Annex 20.2

THE "HOW TO" GUIDE OF COMPETITIVE BIDDING (BEAC GUIDE – incorporates relevant sections from the Procurement Manual as a guide to missions undertaking a competitive bidding

I. COMPETITIVE BIDDING (used for procurements over USD 300,000)

Competitive Bidding is the accepted method used by all commercial and public entities for procurements involving contracts which are large and/or complex in nature. Competitive Bidding may be opened to local or international bidders, depending on the requirements of the goods/works/services being bidded out.

The purpose of Competitive Bidding is to provide all eligible and qualified potential bidders with adequate notification of the Mission/Procuring Entity's requirements and to give them equal access and a fair opportunity to compete for contracts for required goods, works and services. Bidding opportunities therefore must be advertised and all eligible bidders were given reasonable possibilities to participate.

A Competitive bidding requires a formal bidding document which is fair, non-restrictive, clear and comprehensive. The bidding documents and technical specifications relating to the project should clearly describe the criteria and methodology for evaluation of bids and selection of the successful bidder.

A Bids Evaluation and Awards Committee (BEAC) shall be established by the COM to conduct the bidding process. The BEAC shall evaluate the bids and submit the recommended procurement option to the Chief of Mission (and then to GPSU) for approval. The BEAC members and Technical evaluator(s) shall be free of any conflicts of interest and will sign a Declaration of Non-Conflict of Interest (Attachment 19.13).

Bids shall be opened at a time and place specified in the bidding documents, in the presence of the bidders or their representatives who wish to be present. The name of the bidder and the total amount of each bid should be read aloud and recorded when opened.

The Mission/Procuring Entity should award the contract within the period of validity of the bids, to the bidder whose bid has been determined to be the most responsive bid. Such a bidder must also meet the appropriate standards of administrative and operational capabilities and financial resources. A bidder should not be required, as a condition of the award, to undertake responsibilities for work not stipulated in the specifications in the bidding document or to modify his/her bid.

All proceedings shall be properly documented.

1. Competitive Bidding/Public Tender with Local Publication

The Local Competitive Bidding is most appropriate for procurement requirements, which by their nature or scope is unlikely to attract foreign competition because contract values are small, works are scattered geographically or spread over time, works are labor intensive, or the requirements are available locally at prices below the international market, or there are other technical, financial or administrative considerations that require the bidding to be conducted locally.

The time limit for receipt of tenders shall be determined by the Mission/Procuring Entity. Common practice is between 21 and 30 days from the date on which it the procurement opportunity has been published.

2. Competitive Bidding/Public Tender with International Publication

International Competitive Bidding is most appropriate for procurement requirements that involves higher amount and requires foreign competition.

The time limit for receipt of tenders shall be determined by the Mission/Procuring Entity. Common practice is between 30 and 45 days from the date on which it the procurement opportunity has been published.

3. Procurement Notice

When employing Local Competitive Bidding, the Mission/Procuring Entity should advertise the procurement notice in a newspaper of national circulation and/or thru the Mission's website. The time limit for receipt of tenders shall be determined by the Mission/Procuring Entity. Common practice is between 21 and 30 days from the date the procurement notice was published.

When employing International Competitive Bidding, the Mission/Procuring Entity should advertise in a newspaper of national circulation and/or thru the Mission, IOM and Donor's website. The time limit for receipt of tenders shall be determined by the Mission/Procuring Entity. Common practice is between 30 and 45 days from the date the notice was published.

4. Bidding Documents

Bidding documents are issued by the Mission/Procuring Entity to provide prospective bidders with the necessary information they need to prepare a responsive bid. The bidding documents should clearly define the following: objectives, scope and expected outputs/results of the requirements, technical specifications/terms of reference, scope of work/services, required quantities and completion period, the obligations of both parties and the required eligibility, documentation and requirements for submitting a bid.

The bidding documents are obtainable free of charge. In the circumstances of large procurements when the cost of printing, copying and distribution of the Bidding Documents cannot be covered by the Mission, the Mission may sell hard copies of the Bidding Documents, provided that the price is only to cover the cost of the printing, copying and distributing. Where hard copies of the Bidding Documents are to be sold, Mission office shall announce it together with the price in the Invitation to Bid. The Mission office shall issue a signed, stamped receipt for the documents once sold.

Bidding Documents are used for competitive bidding or projects where the requirements must be in great detail. The complexity of the documents may vary, but generally contain the following:

- Invitation - is used to invite potential bidders to present their bids for the subject procurement. The Invitation provides for the general description of the requirement, qualification criteria and information on the bidding activities to be conducted. Completion period for works and services may also be provided. The same text is posted on the website or newspaper.

- Instruction to Bidders - provides information to bidders regarding forms to be used, procedures to follow, documents to be submitted and timing of bidding activities. This may include: eligibility requirements, procedure for clarification of bids, bid preparation, number of copies submitted, language, pricing, currencies and currency conversion mechanism, instructions for modification and withdrawal of bids, bid submission procedures, bid opening and closing/deadline, evaluation and award of contract procedures, procedure for the correction of mathematical discrepancies, purchaser's right to accept any bid and reject any bid, notification award and procedures for contract signing.

- Evaluation & Qualification Criteria - provides criteria that the Mission/procuring entity will use to evaluate the bids and post-qualify the lowest evaluated bidder.

- Technical Specs/Terms of Reference - provides for the detailed specification of the goods/works or terms of reference for the services.

- Delivery Requirements - provides contract requirements – quantities to be delivered, delivery schedule, delivery sites, delivery conditions, etc.

- Conditions of the Contract - sets out the terms and conditions of the contract between the Mission/Contracting Entity and the Vendor/Supplier/Contractor, including the rights and obligations of both parties.

- Sample Forms – provides the forms used by the bidder in submitting the bid.

II. BIDS EVALUATION AND AWARDS COMMITTEE (BEAC)/ SECRETARIAT and Technical Working Group (TWG)

The COM/HOO shall create an Ad-Hoc **Bids Evaluation and Awards Committee (BEAC)** when the Mission would conduct a competitive bidding activity.

The BEAC shall normally be composed of three members, the RMO, the Project Manager and one staff appointed by the COM/HOO. The Chairman of the Committee is appointed by the COM/HOO. Depending on the nature and complexity of the procurement, and when there are other institutions involved, the BEAC's members may be more than three. Members should be in odd number to break up ties. The donor should be kept informed about the procurement process/bidding activities and if deemed necessary may be given a seat on the committee.

The BEAC shall be responsible for the conduct of the bidding. The BEAC shall evaluate bids using the Bid Analysis Summary (BAS) (attachment 18.2). The BEAC shall submit the final Bid Evaluation Report containing the BEAC's recommendation to the COM/HOO and then through the GPSU for approval.

Impartiality and confidentiality shall be maintained during bidding. Any BEAC member who has a conflict of interest with a bidder must immediately declare it and withdraw from the BEAC. Prior to convening, BEAC members must sign a Declaration of Non-Conflict of Interest (Attachment 19.13), which will form part of the official documentation connected with this procurement. No information about the examination, evaluation or decision about the award will be disclosed before contract signing. Any attempt by a bidder to influence the process may result in disqualification.

The Mission's Procurement Focal Point may act as the **Secretariat** of the BEAC. The Secretariat shall assist the BEAC in the conduct of its functions and will serve as main support of BEAC.

The COM/HOO may appoint a **Technical Working Group/Evaluator (TWG)** that is external to the committee (non-voting) in case the requirement being bidded out is highly technical in nature. The technical evaluation report shall be attached to the Bids Analysis Summary (BAS).

Any request for clarification requiring communication with the bidders during the evaluation process shall be done in writing and be part of the evaluation report.

The evaluation process should be completed within the tender/bid validity period specified in the bidding documents.

III. BIDDING PROCEDURES

1. Scenario for a Bid Opening –

1.1) The Bidders' representatives who are present shall sign and register evidencing their attendance. The Secretariat shall register and accept all bids. The Bids Evaluation and Awards Committee (BEAC) shall open the Bid envelopes in the presence of Bidders' representatives who choose to attend the Bid Opening.

1.2) Should there be a withdrawal/non participation advise from among the prospective Bidders, letters of withdrawal shall be read out and recorded during the Bid opening.

1.3) The envelope marked "Original Bid", shall be opened one at a time, and the following information shall be read out and recorded:

(a) the name of the Bidder

(b) the presence, form, amount (and sufficiency) and validity of the Bid security (if required)

The Bid Security should be in any of the following forms: certified (manager's or cashier's) check, bank guarantee, confirmed irrevocable letter or credit. (Please ensure consistency in the bidding documents)

The Bid Security must be valid for a minimum of e.g. 75 calendar days (45 + 30) days from the date of the bid submission. (Please ensure consistency with the bidding documents)

The Bid Security should be enclosed in the "Original Bid" envelope.

(c) The presence or absence of the following bidding documents vis-à-vis a checklist of the required documents. (Please ensure consistency with the bidding documents)

- Signed Bid Form
- Signed Price Schedule
- Signed Technical Specifications
- Manufacturer's Authorization Form
- Bidders Eligibility and Qualification Statement Forms
- Documents Establishing Goods, Eligibility and Conformity to Bidding Documents (if applicable)
- Pro-forma Contract
- Bid Security

All documents included in the "Original Bid" envelope shall be initialed by the members of the BEAC. The BEAC shall determine each Bidder's compliance with the documents required to be submitted as prescribed in the Instructions to the Bidders, Documents Comprising the Bid, of the Bidding Documents. For this purpose, the BEAC shall check the submitted documents of each Bidder against a checklist of required documents to ascertain if they are all present in the envelope marked "Original Bid".

1.4) Immediately after determining compliance (completeness) with the documentary requirements, the BEAC shall check the Financial Proposals of Bidders and announce the Bid Price inclusive of any discounts that may be offered. **Only bids that are determined to comply with the bid requirements shall immediately be considered for detailed technical evaluation and comparison.**

1.5) The Secretariat shall prepare the minutes of the proceedings of the Bid Opening that shall include, as a minimum: (a) names of Bidders, their Bid price, Bid security, findings of the preliminary examination vis-à-vis checklist; and (b) attendance sheet. The **BEAC members shall sign the abstract of Bids as read** (attachment 19.15) and the observers may witness the same.

2. Process to be Confidential

Members of the BEAC, including its staff and personnel, as well as its Secretariat and the TWG, are prohibited from making or accepting any kind of communication with any bidder regarding the evaluation of their bids until the issuance of the Notice of Award. The entire evaluation process shall be completed in not more than fifteen (15) days (may be shorter depending on subject procurement) from the deadline for receipt of proposals.

3. Contacting the Procuring Entity (IOM)

No Bidder shall contact IOM on any matter relating to its Bid, from the time of Bid submission to the time the Contract is awarded. Any effort by a bidder to influence IOM and its decision in respect of the bid evaluation, bid comparison or contract award will result in the rejection of the Bidder's Bid.

4. Clarification of Bids

Members of the BEAC, including its staff and personnel, as well as its Secretariat and the TWG, are prohibited from making or accepting any kind of communication with any bidder regarding the evaluation of their bids until the issuance of the Notice of Award.

During the evaluation of the bids however, the BEAC, may, at its discretion, ask the Bidder for a clarification of its Bid. The request for clarification and the response shall be in writing, and no changes in the prices or substance of the bid shall be sought, offered, or permitted.

5. Conversion to a Single Currency

IOM, for purposes of bid evaluation and comparing the bid prices will convert the amounts in various currencies in which the Bid Price is expressed in the Official Currency indicated in the Bidding Documents at the exchange rates officially used by IOM for the month on the date of Bid Submission or governing exchange rate in the country of IOM whichever is deemed appropriate by the BEAC.

6. Detailed Evaluation and Comparison of Bids

The BEAC will undertake the detailed technical evaluation and comparison of Bids which have passed the preliminary examination of Bids. Detailed examination of the documentation requirements shall be done by the Procurement Focal Point/Secretariat, and a separate technical review, if there is a Technical Working Group or other advising Technical Expert. Copy of the Bid shall be provided to the TWG while the Original copy shall be kept by the Secretariat. In case of discrepancies, Original Copies shall prevail.

The evaluation shall be conducted based on the evaluation criteria indicated in the Instruction to Bidders, Evaluation and Comparison of Bids, of the Bidding Documents, to determine the Most Responsive Bid. The methodology of evaluation to determine the Most Responsive Bid should be indicated in the Bidding Documents.

7. Post-Qualification/Verification of Bidder's Eligibility

IOM shall determine to its satisfaction whether the Bidder that is evaluated as having submitted the Most Responsive Bid is qualified to perform the contract satisfactorily. The determination shall use non-discretionary "pass/fail" criteria and in accordance with the criteria listed in the Bidding Documents. The determination shall take into account the Bidder's legal, financial, technical, and production capabilities. It shall be based upon and verification of the documentary evidence of the Bidder's qualifications submitted by the Bidder, as well as such other information that IOM deems necessary and appropriate. An affirmative determination shall be a prerequisite for the award of the contract to the Bidder. A negative determination shall result in rejection of the Bidder's Bid, in which event IOM shall proceed to the next Most Responsive Bid to make a similar determination of that Bidder's capabilities to perform satisfactorily. If the second Bidder, however, fails the post qualification, the procedure for post qualification shall be repeated for the next Most Responsive Bidder and so on until determination is made for the contract award.

8. IOM's Right to Reject Bids, Declare a Failure of Bidding, and not to Award the Contract

Based on the following grounds, IOM reserves the right to reject any and all Bids, declare a Failure of Bidding at any time prior to the contract award, or not to award the contract, without thereby incurring any liability, and make no assurance that a contract shall be entered into as a result of the bidding:

(a) If there is prima facie evidence of collusion between IOM Staff (BEAC, Secretariat and the Technical Evaluator/Group) and any of the bidders, or if the collusion is between or among the bidders themselves, or between a bidder and a third party, including any act which restricts, suppresses or nullifies or tends to restrict, suppress or nullify competition;

(a) If the BEAC is found to have failed in following the prescribed bidding procedures; or

(b) For any justifiable and reasonable ground where the award of the contract will not redound to the benefit of IOM as follows: (i) if the physical and economic conditions have significantly changed so as to render the project no longer economically, financially or technically feasible as determined by IOM; (ii) if the

project is no longer necessary as determined by IOM; and (iii) if the source of funds for the project has been withheld or reduced through no fault of IOM.

In addition, IOM may likewise declare a Failure of Bidding when:

(a) No bids are received;
(b) All prospective bidders are declared ineligible;
(c) All bids fail to comply with all the bid requirements or fail post-qualification; or
(d) The bidder with the Most Responsive Bid refuses, without justifiable cause to accept the award of contract, and no award is made.

1. Award Criteria

IOM shall award the contract to the Bidder whose Bid has been determined to be the Most Responsive Bid.

10. Issuance and Acceptance of Notice of Award (NOA)

Prior to the expiration of the period of Bid validity, IOM shall notify the successful Bidder in writing that its Bid has been accepted, through a Notice of Award received personally or sent by registered mail or electronically, receipt of which must be confirmed in writing within two (2) days by the successful Bidder and submitted personally or sent by registered mail or electronically to IOM. Within e.g. seven (7) calendar days from receipt of the Notice of Award, the successful Bidder shall furnish IOM with the required performance Security (and other documents which might be stipulated in the Bidding Documents).

After a decision to award a contract is made, notice of award should be sent to the successful bidder. Once the contract has been signed and required performance security (if any) has been posted, notice to unsuccessful bidders should be sent.

11. Performance Security

Within a maximum period of e.g. seven (7) calendar days from the receipt of the Notice of Award from IOM and in no case later than the signing of the contract between the successful Bidder and IOM, the successful Bidder shall furnish to IOM the Performance Security, and in the form prescribed in the ITB of the Bidding Documents. Failure of the successful Bidder to comply with this requirement shall constitute sufficient grounds for the annulment of the award and forfeiture of the Bid security, in which event IOM shall initiate and complete the post qualification of the second Lowest Most Responsive Bid. The procedure shall be repeated until the Lowest Most Responsive Bid is identified and selected for contract award. However, if no Bidder passed post-qualification, the BEAC shall declare the bidding a failure and conduct a re-bidding with re-advertisement.

12. Issuance and Acceptance of the Contract

IOM shall send the signed Contract Form to the successful Bidder once IOM received the Performance Security (and other required documents).

13. Thank you Notice- Informing Unsuccessful Vendors

1. In the case of competitive bidding IOM Mission procurement focal point should inform the non-winning vendors via Thank you Notice (19.21). This Thank you Notice will be sent to the unsuccessful vendors after the Notice to Award is accepted by the winning vendor.
2. Mission may publish the following information:
    i. The name of the successful Vendor
    ii. The value at which the award was made
    iii. The basis of the award