalification, bidding and/or contest notices, including a reference to CABEI financing, and containing the basic details of the operation in accordance with what is described in Article 24 if it refers to prequalification, Article 27 if it is bidding process, and Article 42 if it is a contest process, of these Norms .

**Article 24. Prequalification or Background Contest**

In order to identify public or private natural or legal persons that have the capacity to be suppliers of the goods, services, works or consultancies required for the execution of the operations that have total or partial CABEI financing, the Borrower/Beneficiary may proceed to carry out a Prequalification or Background Contest process, whose sole purpose will be to prequalify bidders for one or more bidding or contests for which the same capabilities are required. Subsequently, when executing the bidding or contests, only the bidders who were prequalified may be invited to submit their technical and economic bids; in other words, only the bidders that participated in the prequalification and were prequalified may subsequently participate in the planned bidding or contest process.

The documentation to be delivered in a prequalification process must exclusively contain the information of the bidders, which must be reviewed to determine whether or not they have the capacity to commit themselves and to enter a contract.

The bidders must provide information about their organization and the financial, legal and technical capacity that allows them to be commit themselves and to enter a contract. They must demonstrate, among others, their general and specific experience, essential personnel and equipment or machinery available to undertake the required work, executed contracts, contracts under execution, commitments and litigations or any other information required by the Borrower/Beneficiary in the prequalification bases.

To ensure that the Borrower/Beneficiary obtains the information necessary to prequalify bidders, the following steps must be followed:

- a. **Invitation to Prequalification.** The Borrower/Beneficiary must publish the specific notice for prequalification at least in one (1) of the following alternatives:
  - i. One (1) publication on the web page of the Public Procurement Regulatory Office in the country of the Borrower/Beneficiary
  - ii. One (1) publication on the digital version of a widely circulated national newspaper.
  - iii. At least two (2) publications in the following way: Once (1) in two (2) newspaper (written press) of national circulation in the country of the Borrower/Beneficiary; or twice (2) in the same newspaper in a non-consecutive way.

When there is prequalification for international bidding or contests, the notice must also be published in United Nations Development Business (UNDB Online) internet website and sending a copy of the corresponding notice to the embassies or consulates of the CABEI member countries in the country of the Borrower/Beneficiary, if applicable.

The notice must contain, as a minimum, the following:

- i. A general description of the operation, of the particular procurement and the place of execution.

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- ii. The requirements that participants must fill in order to prequalify.
  - iii. The place, time and date that participants can withdraw the prequalification documents, as well as the cost of the same.
  - iv. The deadline for submitting prequalification documents, which must be at least thirty (30) calendar days, counted from the business day following the publication of Bases of the Background Contest or Prequalification Form.
- b. **Prequalification Form.** The Prequalification Form will contain the necessary requirements to demonstrate the capabilities of the bidder; it must contain at least:
- i. Legal background of the bidder, including articles of incorporation, legal nature, nationality and domicile.
  - ii. Technical background (technical and administrative capabilities).
  - iii. Financial situation, presenting the duly audited financial statements for at least the past three (3) years of operation, and, in case of proposals presented by consortiums, this applies for all the companies that conform them.
  - iv. Sworn declaration of not having a conflict of interest, not being declared a prohibited counterparty or appearing on another CABEL list of ineligibility, nor to being declared disqualified or sanctioned by organizations recognized by CABEL and not having been declared guilty by means of a firm sentence of crimes involving Practices Prohibited by the competent authorities.
  - v. Experience in the provision of what is required for the operation and for which it is prequalified.
  - vi. Work that is being done or obligations that have been assumed and are in force on the date of participation to prequalify.
  - vii. Proof of having sufficient personnel and equipment to satisfactorily carry out and comply with the required provision, indicating, in the case of works, whether the equipment is owned or rented, the number of units, year of purchase, brand and commercial value, as well as needs for equipment purchase.
  - viii. Organization (organizational structure and main functions).
- The requirements described above may be adjusted in accordance with the needs of each case and with CABEL's no objection. In all cases, the established requirements must correspond to a single clearly defined profile of the bidder that the Borrowing/Beneficiary requires for the procurement.
- c. **Term to carry out the Prequalification.** The Borrower/Beneficiary must carry out the prequalification process within a term that is in line with the execution calendar agreed with CABEL.
- d. **Selection of prequalified bidders.** Only bidders that demonstrate the technical, financial, legal and administrative capacities to the supply goods, works, services or the consulting services

required for operation, pursuant to the requirements established in the Prequalification Forms, may be prequalified.

- e. **Disqualification** A prequalified bidder will be disqualified from the corresponding bidding or contest processes if the prequalification or registration has originated in incorrect information or subsequent circumstances which make it improbable that this bidder can provide what is needed for the operation. Because of this, the prequalification bases must deal with this possibility in detail, clearly establishing the disqualification process to follow, if applicable.

- f. **Report or Minutes.** The Borrower/Beneficiary shall prepare a report or minutes of the process, with the bidders that submitted the required documentation, indicating those that were prequalified and that were not prequalified and the reasons for the respective decision and sending it for the no objection of CABEI.

Once the no objection has been obtained, the Borrower/Beneficiary must simultaneously notify all the bidders of the results and will then establish the Prequalified Bidders Registry for the specific corresponding procurement processes.

- g. **Validity of Prequalification.** A prequalification awarded to a bidder will be valid for one (1) year. After that time, the Borrower/Beneficiary must carry out the process again to update the respective records and must make a new call, both for the already prequalified to update their original information and to admit new bidders.

- h. **Lack of Bidders.** If less than three (3) bidders are prequalified as a result of the call, there shall be a second call for bids, following the same procedure of the first. In the event that in the second call there are fewer than three (3) qualified bidders, the process may proceed with them if permitted by national law; otherwise, the provisions of said law must be followed.

- i. **Prequalification for several Bidding or Contests.** The Borrower/Beneficiary will be able to decide with CABEI to make a single prequalification of participants for several procurement processes, provided that they plan to carry it out in a term of up to one (1) year and that these procurements require similar bidders' capacities. For these cases, the prequalification bases should establish that the prequalified bidders may participate in various procurement processes and include relevant information about the planned procurement.

In each call to bidding or contest, the Borrower/Beneficiary will be able to require the prequalified participants to update the data that may have varied from the time of the prequalification and, in particular, demonstrate that they continue to have the execution capacity required in the bases and that their present work load will allow them to assume an additional contract.

## Article 25. Co-Qualification

When the Borrower/Beneficiary does not carry out a prequalification process prior to the bidding or contest process, it must use a procedure called Co-Qualification, which requests the presentation of background or capabilities of the bidders simultaneously with the technical and economic bids. This

procedure will be used when the need to have a list of prequalified bidders has not been previously established.

In procurement processes involving a Co-Qualification procedure, the following must be considered:

- a. The procedure must be clearly established in the corresponding bidding or contest bases so that the bidders understand the mode of opening and evaluating proposals and that prior prequalification is not required.
- b. At the opening act, each bidder must present a proposal with two (2) or more closed envelopes, each with the following content:

- i. **Prequalification of the Bidder (Envelope No. 1):** In order to identify bidders that have the capacity to provide the goods, works, services or consultancies required for the operation, this envelope will exclusively contain the prequalification information, which must be specified in the bidding or contest guideline document.

The content of this envelope is framed in the provisions of the previous article, including a Bid Security when the process is applied; the following aspects must not be included when they are included in the technical bid: general and specific experience, key staff available to the bidder and equipment or machinery available to carry out the work required, executed contracts and those under execution.

In this envelope, no reference must be made to the technical bid, nor to the economic bid, which are presented in other envelopes as part of the proposal to carry out the required work.

- ii. **Technical Bid and Economic Bid (Envelopes No. 2 and No. 3, respectively):** These will contain the information about the bids that is directly related to procurement aspects.

Pursuant to the provisions of the guideline document, there may one or two envelopes, taking into account the most suitable for the evaluation of bidding; it will also depend on the way that it is decided to evaluate the relative weight of each bid, if applicable in the event that the Borrower/Beneficiary will provide the technical solution and only requires the economic bid, this should be presented in Envelope No. 2.

When very complex execution of works or procurement of goods or services is involved, and the advantage of consolidating the process with a single supplier is evident, the Borrower/Beneficiary may consider procurement by means of a "turnkey" contract, which includes the technical solution of a procurement; in these cases, it may be suitable not to have previously prepared technical specifications or complete designs (in the case of works) and expect the bidders to provide different solutions. In such cases, it is preferable to use two envelopes, where Envelope No. 2 contains the submission of technical bids without prices, subject to the technical clarifications and adjustments that may be necessary, and Envelope No. 3 contains the economic bid corresponding to the technical solutions presented.

- c. Provided that they have received at least the minimum number of expected bids, a public act should be held to open proposals, where only Envelope No. 1 will be opened, with the other

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envelopes remaining unopened, as the case may be. The names of bidders, the letter of bidding presentation and the term and the amount of the security, if any, will be read aloud, as well as any substantial modification that had occurred separately within the term for presentation of bidding; then minutes will be drawn up to be signed by the Borrower/Beneficiary or its representatives and by the bidders' present. If there were any electronic bids, these must be announced and read in conformity with the above.

- d. Considering the information provided in Envelope No. 1, the bidders must be prequalified, in accordance with the term established in the bidding or contest bases.
- e. If the Borrower/Beneficiary establishes in the guideline document that participants will be notified of the prequalification results before the technical evaluation, it must receive CABEI's no objection to the corresponding Report or Minutes prior to communicating the results, which must be reported simultaneously to all bidders.
- f. Any protest brought by the bidders, after being notified of the results of the prequalification, must be resolved before opening the remaining envelopes.
- g. Once the deadline established for the presentation of protests in the Bidding or Contest Base Documents has elapsed, related to the notification of the results of the prequalification and having no protests to be resolved, the opening of technical offers will follow, which does not require to be performed by public act. Like the prequalification results, the results of the technical evaluation must be presented to CABEI by means of a Report or Minutes for the prior no objection to be communicated to the bidders.
- h. In the standard documents, the proposed procedure is as follow:
  - Perform prequalification and prepare the respective report of this stage; do not submit it to CABEI at this time.
  - Once the prequalification report is completed, carry out the technical evaluation and prepare the report for this stage; simultaneously present to CABEI with the prequalification report to obtain it's no objection to the prequalification and technical evaluation results and then proceed to communicate the results of the two stages to the bidders.

The use of this procedure establishes a single deadline for the submission of protests for the two stages.

- i. The opening of economic bids must always be done through a public act; their review and evaluation must be carried out subsequently by the Borrower/Beneficiary, following the procedures set out in these Norms in Article 31 for a bidding and 48 for a contest.
- j. In any of the cases described in the previous paragraphs, once the results have been communicated to the bidders, to continue with the next stage of the process, the deadline for the receipt of protests must have been met and the disputes received in the last instance have been resolved.



- k. In all cases, once the protests submitted have been resolved in accordance with what has been established in the Bidding or Contest Base Document, in a timely manner, the unopened envelopes containing the technical offers of the non-prequalified bidders and the economic offers of the bidders whose technical proposals did not reach the minimum qualification required, must be made available to bidders.

## CHAPTER IV - PROCEDURES FOR BIDDING

### Article 26. Bidding Documents for the Procurement of Goods, Works and Services

When executing bidding processes financed with CABEI resources, it is obligatory for the Borrower/Beneficiary to use the standard documentation that it has, which must receive CABEI's no objection prior to its publication. Likewise, the Borrower/Beneficiary must clearly establish a profile of the bidder that is required in the bidding guideline document, and at all times, the evaluation must be among bidders with similar capabilities to comply with the principles of equality and competition.

The sales price of the documents relating to the bidding process shall not exceed the cost of reproduction.

The Borrower/Beneficiary must invite the prequalified bidders to participate in the event that it has previously carried out a prequalification process. If not and if it involves a bidding with Co-Qualification, the provisions of Article 25 of these Norms must be complied with.

The bidding documents prepared by the Borrower/Beneficiary must be clear and coherent and include the necessary details to avoid ambiguities that could confuse the bidder.

### Article 27. Standard Bidding Documentation

Standard bidding documentation is described as follows:

- a. **Bidding Notice.** The Borrower/Beneficiary must publish the specific notice of the bid at least in one (1) of the following alternatives:
- One (1) publication on the web page of the Public Procurement Regulatory Office in the country of the Borrower/Beneficiary
  - One (1) publication on the digital version of a widely circulated national newspaper.
  - At least two (2) publications in the following way: Once (1) in two (2) newspaper (written press) of national circulation in the country of the Borrower/Beneficiary; or twice (2) in the same newspaper in a non-consecutive way.

In addition, the notice must be published in other printed or electronic means of communication, as CABEI indicates in this regard.

When there is international bidding the Borrower/Beneficiary must also be published in United Nations Development Business (UNDB Online) internet website, sending a copy of the corresponding notice to the embassies or consulates of the CABEI member countries that have representation in the country and giving CABEI a copy of said communications.

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Specific bidding notice shall include, at a minimum, the following information:

- i. Name of the Borrower/Beneficiary and the executing agency of the operation.
- ii. Name and number of the bidding process that is being carried out.
- iii. Notification that the procurement that is object of the bidding will be totally or partially financed with CABI resources and that, therefore, it will be subject to the provisions of the Bank's Procurement Policy and Norms for its Application.
- iv. Clear description of the procurement that is object of the bidding, including geographic location where the goods, works or services will be required.
- v. Place, date and hour that the Bidding Guideline Documents and other pertinent information may be acquired.
- vi. Explanation that the payment for the documents is not reimbursable.
- vii. Physical or electronic address where more information can be obtained about the procurement to bidding and the operation in general.
- viii. Place, date and time limit for the delivery of proposals to the representatives of the Borrower/Beneficiary.

a. **Bidding Bases.** They consist of:

- i. Notice/Invitation that publishes detailed information about the financing granted by CABI for the operation, as well as information about the Borrower/Beneficiary, the object of the bidding, details on date, hour and address for receiving the bidding bases and submission of proposals, as well as any other information that the Borrower/Beneficiary considers important to include.
- ii. Instructions to bidders. It will contain the general instructions of the Policy and these Norms, which permit the bidder to learn about the norms that will govern the procurement process.
- iii. Bidding Data. It will contain the specific information about the bidding, which involves case specific instructions to bidders, such as: type of currency or currencies in which the economic bid must be presented or payments must be made; the deadlines for preparing proposals, submitting queries, registration, mechanism and entities for the presentation and attention to protests; the place, day, hour and office that bids will be received and opened; address, phone number, fax and email address of the Executive Bidding Committee, which will be in charge of the process on behalf of the Borrower/Beneficiary; securities that will be required; additional technical information to be provided by the Borrower/Beneficiary and other information that the bidder must know to comply with the terms.
- iv. Evaluation criteria for the review, evaluation and comparison of bids, which may include:

In the case of works:

- General and specific experience.
- Proposed key staff.
- Equipment availability.
- Work plan and Execution time plan.

- Other.

In the case of goods and services:

- Experience.
  - Compliance with technical specifications.
  - Capacity to fulfill obligations of maintenance, repairs and storage of spare parts.
  - Deliveries Plan.
  - Other.
- v. Bidding Forms with a complete description of all the specifications.
- vi. Technical specifications. General description of the goods, works or services to provide or to execute, as well as descriptions, volumes, amounts, specifications, scope, unit and total prices; term or execution time plan; in the case of work execution it will include when it is the case the complete constructive drawings; any other information that defines the Borrower/Beneficiary.
- vii. Contract model, including general and special conditions.

Additionally, the following must be taken into account:

- a. **Quality standards.** In the event that the bidding specifications for goods or works establish quality standards for equipment or materials, it must be indicated that goods ensuring equal or superior quality to that required will also be admitted, indicating that, in any case, such equipment and materials will have to fulfill the CABI environmental requirements and those of the Borrower/Beneficiary.
- b. **Specifications for equipment and trademarks.** For bidding of goods or execution of works, the descriptions that appear in the specifications should avoid any indication of a manufacturer's trademark, catalog numbers or types of equipment of a determined manufacturer, unless this is necessary to guarantee the inclusion of a certain special design or characteristics of operation, construction or manufacture. The special reference must be followed by the terms "or its equivalent" and indicate the criteria by which the equivalence will be determined. The specifications shall allow technical bids for alternative services, equipment, articles or materials that have similar characteristics.
- c. **Guarantees, Bonds or Other Financial Instruments**

The Borrower/Beneficiary must apply the guarantees, bonds or other financial instruments that are necessary to ensure the supply of the goods, compliance with the contracted services or execution of the agreed works, in order to ensure the achievement of the financing objectives. The Borrower/Beneficiary must only require those strictly necessary to safeguard the success of the procurement and avoid charging unnecessary fees to the bidders and future suppliers of goods, services or works:

- i. **Bid Security.** This may be applied in those cases deemed appropriate by the Borrower/Beneficiary. Its validity must exceed bid validity period by at least thirty (30) calendar days so that the term is broad enough to allow the Borrower/Beneficiary to make the

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bid security effective if the bidder withdraws its bid unjustifiably. Where applicable, this bid security may be a bank guarantee, a bond or any other type of easily executed financial instrument, issued by financial or insurance companies acceptable to the Borrower/Beneficiary. The guideline document for the process must specify the amount of this bid security, which will always be a fixed amount and never a percentage of a given amount.

- ii. **Performance Security.** In the case of bidding for the execution of works, the specifications for construction works must require a performance security that could be in the form of bond or bank guarantee to ensure that the works will be carried to completion. The amount will vary depending on the type and magnitude of the work but should be indicated in the bidding documents and be sufficient to give adequate protection to the Borrower/Beneficiary. The amount of the performance security must ensure that, in case of non-compliance by the contractor in the execution of the works, these works will be completed. The term of bid security must exceed the term of the work contract by at least thirty (30) calendar days to cover a reasonable guarantee period.

If necessary, performance security for contracts of equipment provision may be required, as well as for the procurement of goods or services, whenever it is established in the respective guideline documents.

- iii. **Quality Security.** In the bidding documents for execution of work, the Borrower/Beneficiary must inform the bidders that they must submit a Quality Security that could be in the form of a bond or a bank guarantee, which must be valid at least for twelve (12) months after completion of the work. The amount of this quality security shall ensure that any defect in execution can be resolved within the above period.

In bidding for the procurement of goods and services, the constitution of a compliance or quality security will depend on market conditions and commercial practices related to the specific class procurement; in any case, these must be clearly defined in the Bidding Guideline Documents.

- iv. **Advance Payment Security.** In the event of applying an advance payment in a contract, a proper use security must be established amounting to 100% of the same; This may be a bank guarantee, bond, or any other type of easily executed financial instrument issued by a financial or insurance company acceptable to the Borrower/Beneficiary.
- d. **Insurance.** The bidding documents should indicate precisely the types of insurance that must be contracted by the selected bidder, if any.
- e. **Language and interpretation.** The bidding documents must be written in Spanish. However, contract models can be translated into English to facilitate competition from international companies. In case of conflicts of interpretation, the Spanish text will prevail.
- f. **Bid Evaluation Criteria.** The bidding bases must clearly specify the factors that, in addition to price, must be analyzed to evaluate the bids, as well as the weighted value of each of them, where

the latter must reflect the costs and benefits that said factors will contribute to the operation. The bidding must be awarded to the bid that is the most convenient for the Borrower/Beneficiary, pursuant to the previously established evaluation factors.

The factors that are regularly evaluated include, among others, the cost of civil works, those of procurement of goods or equipment, the cost of assembly, transport costs to the site of the operation, the calendar of payments, delivery plan of the goods or services, the term for delivery of the goods or works, the operational costs, the efficiency and compatibility of the equipment, the availability of maintenance service and spare parts, the proposed construction methods, among others. The bidder will not be able to make any substitution or removal in relation to the content of the proposal.

## **Article 28. Clarifications and Amendments.**

a. **Clarifications.** Once the bidding bases have been published and thus the term which is stipulated for the reception of proposals has begun, the Borrower/Beneficiary must be available to answer questions or make clarifications to queries to the bidders have about their contents. These consultations must be made in writing and shall be answered in writing as soon as possible by the Borrower/Beneficiary pursuant to the deadlines established for this purpose in the guidelines. The respective answers or clarifications must simultaneously be brought to the attention of all bidders who have obtained the bidding documents directly from the Borrower/Beneficiary. The communication must include a description of the query without identifying its origin. CABEL's no objection to clarifications is not required; it shall only be necessary to forward a copy thereof to CABEL when they are published or sent to all bidders.

b. **Amendments.** The Borrower/Beneficiary can amend the bidding documents at any time during the term for preparing proposals, issuing the necessary amendments up to fifteen (15) calendar days prior to the deadline for the reception of offers on international processes and up to ten (10) calendar days before the deadline for the reception of offers for national processes. Publish amendments will be part of the bidding documentation.

In any case, in order to give potential bidders sufficient time to adapt their bids to the new technical terms or deadlines set out in the amendments, there should never be a period less than those listed in the previous paragraph between the communication of an amendment by the Borrower/Beneficiary and the date of receipt of the proposals. The Borrower/Beneficiary must consider extending the deadline for the submission of these, if necessary.

When an amendment is issued explicitly in relation to variation of the term for expressing interest, extending the deadline for submission of queries or for the receipt of proposals, the Borrower/Beneficiary may communicate it simultaneously to bidders and to CABEL, without requiring a no objection because it is only a variation in the previously established period. In all the other cases, amendments will have to receive the Bank's no objection prior to being published and being communicated the bidders.

CABEI requires the Borrowers/Beneficiaries to present the corresponding supporting documentation in the request for no objection to the amendments.

In all cases, the Borrower/Beneficiary must ensure timely communication to all bidders about the amendments that are issued considering the planned date for the submission of proposals; otherwise, CABEI may consider the new terms invalid and reject the amendments presented for its no objection.

#### **Article 29. Protests.**

Due process is established in Article 3 of these Norms. The deadline for the presentation of protests to the Executive Bidding Committee must be at least five (5) business days from the day following the communication of results. The stages of the process in which the protests may be presented must be clearly indicated in the bidding conditions and must be established for each instance in which results are communicated to the bidders.

#### **Article 30. Submission of Proposals**

Pursuant to the period stipulated in the bidding guidelines, proposals must be submitted: separately (pursuant to Article 25, sub-heading b), in writing, signed by the bidders' legal representatives, in closed envelopes and within a single envelope or outer package duly sealed, labelled and identified. The proposals should be kept in safe place until the time of their opening.

If the Borrower/Beneficiary has, or is developing an electronic system for receiving proposals, this will be acceptable, and they can be received that way, provided that the bidding guideline documents specify it. The Borrower/Beneficiary must develop mechanisms that guarantee safety and reliability in bid reception and store them safely until their opening and evaluation.

The date, time and place of opening of the proposals, as well as the date and time limits for presenting them, must be announced in the bidding invitation. No proposal that arrives after the deadline will be received.

#### **Article 31. Opening of Economic Bids**

The opening of economic bids should always be held in a public act, which can only be attended by the representatives of the providers for whom such bids will be opened. The name of the bidders and the total amount offered shall be read aloud, proceeding to draw up opening minutes, which shall be signed by the representative(s) of the Borrower/Beneficiary and by the bidder's present. If there were any electronic bids, these must be announced and read in conformity with the above.

When Envelope No. 2 contain the technical bid and the economic bid, it must be clearly established in the guideline document the terms on which the public opening will take place and what will be read from the economic bid.

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**Article 32. Analysis and Evaluation of Technical and Economic Bids**

The evaluation of bids must be carried out in accordance with the conditions and evaluation criteria determined in the bidding guidelines. To analyze, evaluate and compare these bids, it will be determined if they comply with the terms and conditions stipulated in the guidelines and their corresponding qualifications in order to obtain the results in order of ranking and select the possible awardee. In the evaluation of bids, it should be ensured that:

- i. The documents are correctly expressed and signed.
- ii. They are in accordance with the requirements indicated in the bidding documents to assign the corresponding rating.
- iii. For the allocation of points, it should be verified that the certificates required in the bidding guideline document are attached.
- iv. They do not have calculation errors.
- v. They comply with the general conditions set out in the bidding documents.
- vi. The bids meet the requirements on regarding country of origin of the services or goods to be supplied in the event that requirements in this respect have been established in the bidding guideline documents, consistent with the Policy and these Norms.
- vii. The bidding guideline document should establish the minimum acceptable rating to qualify technically. Pursuant to the evaluation criteria set out in the guideline document, the total qualifications received by each bid will be determined to define the most convenient bid.

**Article 33. Errors or Omissions**

- a. **Remediable errors or omissions.** The bidding documents must distinguish between remediable and irreparable errors or omissions. In the case of remediable errors (for example, issues related to the verification of data, historical information, submission of documents that are not legible or issues that do not affect the principle that the proposals must conform substantially to the bidding documents), these should not automatically disqualify a bidder. In such cases, the Borrower/Beneficiary must allow the bidder to provide, during a short period of time, the missing information or correct the remedial error. Notwithstanding the foregoing, the bidder will not be allowed to use the error correction to alter the substance of the bid or improve it.
- b. **Arithmetical errors.** If the proposal is substantially adjusted to the bidding documents, the Borrower/Beneficiary will correct the arithmetical errors as follows:
  - i. If there is a discrepancy between a unit price and the total price obtained by multiplying the unit price by the corresponding amounts, the unit price will prevail. The total price will be corrected unless, at the discretion of the Borrower/Beneficiary, there is an obvious misplacement of the decimal point of the unit price in which case the total price offered will prevail and the unit price will be corrected.

- ii. If there is an error in a total price corresponding to the addition or subtraction of subtotals, the subtotals will prevail, and the total price will be corrected.
  - iii. If there is a discrepancy between words and figures, the amount expressed in words will prevail, unless the amount expressed in words is related to an arithmetical error, in which case the amount in figures will prevail, subject to the conditions mentioned in paragraphs i and ii.
  - iv. In any case, the arithmetic corrections must be accepted in writing by the bidder.
- c. **Irremediable errors or omissions.**

These are considered basic and their action or omission prevents the validity of the proposal. Examples are errors or lack of signature of the corresponding legal representative in the proposal's presentation letter or not to present such a letter, not presenting the power of attorney or written authorization of the signature to present the proposal; likewise, errors in a bid security or the non-presentation thereof, and incompliance with the conditions established for its presentation. In all cases, any error or omission that may change, improve or alter the substance of the proposal resulting in an advantage to the bidder over others will be considered as irremediable and, therefore, reason for automatic disqualification of the bidding process without any discussion.

#### **Article 34. Clarifications to the Borrower/Beneficiary of the Operation**

The Borrower/Beneficiary may request the bidders to provide clarifications regarding their bids. The requested clarifications and the respective answers may not alter the technical bid or the economic bid of the bidder.

#### **Article 35. Confidentiality**

The Borrower/Beneficiary and CABEI may not disclose any kind of information regarding the content of the proposals received during the process of proposal submission or evaluation. The pertinent communications of the process must be carried out through the channels established between the Borrower/Beneficiary and the bidders or the Borrower/Beneficiary with CABEI, when applicable. After the opening of proposals, no information regarding its review, examination, explanation and evaluation, as well as recommendations concerning the contract award, may be disclosed to persons not officially involved in the process, until the award of the contract is announced.

The Bidding Committee must sign the confidentiality document that will be provided by CABEI for this purpose, forcing its strict compliance.

#### **Article 36. Period of Validity of Bids**

The Borrower/Beneficiary must evaluate the technical and economic bids and award the contract within the term established in the bases for the validity of the bids. In the case of an extension to said term, if justified for special reasons, it must be communicated to CABEI and to all the bidders before the expiration of the validity of the bid.

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The bidders may refuse to extend the period of validity of the bids without losing the bid security presented. Bidders who agree to extend this period will not be allowed to modify their proposal.

If for special reasons or circumstances, it is necessary to carry out more than one extension, its communication could be accompanied, if it is so agreed with CABEL, by a formula that allows price adjustments that reflect the changes in costs originated for the extension, without altering the unit prices or other conditions of the bids. Bidders who agree to extend the term must also extend the bid security validity period, if any.

### **Article 37. Rejection of Bids**

In general, one or more bids may be rejected when at least one of the following conditions is met:

- a. Contain irremediable errors.
- b. Do not conform to the content of the bidding rules.
- c. Do not offer convenient prices.
- d. The use of prohibited practices has been proven, among others.
- e. The prices offered by a bidder are substantially lower than the official budget and the Borrower/Beneficiary can reasonably determine and anticipate that the bidder will not be able to fulfill the commitments of the contract.

The Borrower/Beneficiary may continue the process with the proposals that have not been rejected. The corresponding report or minutes must detail which proposals are being rejected, documenting the reason for the rejection and the results obtained by the others that continue in the process. The report or minutes of the process must be submitted to CABEL for its no objection before issuing the corresponding notifications to the bidders.

### **Article 38. Report or Minutes**

The Borrower/Beneficiary must prepare a report or detailed minutes on the review, analysis, evaluation and comparison of the proposals, stating the precise reasons on which the selection of the evaluated proposal is based on with the most convenient bid. Said report or minutes must have information regarding the publications made, communications during the period of preparation and evaluation of proposals, amendments, verification of sanctions or disqualifications in organizations recognized by CABEL, reception, resolution of protests and others. It must be submitted for CABEL's consideration to obtain its no objection before notifying the result to the bidders and awarding the contract.

If CABEL determines that the report or minutes of the process does not conform to the provisions of this procurement procedure, it will abstain from granting its no objection and will immediately notify the Borrower/Beneficiary of the reasons that lead it not to grant the no objection. If the Borrower/Beneficiary does not amend the aspects indicated, CABEL will determine that the procurement will not be eligible for financing.



**Article 39. Award**

With CABEL's no objection, the Borrower/Beneficiary may award the bidder whose proposal contains the bid evaluated as the most convenient. The award gives the awardee the right to formalize the corresponding contract.

**Article 40. Modification of the Award**

The award may be modified if any of the situations described below occurs, in which case it will proceed to negotiate with the bidder who occupies second place in the bid evaluation process and, if this is not possible for any reason, with the bidder qualified third and so on until the last bidder of the list, notwithstanding that the procedure is declared unsuccessful when all the proposals do not obtain any offer that is satisfactory for the Borrower/Beneficiary:

- a. When the bidder selected with the most convenient bid does not accept or formalize the contract, for reasons attributable to it, within the period indicated in the documents of the bidding process. In these cases, the bid security, if any, will come into effect.
- b. When because of a legal process, the award does not proceed. In this case, the bid security, if any, will be returned.
- c. When it is proven that in the process there has been fraud or other facts illegal or unknown by the Borrower/Beneficiary that could affect the ability of the successful bidder to comply with the contract. The bid security, if any, will be returned.
- d. When it is proven that the principle of confidentiality of the bid has been violated; the bid security, if any, will be returned.

**Article 41. Signing of Contract**

The signing of contract between the successful bidder and the Borrower/Beneficiary must be carried out within a short period of time after the corresponding formal award, incorporating this term in the guideline document of the process.

The content of the contract must not be different from that established in the contract model contemplated in the guideline document of the process and must be consistent with CABEL regulations and comply with the national law of the country where the operation is executed. Prior to subscription the Borrower/Beneficiary must have CABEL's no objection.

In contracts resulting from bidding processes carried out with CABEL's methods and modes, its no objection will be required only when modifications to the draft contract are incorporated into the respective guideline document.

## CHAPTER V - PROCEDURES FOR THE CONTRACTING OF CONSULTANCIES

### Article 42. Contest Documents

The Borrower/Beneficiary must use its standard documentation to carry out consulting processes financed with CABEI resources; prior to its publication, it must receive CABEI's no objection. Likewise, the Borrower/Beneficiary must clearly establish in the base contest document, the profile of the bidder that is required, seeking at all times the evaluation and comparison between similar capacities to comply with the principles of equality and competence.

The sale price of the related documents of the contest must not exceed the cost of reproducing them.

The Borrower/Beneficiary must invite prequalified bidders to participate if they have previously carried out the process. If this is not the case, and because it is a Contest with Co-Qualification, the provisions of Article 25 of these Norms must be complied with.

The contest documents prepared by the Borrower/Beneficiary must be clear and coherent and with the necessary detail in order to avoid ambiguities that confuse the bidder.

### Article 43. Standard Contest Documents

- a. Contest Notice.** The Borrower/Beneficiary must publish the specific notice of the bid at least in one (1) of the following alternatives:
- i. One (1) publication on the web page of the Public Procurement Regulatory Office in the country of the Borrower/Beneficiary
  - ii. One (1) publication on the digital version of a widely circulated national newspaper.
  - iii. At least two (2) publications in the following way: Once (1) in two (2) newspaper (written press) of national circulation in the country of the Borrower/Beneficiary; or twice (2) in the same newspaper in a non-consecutive way.

In addition, the notice must be published in other printed or electronic means of communication, as CABEI indicates in this regard.

In the case of international contests, the Borrower/Beneficiary must additionally publish on the United Nations Development Business website (UNDB Online), send the corresponding notice to the embassies or consulates of the CABEI member countries that have representation in their country and present a copy of said communications to CABEI.

The specific notices of the contest must include, as a minimum, the following information:

- i. Name of the Borrower/Beneficiary and the executing agency of the operation.
- ii. Name and number of the contest process being held.
- iii. Reference that the consultancy in contest will be financed totally or partially with CABEI resources and that, therefore, will have to be subject to the provisions of its Procurement Policy and Norms for Application.
- iv. Clear description of the objective of the consultancy and place where it should be developed.

- v. Place, date and time where the base contest documents and other pertinent information can be acquired.
- vi. Clarification that the payment for the documents is non-reimbursable.
- vii. Physical or electronic address for more information about the required consultancy and about the operation in general.
- viii. Place, date and time limit for the delivery of proposals to the representatives of the Borrower/Beneficiary.

**b. Contest Bases.** The bases consist of:

- i. Detailed published invitations with information about the financing granted by CABEI for the operation, as well as with information about the Borrower/Beneficiary, objective of the consultancy, details about date, time and address for withdrawal of the contest rules and presentation of the proposals, as well as other information that the Borrower/Beneficiary considers important to include.
- ii. Instructions for the bidders. Contains the general instructions of the Policy and the present Norms which will let the bidder know about the regulations that will govern the procurement process.
- iii. Contest Data. It will contain the specific information of the contest that corresponds with the specific instructions of the case to the bidders, such as: type of currency or currencies in which the economic bid must be presented or for the purposes of the payments; the deadlines for preparing proposals, presenting queries and registration, mechanism and instances for the presentation and attention of protests; the place, day, hour and office in which the proposals will be received and opened; address, telephone number, fax and e-mail address of the Executive Contest Committee that will act on behalf of the Borrower/Beneficiary and will be in charge of the process; guarantees that will be required; additional technical information to be provided by the Borrower/Beneficiary and other information that the bidder must know to comply with the provisions.
- iv. Evaluation criteria for the review, evaluation and comparison of proposals. Likewise, this section establishes the minimum acceptable score to qualify in the technical bid, when appropriate, and the detail of the selection method to be used.
- v. Standard formats for the presentation of information required in the process.
- vi. Terms of reference that contain the scope of the services required and that must clearly define the objectives and goals, as well as provide basic information directly related to the assignment to be contracted (list of studies and basic data), all in order to support consultants with the preparation of their respective proposals.  
The terms of reference must list the services and studies necessary to carry out the work, as well as the expected results, for example: reports, data, maps, surveys, among others, providing a degree of detail so that the bidders have the freedom to propose their own methodology and personnel for the development of the work
- vii. Contract model including the general and special conditions.

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In addition, the following should be considered:

- c. **Budget.** The costs may or may not be published as a reference or fixed price, pursuant to the selection method proposed by the Borrower/Beneficiary at the convenience of the operation. It must be presented based on an estimate of the resources necessary to carry out the work under contest, classifying:
- i. Fees or remunerations, depending on the type of contract to be used.
  - ii. Reimbursable expenses.

- d. **Register of Consultants.** In cases in which there is a prequalification of consultants to carry out the consultancy, only those who received the prequalification will be able to participate; these consultants make up the register of consultants.

In the cases in which the contest is carried out under the modality of co-qualification, the register of consultants will be composed of those bidders that obtain prequalification in the first stage of the process.

- e. **Guarantee, Bonds or Other Financial Instruments.** The Borrower/Beneficiary must apply the guarantees, bonds or other financial instruments that are necessary to guarantee compliance with the consultancy with the purpose of ensuring the achievement of the financing objectives. The Borrower/Beneficiary must demand those that are strictly necessary to ensure the success of the procurement, avoiding unnecessary costs to the bidders and the future consultant:

- i. **Bid security.** It may be applied in those cases that the Borrower/Beneficiary deems appropriate. Its validity must exceed the period of validity of the bid by at least thirty (30) calendar days so that the term is sufficiently broad to enable the Borrower/Beneficiary to make such security effective if the bidder withdraws its bid unjustifiably. When applicable, this security may be a bank type, bond or any other type of easily executed financial instrument issued by financial institutions or insurers acceptable to the Borrower/Beneficiary. The guideline document of the process must specify the amount by which this bid security must be presented, which will always be a fixed amount and never a percentage of a determined amount
- ii. **Performance security.** When the Borrower/Beneficiary deems it appropriate, they may establish a performance security that may be a bond or bank guarantee as a requirement to the bidder that is contracted for the development of the consultancy. Its amount and validity will vary according to the type and duration of the consultancy work and must be indicated in the contest documents; in the event that this security is established, the period of validity must exceed the term of the contract by at least thirty (30) calendar days to cover a reasonable period of guarantee and be sufficient to give the Borrower/Beneficiary adequate protection in case of non-compliance. The amount of the performance security shall ensure that, in case of breach by the consultant in the development of the consultancy, the Borrower/Beneficiary shall cover the costs until its completion.

In any case, the Borrower/Beneficiary must apply the securities that are necessary to ensure the achievement of the objectives of the consultancy. It must demand the securities that safeguard the success of the consultancy and are strictly necessary, avoiding unnecessary costs to the bidders and the future consultant.

In the case of applying advance payment in a contract, a security must be established for its proper use and for 100% of it; the advance payment security may be a bank type, bond or any other type of easily executed financial instrument issued by financial institutions or insurers, acceptable to the Borrower/Beneficiary.

- f. Insurance.** The contest documents must precisely indicate the types of insurance that the selected bidder must contract, if any.
- g. Language and Interpretation.** The contest documents must be written in Spanish. However, contract models may be translated into English to facilitate competition from international bidders. In case of conflicts of interpretation, the Spanish text will prevail.
- h. Bid Evaluation Criteria.** The contest documents must clearly specify the selection method and the criteria and scores to evaluate the bids. The contest must be awarded to the most convenient bid for the Borrower/Beneficiary, pursuant to the selection method and the previously established evaluation criteria

The criteria that is generally evaluated includes, among others, the profile of the consultant; the experience and training of the personnel proposed to carry out the required work; the methodology; and the proposed work timetable.

#### **Article 44. Clarifications and Amendments.**

- a. Clarifications.** Once the sale of the contest rules has begun and with that the term that has been stipulated for the reception of proposals, the Borrower/Beneficiary must be available to answer questions or make clarifications to queries that the bidders have about their contents. These inquiries must be made in writing and will be answered in writing as soon as possible by the Borrower/Beneficiary in accordance with the terms established for this in the bases. The respective answers or clarifications must simultaneously be made known to all the bidders that have obtained the documents of the contest directly from the Borrower/Beneficiary. The communication must include a description of the query without identifying its origin. CABEI's no objection is not required for clarifications, but a copy must be sent to CABEI when they are published or sent to all the bidders.
- b. Amendments.** The Borrower/Beneficiary can amend the documents of the bid at any time during the term for preparing proposals, issuing the necessary amendments up to fifteen (15) calendar days prior to the deadlines for the reception of offers on international processes and up to ten (10) calendar days before the deadline for the reception of offers for national or local processes. Publish amendments will be part of the bidding documentation.

In any case, in order to give prospective bidders enough time to adapt their bids to the new technical terms or deadlines indicated in the amendments, there should never be a period shorter than those indicated in the previous paragraph between the communication of an amendment by the Borrower/Beneficiary and the deadline for receiving the proposals. If necessary, the Borrower/Beneficiary should consider extending the proposal presentation deadline.

When an amendment is issued in explicit relation to a variation in the term to express interest, extend the deadline for the presentation, consultations or reception of the proposals, the Borrower/Beneficiary may communicate it simultaneously to the bidders and to CABEI without requiring no objection because it only involves a variation in the previously established term.

In all other cases, the amendments must have CABEI's no objection prior to being published and communicated to the bidders.

CABEI requires the Borrowers/Beneficiaries to present the corresponding supporting documentation in the no objection request for the amendments.

In all cases, the Borrower/Beneficiary must ensure timely communication to all bidders about the amendments that are issued considering the expected date for the submission of proposals; otherwise, CABEI could consider the new terms invalid and reject the amendments presented for its no objection.

#### **Article 45. Protests.**

Due process is established in Article 3 of these Norms. The deadline for the submission of protests to the Executive Contest Committee must be at least five (5) business days. The stages of the process in which the protests may be presented must be clearly indicated in the contest rules and must be established for every stage in which results are communicated to the bidders.

#### **Article 46. Methods for the Selection of Consultants.**

The Borrower/Beneficiary must establish the criteria for technical and economic evaluation in the contest documents, as well as the weighted values to be used in the evaluation of bids, selecting one of the methods acceptable to CABEI and defined below:

- a. **Quality-and Cost- based Selection:** It is a competitive process among the consultants that have been prequalified that considers the quality of the technical bid and the cost of the services that the consultant proposes in his economic bid. The estimated budget for the procurement may be published as reference data and must be used in a prudent manner, assigning it a weighted value that will be determined in each case according to the nature of the work to be carried out. The economic bid may be granted a maximum weighted value of 30% and a minimum of 10%
- b. **Quality-Based Selection:** This method is appropriate for those complex or highly specialized assignments in which the Borrower/Beneficiary expects the bidders to present proposals that contain innovative solutions that are substantially different and therefore not comparable, in which the value of the services depends on the quality of the analysis. In addition, this method is

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convenient when, due to possible future repercussions, it is necessary to have the best experts carry out the operation, which will have budgetary repercussions.

When the selection is made on this basis, only the technical bid will be evaluated, and bidders may be required to submit only such technical bid; in case of requiring an economic bid, it must be delivered in a separate envelope and will not be subject to comparison.

- c. **Selection with fixed budget:** Its application is recommended when the assignments is simple and can be precisely defined, which facilitates the setting of the budget. This method requires that in the bases the available budget be mandatorily indicated, and the bidders are asked to present their best technical bids and economic bids in separate envelopes; these will not be subject to comparison and must be presented within the budget limits.

- d. **Least-Cost Selection:** This method is recommended in those cases in which the Borrower/Beneficiary seeks to carry out standard or routine assignments, for which there are well-established practices and standards and in which the amount of the contract is small. This method establishes a minimum qualification for the technical bid, regularly inviting prequalified consultants who are required to present the technical bid and the economic bid in separate envelopes.

In this type of selection, first the envelopes with the technical bids are opened; these are evaluated discarding those that obtain less than the minimum required score. Subsequently, under equal conditions, the remaining consultants carry out the opening of the envelopes with the economic bids, among which the one offering the lowest price is selected. The minimum qualification must be indicated in the contest rules.

- e. **Individual consultants:** For the selection of individual consultants, the Borrower/Beneficiary must consider their qualifications in training and experience to carry out the requested work. Generally, individual consultants are required for simple or less complex consultancies.

In general, the amount budgeted for these consultancies is smaller, so in these cases the Borrower/Beneficiary, with CABEL's no objection, must use the method of qualification comparison since it is the best method for the procurement.

If the budgeted amount is higher than that the one established for the use of this method, the Borrower/Beneficiary must apply the provisions established in Article 21 of these Norms.

In any case, the Borrower/Beneficiary will define the appropriate method for the selection of consulting services, which will be determined by the amount, type and complexity of the required consultancy.

The hiring of United Nations agencies, non-governmental organizations, inspection agents and other specialized agents will be governed by the procurement processes indicated in the Policy and in these Norms; the criteria and established provisions will be met to the satisfaction of CABEL, especially when regarding comparative advantages for unique experiences or of great value for the Borrower/Beneficiary due to possible institutional weaknesses in the countries.

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**Article 47. Content and submission of Proposals**

In accordance with the provisions of the contest rules, the bidders must submit, at the time and place specified, the proposals in writing, signed by their legal representatives, in sealed envelopes and in a properly sealed, labeled and identified single envelope or outer package. The proposals must be kept in a safe place until the moment of their opening.

If the Borrower/Beneficiary has or is developing a system for receiving proposals in electronically, this will be acceptable and can be received in that way provided that the guideline documents of the contest so specify. The Borrower/Beneficiary must develop mechanisms that guarantee security and reliability to securely receive and safeguard the proposals presented until their opening and evaluation.

The date, time and place of opening of proposals, as well as the date and time limits to present them, must be announced in the call for contest. Proposals that arrive after the deadline will not be received.

The proposals must contain at least the following information:

**a. Technical bid.**

- i. The key staff or team of professionals with which it is intended to comply with the work.
- ii. Description of the methodology to be used in the development of the work, adequately identifying all the sequential activities necessary for the provision of the services.
- iii. Description of the scope of services in accordance with the provisions of the terms of reference, being able to expand and complement it, provided that it is kept within the framework and spirit of the contest.
- iv. Work program that shows the scheduling of each of the activities included in the consultancy.
- v. Organization for the realization of assignment.
- vi. Documentation stating the commitment that the bidder cannot replace or withdraw the key staff indicated in the technical bid without the prior authorization of the Borrower/Beneficiary and the acceptance of CABEI through its no objection. In any case, the substitute to be proposed must have equal or better qualifying capacities, attaching their corresponding resume.

The technical bid must also include any technical requirements established by the Borrower/Beneficiary and accepted by CABEI; these must not include any information regarding prices and remunerations.

**b. Economic bid**

- i. Total price offered for the provision of the consulting services required by the Borrower/Beneficiary in the Economic bid submission Letter.

- ii. Breakdown, by type of currency, of total price offered and expert hours that will be assigned for the development of the work, quantifying the direct and indirect costs and indicating the percentage destined to cover risks and profit.
- iii. Proposed payment plan in accordance with the financial flow need, based on the delivery of specific products of the assignments. The bidder must provide the information required in these subsections for all lines of work that the bidder plans to subcontract.

## **Article 48. Evaluation of bids**

### **a. Opening of bids**

The opening of economic bids must always be held in a public act, which may only be attended by the representatives of the bidders whose bids will be opened. The name of the bidders and the total amount offered shall be read aloud, proceeding to draw up opening minutes, which shall be signed by the representative(s) of the Borrower/Beneficiary and by the bidder's present. If there are electronic bids they must be announced and read in accordance with the above.

When Envelope No. 2 contains the technical bid and the economic bid, it should be clearly established in the guideline document in which terms the public opening will be made and what will be read from the economic bid.

The evaluation of technical and economic bids will be carried out using one of the procedures described below or any variant to them that is agreed upon with CABEI:

### **b. Weighting of technical and economic bids**

For purposes of the evaluation, based on the provisions established in the contest rules, a weighted value must be applied both to the technical bid and to the economic bid this will depend on the nature and complexity of the proposed assignment. It is convenient that in this weighting the technical bid be assigned a maximum weighted value of 90% and not less than 70%. The economic bid must not have a weight greater than 30% and not less than 10%. The technical evaluation should be made based on 100 points and the economic bid should be weighted giving the maximum value to the lowest bid; the remaining ones must be weighted by relation.

- i. **Technical bid** Proposals from bidders must be evaluated based on criteria such as the following:
  - 1. Quality of methodology proposed by the contestant.
  - 2. Professional qualification of the key staff proposed and time that will be assigned to the project.
  - 3. Transfer of technology and knowledge.
  - 4. Degree of participation of personnel with regional experience in the work team.
  - 5. Correspondence of the technology offered with the characteristics required in the guideline document of the consultancy.
  - 6. Experience of the consultant in the specialty required to develop the proposed assignments

#### 7. Organization for carrying out the work and execution schedule.

Each of the selected criteria is assigned a weight within a scale of 1 to 100 points, suggesting a greater weight to the methodology and the qualification of key staff, especially the latter when dealing with highly complex assignments.

The described evaluation criteria may be subdivided in order to facilitate a more objective qualification, without this meaning that such subdivision is excessive and converting the evaluation into a more mechanical than professional process.

Once the evaluation is completed, a report or minutes must be drawn up establishing the qualification reached by the technical bid, which must have CABEI's no objection prior to notifying the results to the bidders, respecting the communications modality that for such purposes is established in the guideline document.

- ii. **Economic bid.** The economic bids of the bidders whose technical bid has resulted with a qualification equal to or above the minimum established in the contest rules must remain closed and in custody until the deadline established in the rules for opening these bids is met.

The economic bid must be opened in a public act, and prior call in the presence of the representatives of the bidders whose economic bids will be opened; this will take place with no protests to be resolved and starting with the reading of the qualifications obtained in the technical bid.

The evaluation of the economic bid should have as a reference point the base budget prepared for the process in question that may or may not have been published as the referential price, but the bid must be analyzed for their own value, establishing an order of lower to higher and assigning them the corresponding weighted value with the lowest price bid receiving the maximum value.

For evaluation purposes, all economic bid must be converted to the currency chosen by the Borrower/Beneficiary, at the exchange rate in effect at a date that they choose, which must be within four (4) weeks preceding the submission of bids.

#### c. **Weighting of the technical bid**

Under this procedure, the evaluation is solely based on the evaluation criteria of the factors that were established in the contest rules for the technical bid, proceeding to establish a "ranking" of the technical bids that reach the minimum required score. Once the technical bid occupying first place for having the highest qualification is established, the Bank will proceed to open and negotiate the information contained in the respective economic bid in a private act.

If the negotiation with the participant who occupies first place fails, the Borrower/Beneficiary reserves the right to open the economic bid of the participant who qualified in second place and so on until the negotiation of the economic bid is finalized. In the event that it is not possible to negotiate with any of the bidders whose bid obtained a qualification equal to or greater than the minimum, the process will be declared unsuccessful.

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**Article 49. Report or Minutes**

Upon completion of any of the procedures described, the following must be presented to CABEI for its no objection: report or detailed minutes of the bid analysis process, verification in the list of prohibited counterparties or other CABEI lists of ineligibility and verification in the lists of sanctions or disqualifications in organizations recognized by CABEI, including the final order of priority and stating the precise reasons on which the proposal selection is based for the bid evaluated as the most convenient. Once the no objection is obtained, the results may be notified to the bidders.

If CABEI determines that the report or minutes does not conform to the provisions of the procedure used, it may decide not to support the process and shall immediately indicate to the Borrower/Beneficiary the reasons why it has decided not to finance the work that is to be contracted through the contest, unless it amends the objections presented.

**Article 50. Errors or Omissions**

a. **Remediable errors or omissions.** The contest documents must distinguish between remediable and irremediable errors or omissions. In the case of remediable errors (for example, issues related to the verification of data, historical information, submission of documents that are not legible or issues that do not affect the principle that the Proposals must conform substantially to the contest documents), these should not automatically disqualify a bidder. In such cases, the Borrower/Beneficiary must allow the bidder to provide, in a short period of time, the missing information or correct the remedial error. Notwithstanding the foregoing, the bidder will not be allowed to use the error correction to alter the substance of the bid or improve it.

b. **Arithmetical errors.** As long as the proposal is substantially adjusted to the contest documents, the Borrower/Beneficiary will correct the arithmetical errors as follows:

- i. If there is a discrepancy between a unit price and the total price, the unit price will prevail. The total price will be corrected unless, at the discretion of the Borrower/Beneficiary, there is an obvious misplacement of the decimal point of the unit price in which case the total price offered will prevail and the unit price will be corrected.
- ii. If there is an error in a total price as a result of the addition or subtraction of subtotals, the subtotals will prevail, and the total price will be corrected.
- iii. If there is a discrepancy between words and figures, the amount expressed in words will prevail, unless the amount expressed in words is related to an arithmetical error, in which case the amount in figures will prevail, subject to the conditions mentioned in paragraphs i and ii.
- iv. In any case, the arithmetic corrections must be accepted in writing by the bidder.

c. **Irremediable errors or omissions.** Are those that are considered basic and whose action or omission prevent the validity of the proposal. Examples are errors or lack of signature of the corresponding legal representative in the letter of submission of the proposal or not presenting such letter; not presenting the power of attorney or written authorization of the signature to present the

proposal; errors in a guarantee or bond or the lack thereof and; non-compliance with the conditions established for bid presentation. In all cases, any error or omission that may change, improve or alter the substance of the proposal resulting in an advantage to the bidder over others will be considered as irremediable and, therefore, reason for automatic disqualification from the bidding process without any discussion.

### **Article 51. Negotiation and Awarding of the Consulting Contract**

Under the procedure described in Article 48, paragraph b, of these Norms, the qualification of each proposal must be obtained by adding the weighted scores of their respective technical and economic bids while the qualification corresponding to the procedure contemplated in paragraph c of said article must be the one calculated directly based on the technical bid, proceeding in any of the cases to negotiate with the firm that has the highest total qualification.

In relation to the procedure described in Article 48, paragraph c, the negotiation held with the firm that obtains the highest rating shall correspond to both technical and economic aspects and shall be based on the terms of reference, methodology, personnel proposed and associated costs, as well as with the special conditions of the contract model; the terms of reference and the terms of the contract model cannot be altered in any substantial way.

During the negotiation, the selected bidder may, with the prior consent of the Borrower/Beneficiary, replace the key staff, provided that the replacement personnel have professional qualifications equal or better than those of the personnel that is being replaced.

If the negotiation does not allow the Borrower/Beneficiary to specify the terms that suit the interests of the operation, they should negotiate with the next best qualified firm, keeping the bid previously analyzed outside of this negotiation.

Upon successful conclusion of the negotiation of the consulting contract, the Borrower/Beneficiary must notify the other firms that were considered within this stage of the results of the award process.

### **Article 52. Modification of Award**

The award of the contest may be modified if any of the situations described below occurs, in which case the process will proceed to negotiate with the bidder that has been qualified in second place during the process of bid analysis and, if this is not possible by any reason, with the bidder qualified third and so on until the last, notwithstanding that the procedure be declared void or unsuccessful when none of the bids is satisfactory for the Borrower/Beneficiary:

- a. When the bidder selected with the most convenient bid does not accept or formalize the contract, for reasons attributable to it, within the indicated period. In this case, if bid security was required, it will come into effect.
- b. When because of a legal process, the award does not proceed. In this case, if a bid security was required, said security will be returned.
- c. When it is proven that there has been fraud or other illegal or unknown facts by the

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Borrower/Beneficiary in the process, at the time of prequalification, which could affect the capacity of the successful bidder to comply with the contract, the bid security will be returned, if its presentation in the contest was required.

- d. When it is verified that the principle of confidentiality of the bid has been violated, the bid security, if it was required in the contest, will be returned.

### **Article 53. Rejection of Bids**

In general, one or more bids may be rejected when at least one of the following conditions is met:

- a. Contains irremediable errors.
- b. Does not conform to the content of the bidding rules.
- c. Does not offer convenient prices.
- d. The use of prohibited practices has been proven, among others.
- e. The prices offered by a bidder are substantially lower than the official budget and the Borrower/Beneficiary can reasonably determine and anticipate that the bidder will not be able to fulfill the contract commitments.

The Borrower/Beneficiary may continue the process with the prices proposals that were not rejected. In the corresponding report or minutes, they must detail which proposals are being rejected, documenting the reason for the rejection and the results obtained by the others that continue in the process. The report or minutes of the process will be submitted to CABEI for its no objection before issuing the corresponding notifications to the bidders.

### **Article 54. Confidentiality**

The Borrower/Beneficiary and CABEI may not disclose, during the process of submitting proposals or evaluating them, any kind of information regarding the bases and content of the proposals received; the pertinent communications of the process must be carried out through the channels established for it between the Borrower/Beneficiary and the bidders or the Borrower/Beneficiary with the CABEI, when appropriate. After the opening of proposals, no information regarding its review, examination, explanation and evaluation, as well as recommendations concerning the awarding, may be disclosed to persons not officially involved in the proceedings, until the final award of the contract is announced.

The members of the Executive Contest Committee must sign the confidentiality document that for this purpose will be provided by CABEI and ensure strict compliance to it.

### **Article 55. Contract Signing**

The signing of the contract between the successful bidder and the Borrower/Beneficiary must be carried out within a short period after the corresponding formal award; this term is included in the contest bases.

The content of the contract must not be different from that established in the contract model contemplated in the contest bases, and must be consistent with CABEL regulations, complying with the national law of the country where the operation is executed. Prior to signing, the Borrower/Beneficiary, must have CABEL's no objection.

In the contracts resulting from bidding and contest processes carried out with the methods and modes of CABEL, this no objection will be required only when modifications to the draft contract included in the respective guideline document are incorporated.

## CHAPTER VI – SPECIAL OPERATIONS

### Article 56. Procedures for Special Operations

The guidelines for special operations are the following:

- a. When the CABEL participates in the financing of operations such as concessions, build-operate-transfer (BOT) or build-operate-own (BOO), Public-Private Partnerships (PPP) or others types of participation or execution involving special or exclusive conditions or rights, in consideration of the nature of these operations, CABEL may consider, negotiate or authorize the use of other procurement procedures in accordance with the provisions of Article 1 of these Norms, establishing in the approving resolution, and based on the recommendations of the respective opinion, the special procedures that should be applied to said operation.
- b. When CABEL grants a financial support letter to a company interested in participating in the execution of an operation or in the provision of goods, works, services or consultancies required in the framework of operations promoted by other administrative entities, which establish as a participation requirement that the technical bid be accompanied by a financial bid, CABEL will analyze the eligibility of the operation, pursuant to the guidelines, policies and procedures available to carry out said analyzes.
- c. When the social objectives of the operation or of a component to be financed imply the participation of the beneficiary community, the strengthening of the beneficiaries' capacities or the intensive use of labor, the use of special procedures will require approval from the CGA, provided that the amount of each procurement to be made does not exceed the limit amounts established in Article 21 of these Norms for the method of comparing prices or qualifications.

Details of these procedures will be included in the operating regulation/manual of the operation, which will require CABEL's no-objection prior to the start of executing any of the acquisitions.

## CHAPTER VII – EXECUTIVE BIDDING OR CONTEST COMMITTEE

### Article 57. Provisions applicable to the Executive Bidding or Contest Committee

The Borrower/Beneficiary, as the person responsible for the operation, must appoint an Executive Committee before CABEL for the bidding or contest process, which will be at all times its

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representative for everything related to the procurement processes. This Committee shall be presided over by a Coordinator and shall be in charge of all technical and procedural aspects related to procurement processes, pursuant to the provisions of the Policy and these Norms.

The Borrower/Beneficiary must responsibly select the persons that form this Committee before CABEL, considering their ethics and professional competences according to the nature of the procurement. The Borrower/Beneficiary shall be free to appoint, under their responsibility within their organization, sub-committees, boards or multidisciplinary teams that support the management of said Committee, which shall be solely responsible to CABEL.

The appointment of this Committee must be accredited before the Bank, attaching the corresponding Declaration of Confidentiality. CABEL will not be responsible for the capacities or performance of any of the members of the Committee.

The Executive Committee of the Borrower/Beneficiary shall have, as a minimum, the following obligations:

- a. Prepare and submit for the consideration of CABEL, for its no objection, notices for prequalification, bidding and contests that, once approved and as appropriate, must be published in accordance with the provisions of these Norms.
- b. Establish the necessary information requirements for the prequalification of bidders in a background contest in accordance with the required specialties, as well as the requirements and technical specifications for a process of procurement of goods, works, services and consultancies with the factors, criteria, evaluation scores and weighting values to be established for the evaluation of bids.
- c. Based on the standard documentation available to CABEL, prepare the bases for prequalification, bidding and contests and submit these to CABEL, for its respective no objection, prior to their use.
- d. Submit to CABEL the guideline document of prequalification, bidding or contest in its final version prior to its publication and make it available to the interested parties prior to the corresponding payment, when applicable.
- e. Organize and visit the site with the bidders when appropriate, seeking the support of CABEL. Also, organize and carry out the approval meetings when necessary.
- f. Address the written inquiries of the bidders and send the explanatory answer to all bidders of a bidding or contest process with a copy to CABEL.
- g. Prepare and send to all bidders the amendments and documents that are necessary to amend or modify aspects of the bidding or contest. In the case of amendments, they must previously have the CABEL's no objection, except for the amendments related exclusively to the extension of the deadline for submitting proposals.

- h. Receive and analyze the prequalification documents and technical and economic bids of the procurement processes.
- i. Prepare and send to CABEI, for its no objection, the minutes or report of the prequalification process, bidding or contest made containing the information of the review, evaluation, selection, recommendation of award or declaration of canceled or failed process, as appropriate, prior to issuing notifications to participants.
- j. Notify the bidders of the results of the process in which they have participated, making known to each of them the results, scores and qualification obtained and the place they occupy in order of priority in the final results of the bid evaluation.
- k. In first instance, resolve and take care until their definite resolution, of the disputes that are presented during a prequalification, bidding or contest process through the stipulated bodies and, once there are no disputes to take care of, recommend the adjudication or lead the contract negotiation for providing goods, works, services and consulting jobs.
- l. Submit the draft contract prior to the subscription to CABEI, for its no objection, when modifications to the draft contract included in the guideline document of the process are incorporated.
- m. Send a copy of the signed contract to CABEI and notify it regarding the contract starting date.
- n. Provide CABEI with all the information it requires about the processes carried out for prequalification's, bids or contests, as well as information related to procurement by other methods and the resulting contracts, for purposes of supervision to ensure compliance with the destination of the financing granted.

The decisions of the Bidding or Contest Executive Committee must be made in consensus.

## CHAPTER VIII - CONTRACTUAL PROVISIONS

### Article 58. Financing Contract between CABEI and the Borrower/Beneficiary

In each financing contract signed between CABEI and the Borrower/Beneficiary, reference will be made to the Policy and these Norms and for all legal purposes it will be understood that they form an integral part of the contract.

### Article 59. Contract between the Borrower/Beneficiary and the Contractor or Consultant

The contracts between the Borrower/Beneficiary and the Contractor or Consultant must include clauses providing, at least, for what is applicable, the following subjects: general conditions, definitions, obligations of the contractor or consultant, integrity clauses, provisions on guarantees or bonds, indemnifications, bonuses, termination, insurance, resolution of disputes through arbitration primarily and without prejudice to other alternatives contemplated in the national law of the countries, penal clauses, percentage of payment retention, advances, form and currency of payment,

modality of lump sum or possibility of increases when it is convenient for the execution of the contract, as in the case of "turnkey" contracts, and termination of contracts for prohibited practices. When applicable, the general conditions must also include the duties and responsibilities of the contractor or consultant, modifications, extra work and particular situations of the work site in the event of execution of work.

Regardless of the procurement policy applied to regulate the selection and award processes, any contract of works, provision of goods, services or consultancies awarded with CABEL resources will be subject to:

- a. CABEL supervision in accordance with its current provisions on the subject to ensure the achievement of the intended objectives.
- b. Prior no objection to any amendment to the originally signed contract that, in the opinion of CABEL, implies a relevant change, such as those that may involve an increase in costs related to CABEL financing, delays in the execution timetable of the operation and changes in the scope of the services provided, among others.

In the event that the cumulative increases of CABEL resources exceed 25% of the original contract amount (or the amount of the contract authorized by the Board of Directors, when applicable), prior to CABEL's no objection, it will be required that the respective Committee make an authorization pursuant to the total amount resulting from the contract (CGA or CEIA, as applicable).

#### **Article 60. Disbursements**

CABEL will make the disbursements of the financing in accordance with the internal regulations that apply and will only disburse the resources corresponding to a procurement if it is in accordance with the request of the Borrower/Beneficiary.

#### **Article 61. Price Adjustment Clause**

When appropriate, CABEL may accept, at the request of the Borrower/Beneficiary, provisions in the supply or provision contract regarding possible adjustments (ascending or descending) of the contractual price for those cases in which changes occur in the principal cost components contracted, such as goods, labor, materials and equipment, over which the contractor has no control.

The bases on which such adjustments will be made must be clearly indicated in the bidding or contest documents, as well as in the corresponding contract, which must have CABEL's no objection, so that, when the contract is referred to its review and no objection, all the explanations about what is intended to achieve with the formulas of readjusting prices must be sent, as well as the explanation of each of the factors of these formulas. These formulas must be previously agreed between the contractor or consultant and the Borrower/Beneficiary and will be in strict adherence to the work program that the contractor or consultant proposes, and that the Borrower/Beneficiary approves.

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**Article 62. Retention Percentages**

When appropriate, the bidding and contest documents and the contract must stipulate the percentages of the total payment that will be destined for retained sums or guarantees of execution, as well as the conditions for final payment. The amount of this withholding will be defined by the Borrower/Beneficiary with CABEI's no objection.

**Article 63. Penal and Bonus Clauses**

The supply or provision contract must include penal clauses for any aspect that is required in the execution of the corresponding works, including those related to delays in the completion thereof, which result in additional expenses, loss of income, production losses or inconveniences for the Borrower/Beneficiary. Likewise, the payment of bonuses to the contractor may be indicated by the early termination of key events or the critical route of the contracted tasks, with which a reduction of the delivery time is obtained, or a single payment is made related to a reduction in the final term initially established.

**Article 64. Fortuitous Event or Force Majeure**

It is a requirement that, in the bidding or contest rules and between the general conditions of the contract for the procurement of goods and/or services, clauses be established stipulating that partial or total non-compliance of the obligations that correspond to them in accordance with the contract for reasons of force majeure or fortuitous event by one of the parties will not be penalized; this will be clearly indicated in the definition of the same, and a list, as complete as possible, of eventual cases will be prepared.

**Article 65. Dispute Resolution and Arbitration**

The Borrower/Beneficiary must incorporate in the contract for the procurement of goods, works, services and consultancies the provisions related to the settlement of disputes, establishing arbitration primarily and without prejudice to other alternatives contemplated in the national laws of the countries for the purpose of resolving disputes that may arise in the execution or interpretation of the contract.

**Article 66. Other Extrajudicial Arrangement Options**

The parties of the contractual relationship may determine other options for resolving the differences that may arise between them in connection with the execution of the contract, such as the submission to mediation or conciliation processes. To that end, CABEI requires that the options agreed upon do not contradict the provisions of law currently in effect in the country of the Borrower/Beneficiary.