6. Solicitation

6.1 Overview. Subsequent to requirements definition and sourcing, a solicitation method must be selected to formally communicate a procurement requirement and request an offer from potential Vendors. The appropriate method of solicitation depends on market conditions, nature and value of the requirement, location and urgency. In selecting a solicitation method, it must first be determined whether the requirements can be met through using an existing Long Term Agreement (LTA), redeployment of assets, or supply available in UNRWA stocks. A justification should be recorded explaining the chosen strategy. If the need for competition is established, one of the solicitation methods described in Section 6.3 below shall be used.

6.2 Types of Competition. The Agency may use international, regional or local competition as appropriate for the type of commodity and market; however, it is essential to ensure that the type of competitive solicitation is both economic and efficient and results in UNRWA obtaining best value for its money. UNRWA also seeks to foster the development of local markets, and where possible, to support the local Palestinian economy.

6.2.1 Open International Competition. While this form of competition may be the most competitive by allowing all potential Vendors the opportunity to bid for UNRWA’s requirements it may not be appropriate in most cases based on the nature of the Agency’s products and areas of operations. Therefore open international competition may be best used to solicit Expressions of Interest in order to pre-qualify international Vendors prior to a formal solicitation.

6.2.2 Regional and National Competition. UNRWA seeks to foster the development of local markets and, where possible, to support the local Palestinian economy. If procurement requirements can be satisfactorily met within a local context, a regional or national competitive bidding exercise can be undertaken. Qualified international Vendors expressing interest in a regional or national tender shall not automatically be excluded from participating in the tender on the same terms as regional or national Vendors, if they have regional or local presence. Regional or national competition can be open to all local Vendors or limited to a selected number of local Vendors. To ensure competitiveness regional or national competition shall only be used if there are enough Vendors of the goods, services or construction in the area to ensure competition. National or regional tenders are typically conducted in the following cases:

a. When services or construction requirements are scattered geographically or spread over time and the work would therefore typically not be of interest to international companies;
b. When goods are available locally at prices equivalent to or lower than the global market price when all factors are considered or if knowledge of the local or national system is a requirement;
c. If a donor agreement provides for procurement from a limited geographical area.

6.3 Solicitation Methods. Offers for the supply of goods, services or construction to the Agency will be solicited using one of four methods: Low Value Purchasing, Requests for Quotation, Invitations to Bid or Requests for Proposal. The Sponsoring Officer in HQ or Field PLD will determine the appropriate solicitation method to be used based on the estimated value of the procurement action, in accordance with the value thresholds set forth in Appendix D – Solicitation and Submission Method Selection and taking into consideration the nature of the goods, services or construction to be procured and the information provided by the Department Requester.

6.3.1 Low Value Purchasing. Low Value Purchasing is not a formal method of solicitation. It is a method based on the comparison of prices obtained from potential Vendors, received orally or in writing. Prices taken orally must be written down carefully, dated and kept in the file. Contracts are awarded to the Vendor offering the best value for money, based on service, quality and pricing considerations. Justification for the award shall be documented in a note to the file. Low Value Procurement is an appropriate method for the procurement of readily available off-the-shelf goods or standard specification commodities or simple works.

6.3.2 Request for Quotations. A Request for Quotation (RFQ) is an informal method of solicitation used for procurement of goods and services where the requirement is clear and specific and for construction if it is a simple and clearly defined specification. The corporate PLD RFQ template must be used for this sourcing. When using an RFQ, at least three Vendors must be invited to submit a quotation. Should it not be possible to obtain three quotations, the reasons must be recorded in writing, signed by the Sponsoring Officer. It is mandatory that each RFQ has a clearly defined submission deadline which must be specified in the RFQ document and communicated to all prospective bidders. Quotations in response to an RFQ must be received in writing. Procurement officials may receive the offers directly, either by mail, fax or e-mail; however, a separation of duties is highly desirable if resources permit (Section 2.2.2). Awards are made based on the lowest priced, most technically acceptable offer evaluation methodology (See Chapter 8).

6.3.3 Invitation to Bid. An Invitation to Bid (ITB) is a formal invitation by the Agency to Vendors to submit formal offers in accordance with a specified procedure for the supply of goods, services or construction meeting precise specifications (Bid). In general, an ITB is used for the procurement of goods with objectively measurable quantitative and qualitative specifications. An ITB may also be used to contract for services that can be expressed quantitatively and qualitatively. ITBs may be based on a one-envelope system, i.e. the financial and the technical components of a bid are combined in one single document or are separately sealed into two envelopes. An ITB can either define the minimum requirements goods or services have to meet or in the alternative a range of acceptable requirements. Contracts are awarded on the basis of the lowest priced substantially compliant offer evaluation methodology, including delivery terms and other technical requirements stated in the ITB.

6.3.4 Request for Proposal. A Request for Proposal (RFP) is a formal invitation issued to a Vendor to submit a formal offer in accordance with a specified procedure to supply goods, services or construction meeting a general description (Proposal). An RFP is used where the goods, services or construction required cannot be quantitatively or qualitatively expressed in a complete and definitive manner, such as for complex goods, services and construction when proposals from the Vendors are preferred. An RFP requests a technical proposal offering a solution to the requirements specified in the solicitation document as well as a separate financial proposal indicating all costs associated with carrying out the technical proposal. Therefore, Vendors must submit their technical and financial proposals sealed separately in a two-envelope system. The contract is awarded to the qualified Vendor whose proposal is considered to be in accordance with
with UNRWA procurement principles of best value for money, fairness, integrity, transparency, effective
competition, and interest of the Agency and Palestine refugees.

6.3.5 Long Term Agreements. A Long Term Agreement (LTA) is a written agreement between the Agency
and a Vendor that is established for a defined period of time for specific goods or services at prescribed
prices and other provisions with no legal obligation to order any minimum or maximum quantity. LTAs are
typically valid for a period of two to five years and will be dependent on field unique and market conditions.
LTAs cover a product or products or services frequently requested; LTAs represent a supply option for
UNRWA based on projected needs to allow for streamlined procurement as and when needed. Before
undertaking a procurement action, The sponsoring office in consultation with the Department Requestors
should determine if an existing LTA can be used to supply the required good or service, including an LTA
established by another UN organisation (see Chapter 14 on Cooperation). The establishment of an LTA is
based on competitive procurement using one of the solicitation methods set forth above and should be
coordinated on an Agency-wide basis as part of the annual procurement planning process.

6.4 Solicitation Documents. Solicitation is the mechanism used to communicate a procurement
requirement and request an offer from potential Vendors. For ITBs and RFPs, the Sponsoring Officer is
responsible for preparing the formal invitation to invited Vendors which consists of the documentation
necessary to fully describe the requirements of the procurement action, as well as the procedures for
submission of offers (solicitation documents). The Awarding Authority is responsible for approving
and signing the solicitation documents to ensure that they meet the requirements of this Manual. For
quotations requested in writing, a clear description of the goods, services or construction required is
adequate. UNRWA standard solicitation documents, available on UNRWA's Intranet, must be used when
soliciting offers from Vendors following a formal method of solicitation (EOI, RFQ, ITB & RFP). The standard
documents are templates, which contain UNRWA mandatory terms and conditions customized to fit the
specific procurement process being undertaken. The templates are to be completed with the specific
details applicable to each solicitation. No changes in the standard paragraphs of the solicitation documents,
including the annexes, shall be made without prior clearance by the CPLD. Care must be taken not to
include any requirements or conditions in the documents that contradict the UNRWA General Conditions
for Contracts (GCC), or the standard text of any of the documents.

6.5 Components of Solicitation. Solicitation documents consist of three components: Letter of
Invitation, including Instructions to Bidders, Requirements Definition and Contractual Terms. The minimal
requirements of each component depending on the type of formal solicitation method, Invitation to Bid
or Request for Proposal are set forth below.

6.5.1 Solicitation Documents for ITB.

a. Detailed, clear and complete specifications for the goods, services or construction, including real
   property, to be procured;
b. Commercial requirements, including payment terms, and as applicable, quantities of goods or bill
   of quantities for works and delivery terms or timetable for performance;
c. A request that Vendors provide costs of freight, insurance, installation or other ancillary services, where
   applicable;
d. An indication that the Agency will award the tender on the basis of the "lowest priced, most
technically and commercially acceptable" responsive offer received; and

e. If applicable, a clear indication of the objectively measurable non-price criteria that will be
considered in evaluating the bids (e.g. acceptable deviations from technical specifications, delivery date,
warrenty period), the methodology that will be used and relative importance of each criterion.

6.5.2 Solicitation Documents for RFP.

a. Detailed, clear and complete specifications for the goods, services or construction to be procured
   which provide sufficient information to permit responsive offers;
b. Commercial requirements, including payment terms, and as applicable, quantities of goods or bill
   of quantities for works and delivery terms or timetable for performance;
c. A request for any other information necessary to evaluate the proposal;
d. An indication that the Agency will award the tender to the Vendor offering the "best value for
   money"; and

e. A clear indication of all criteria that will be considered in evaluating the proposal, the methodology
that will be used and the relative importance of each criterion.

6.5.3 Other Requirements.

a. Detailed, clear and complete instructions regarding the procedures for submission of the offers,
   including a signed submission form;
b. The closing date for receipt of the offers and validity of offer;
c. A statement regarding the acceptability of partial or alternative offers, if applicable;
d. The Agency's terms and conditions or draft contract applicable to the specific procurement activity,
   together with a request that the invited Vendor indicate, as part of its submission, acceptance in writing of
   the terms and conditions or draft contract or specify any requested deviations, including any security or
   bond requirements.

e. A statement of the Agency's applicable tax exemptions and that all offers should be submitted
   exclusive of any tax and duties;
f. A clear statement that prior to the closing date, no communication between the invited Vendors
   and the Agency is permitted except with the Sponsoring Officer in writing or as otherwise specified in the
   instructions; and

g. A request that invited Vendors inform the Agency of their reasons for not submitting an offer, if
   applicable;
h. If samples of goods offered are required as part of the evaluation, the solicitation documents must
   state the quantity, size and other detailed specifications for the required goods, as well as a description
   of the tests that will be applied. The solicitation documents will also clearly state that samples will be
   provided free of charge, that they are usually not returnable, but may be returned upon request at the
   expense of the Vendor in "as-is" condition.

6.6 Invitation of Vendors.

6.6.1 Transmission of Solicitation Documents. RFQs may be requested verbally (including by telephone)
or through consultation of price lists via catalogue, Internet or other media. The quotation that is the basis
for the award must be documented by written confirmation from the Vendor or a copy of the published price list. The Sponsoring Officer must also document all quotations obtained (including any not confirmed in writing), the sources from which such quotations were obtained and any other relevant information. Solicitation documents for ITBs and RFPs will be sent simultaneously to all invited Vendors by any means which provides confirmation of receipt (including but not limited to registered letter, courier, facsimile, e-mail, e-tendering etc.). In cases where it is considered expedient, documents may also be transmitted for delivery through the relevant Field Offices. It is the responsibility of the Sponsoring Officer to determine the method of transmission, taking into consideration the circumstances of the specific procurement action and the objective of providing all invited Vendors with a substantially equal opportunity to respond. In the case of open competition solicitation documents will be available to all Vendors via UNRWA and UNGM websites.

6.6.2 Confidentially of the Short List. In cases where the solicitation documents are only being made available to a short list of selected Vendors, UNRWA shall not disclose the names of any short-listed companies, in order to safeguard the integrity of the procurement process.

6.6.3 Tender Period. The closing date for the submission of bids and proposals will be determined by the Sponsoring Officer in consultation with the Department Requester, taking into account the delivery requirements, the complexity of the procurement activity, the urgency of the request in connection with emergency situations or operational urgencies and the need to provide Vendors with adequate time to prepare and submit an offer. See Appendix G for the mandatory minimum timeline / duration for procurement notices / tender adverts. Requests by Vendors to extend the closing date for submission of offers may be considered and granted by the Sponsoring Officer after consultation with the Requester. The Officer, in consultation with the Requester, may also extend the closing date for submission of offers if deemed appropriate to permit invited Vendors to submit Responsive Offers. Extensions of the closing date are permitted only when the extension is not considered to disadvantage any invited Vendor and to notify all Vendors of the extension using the same media / websites used for the procurement notice / tender advert. Under no circumstances may the closing date be changed to an earlier date.

6.6.4 Amendment of Solicitation Documents. If it becomes necessary before the closing date to modify the solicitation documents in any way, an amendment will be issued to all invited Vendors. The Sponsoring Officer will evaluate whether sufficient time remains for invited Vendors to consider the amended solicitation documents. If the remaining time is not considered sufficient, the Sponsoring Officer may extend the closing date. If the Awarding Authority determines that the modifications of the solicitation documents represent a substantial change in the Organization’s requirements, the solicitation will be cancelled and re-issued based on the new requirements. In the case of open competition any modification must be uploaded to the UNRWA and UNGM websites, as well as all the media / websites used for the initial publication.

6.6.4.1 “Substantial Change” refers to any content or feature of the proposal being significantly different from the essential requirements of the RFQ/ITB/RFP, and:
(i) Substantially alters the Scope and Quality Requirements,
(ii) Limiting the Rights of UNRWA and / or Obligations of the Bidder, and;
(iii) Adversely Affects the Fairness and the Principles of Process Acquisition, as those who put the Competitive Position of other bidders in danger.

6.6.5 Cancellation of the Solicitation. It may become necessary to cancel the solicitation prior to the closing date, for example, if the goods, services or construction are no longer needed, the requirements change substantially, funding is no longer available or continuation of the solicitation is no longer in the best interests of the Organisation. The Awarding Authority has the discretion to cancel a solicitation prior to the closing date. In this case the Sponsoring Officer will notify all invited Vendors that the solicitation has been cancelled, as well as document the reasons for the cancellation. Any offers already received at the time of cancellation will be returned or destroyed, in which case the Vendor will be notified. The relevant action will be appropriately documented, including notice of cancellation on relevant websites in the case of open competition.

6.7 Communication with Vendors. During the solicitation period, the Sponsoring Officer is the Agency’s sole point of contact for invited Vendors, except in cases where the solicitation documents provide for meetings with invited Vendors. All communication with invited Vendors during the solicitation period will be documented.

6.7.1 Vendor Requests for Additional Information. If additional information or clarification is requested by one of the invited Vendors, the same information or clarification will be made available to all invited Vendors through the media / websites used for the initial advertisement. The Officer will prepare and dispatch written replies to Vendors’ queries, and make all replies known, together with the text of the queries, to all Vendors, without disclosing the source of the queries. Examples of information that can be released to all invited Vendors include:

a. Additional information and/or clarification relative to specifications, a statement of work or other provisions;
b. Opinions on whether an alternative item is acceptable;
c. General information regarding Agency’s bid and proposal opening procedures.

6.7.2 Meetings with Invited Vendors. Where the solicitation documents provide for meetings and site inspections between invited Vendors and the Agency prior to the closing date, the Sponsoring Officer will determine whether a PLD representative should be present during the proceedings. It is the joint responsibility of the Agency personnel who participate in meetings with invited Vendors to produce a written record of the proceedings. A time for the meeting and/or inspection shall be stated in the solicitation document, allowing sufficient time for all Vendors to plan for attendance at the conference and/or inspection. All attendees must sign the attendance register.

6.8 Exceptions to Competitive Bidding. A competitive solicitation procedure is considered the standard for ensuring a fair, transparent and efficient procurement process. Procurement may, however, be undertaken without competition (Waiver of Competition) when a competitive solicitation procedure is not possible or feasible or would not efficiently and effectively meet the interests and objectives of the Organisation. The Sponsoring Officer must exercise sound judgment in requesting a waiver on the basis of one of the exceptions noted below and will ensure that in each case the justification for not seeking
for approval. Multiple waivers are not to be used to as a method of disaggregation.

6.8.3 Special Considerations for the Lease or Purchase of Real Property. A Sponsoring Officer, on approval of a waiver, shall, as part of a team, directly negotiate the lease or purchase of real property when directly comparable property meeting the requirements is not available in the geographical area where it is required. The services of a qualified real estate broker or consultant may be considered to assist in the identification of suitable real estate and the establishment of the appropriate lease or sale price. In such cases, care must be taken that any commissions or fees charged are consistent with those generally applied in the local market. When directly comparable, suitable real estate is available (e.g. for commercial warehouse space, garage space, etc.), a competitive solicitation process should be used. For purposes of applying the delegated authority limits set forth in Appendix C, the value of the procurement action will be the sale price or annual lease cost, including any related fees and assessments, or, for leases with a term of less than a year, the total value of the lease, including any related fees and assessments. A procurement action for the purchase of real property must be cleared ex ante by, and conducted under the supervision of the CPLD. DLA must be consulted for all purchase of real estate.

6.9 Emergencies. In the event of an emergency or an operational urgency as set forth in OD10 and section 6.8 above and Appendix A, the Awarding Authority may authorize a Waiver of Competition and noncompliance with normal tendering procedures including a shortened tender period, and/or a waiver of the requirement for a bid bond. The Awarding Authority may then award any contract without the prior written advice of DAS (who may consult with the ACP) or the LCP, as applicable. However, CPLD or such FOD shall endeavour to obtain the advice of the LCP and/or DAS (who may consult with the ACP), as applicable, prior to approving the contract and, as promptly as possible after approval of the contract, submit full details of such contract to DAS or the LCP, as applicable, with documentation as though they were submissions prior to award and with a full explanation of the emergency or operational urgency justifying non-compliance with applicable procedures. Section 2.4.3 of this Manual shall remain operative in an emergency or operational urgency situation.

6.10 Ex post facto. For any contract awarded pursuant to an emergency or operational urgency whose value is within the review threshold as set forth in Appendix C, then the DAS (who may consult with the ACP) or the LCP, as applicable, shall perform the same review function as set in Section 2.4.3 on an ex post facto basis. Where the value of the procurement action exceeds the review threshold of the relevant Procurement Committee set forth in Appendix C the Awarding Authority will ensure that a the ex-ante recommendation to waive competition or other requirements defined above, has been obtained from the relevant Procurement Committee before the waiver is granted, or that the process to obtain the waiver is approved by the relevant Procurement Committee after the waiver was approved.

6.10.1 Ex-Ante. A neo-Latin word which, when translated, literally means “before the event”. The word is commonly used as a commercial and business term to refer to the result of a particular procurement action or series of actions that are either intended or forecasted in advance. In UNRWA, procurement policy, it is used to refer to a series of planned procurement actions that have yet to be initiated or yet to transpire. Ex-ante evaluation is a forward-looking assessment of the likely future effects of existing or new initiatives and support such as policies, programmes and strategies. It takes place prior to the implementation of an

6.10.1 Procedures for Waiver of Competition. Waiver of Competition will be effected in accordance with the procedures provided for in this Manual governing contact with Vendors. The Sponsoring Officer may choose any method for obtaining Offers set forth in Section 6.3 above regardless of the value of the procurement action. The Sponsoring Officer shall seek approval to undertake direct negotiations (Section 8.9.2) and may recommend award to the selected Vendor provided that the offer substantially conforms to the requirement and the price is acceptable to the Department Requester.

6.8.2 Review and Approval of Waiver of Competition. In the Field a Deputy Director may be appointed by the FOD to approve all requests for Waivers of Competition at every level; for Headquarters Departments, all requests for Waivers of Competition will be submitted to the Chief Procurement and Logistics Division
The following necessary and basic procurement actions shall therefore still be required:

6.11 Electronic Submission of Documents. In the event that the solicitation documents are distributed electronically and that the documents also allow bidders the opportunity to submit their offers by e-mail the integrity of the procurement process must be maintained; all invitees must receive the same information at the same time. Due diligence should be exercised to ensure that the names of short-listed Vendors are not disclosed to the other invitees, e.g. by sending individual emails to each Vendor on the list.

Where the solicitation documents state that bids/proposals are accepted by email, UNRWA must create a designated and secure UNRWA e-mail address for receipt of offers. The email address must be specified in the solicitation documents and it must be made clear that only offers sent to the dedicated email address will be accepted. An individual not directly involved in the procurement process and duly authorized by the CPLD or the relevant HFPLO/FOD, shall have the sole access (through password protection) to the dedicated email. When an offer is received, the duly authorized person shall immediately print out the offer, place each offer in a sealed envelope, marking the envelope appropriately with all necessary information and placing the offer in a locked and secure place. In the case of RFPs, bidders must be asked to password protect their financial submission. The password for the financial submission will only be requested by the TOC Chair after the technical evaluation has been done, and signed off by the evaluation panel. If the solicitation documents do not allow electronic submissions, any submission received by electronic means shall be rejected and this must be clearly stated.

6.12 Direct Contracting. Consistent with the general procurement principle, it is the policy of UNRWA to rely on competitive procurement methods, in the course of determining the best sources of goods and services that will satisfy its requirements.

While open and competitive procedures are the preferred way to ensure wide and effective competition, there are circumstances when the cost of undertaking the process itself outweighs the benefits, hence the need for flexibility. Under such circumstances, and provided certain conditions are justifiably met, UNRWA Staff may apply non-competitive methods for awarding contracts.

Direct Contracting, also known as Sole-Source or Single Source, is a procurement method that allows the awarding of a contract without competition. UNRWA may only use this method when it is not feasible to undertake a competitive bidding process, and that proper justifications exist.

Although the direct contracting modality waives competitive process, this method does not diminish the responsibilities and accountabilities of staff involved in procurement.

Under the direct contracting modality a contract must still be awarded to a vendor whose offer substantially conforms to the requirements at an acceptable price, obtained either through informal solicitation or negotiations.

The following necessary and basic procurement actions shall therefore still be required:

a) Writing the Specifications/TOR/SOW;

b) Soliciting a Proposal or Bid through a letter from UNDP directly requesting the selected vendor to submit an offer based on the Specification/TOR/SOW;

c) Subjecting the Proposal or Bid to the review and rating by an evaluation team; and

d) Application and enforcement of the UNDP Standard Contract forms and UNDP General Terms and Conditions.

At a minimum, and whenever the amount involved exceeds USD 5,000, the following documents shall also be on kept on record to support the direct contracting decision:

a) A proper rationalization or justification on why the direct contracting mode is being applied, including citation of any adverse consequences of pursuing a competitive method;

b) An analysis of all risks and how the quality of outputs or results can remain assured despite waiving competition; and

c) An assessment of how and why the principle of best-value-for-money remains achieved.

6.13 The United Nations Global Compact

UNRWA expects its Vendors to support the United Nations Global Compact (UNGC) and its principles. The UNGC is a voluntary international corporate citizenship network launched to support both the private sector and other social actors’ participation in the advancement of responsible corporate citizenship and universal social and environmental principles to meet the challenges of globalization.

The UNGC requests companies to embrace, support and enact, within their sphere of influence, a set of core values in the areas of human rights, labour standards, the environment and anti-corruption, known as the 10 principles of the UNGC:

a. Human Rights

Principle 1: Businesses should support and respect the protection of internationally proclaimed human rights and

Principle 2: Make sure that they are not complicit in human rights abuses;

b. Labour

Principle 3: Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;

Principle 4: The elimination of all forms of forced and compulsory labour; and

Principle 5: The effective abolition of child labour; and

Principle 6: The elimination of discrimination in respect of employment and occupation.

c. Environment

Principle 7: Businesses should support a precautionary approach to environmental challenges;

Principle 8: Undertake initiatives to promote greater environmental responsibility; and

Principle 9: Encourage the development and diffusion of environmentally friendly technologies.

d. Anti-corruption

Principle 10: Businesses should work against all forms of corruption, including extortion and bribery.

More information can be found on www.unglobalcompact.org.

6.14 Sustainable Procurement

Sustainable Procurement is the practice of integrating requirements, specifications and criteria that are compatible with and in favour of the protection of the environment, social progress and the support of economic development, primarily by seeking resource efficiency, improving the quality of products and services and ultimately optimizing costs.

The Sustainable Procurement concept maintains that government bodies, the public sector and the United Nations have an opportunity, through their collective and substantial purchasing power, to leverage markets to produce more sustainable goods and services. This market influence can be used as a strategic signal to the market to further advance sustainability issues and in particular to promote United Nations