

PW-ACP-911



**SERBIA  
EMERGENCY  
ENERGY EFFICIENCY  
PROJECT**

**PROCUREMENT PROCEDURES  
MANUAL**

*Prepared by*

**Nexant**

*for*

**USAID/Serbia  
USAID/E&I  
Washington DC**

**MAY 2002**

Contract LAG-I-00-98-00006-00  
Task Order 109

**23865-109-0002**

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**1.1 INTRODUCTION**

This Manual establishes procurement procedures to be followed by Nexant personnel to implement the Serbia Emergency Energy Efficiency Program (“SEEEP”) funded by the U.S. Agency for International Development (“USAID”) under the Energy Indefinite Quantity Contract between Nexant and USAID<sup>1</sup> (“Prime IQC Contract”) and Task Order #9 for Southeast Europe Energy Efficiency<sup>2</sup> (“Task Order #9”). Task Order #9 requires that Nexant deliver to USAID a Procurement Procedures Manual for the SEEEP project.

This Manual has been prepared by the Nexant Procurement Specialist and the SEEEP Project Staff with the advice of the Contracts/Procurement Manager for submission to USAID. These procedures are guidelines for the acquisition of goods and services for the SEEEP project pursuant to the specific guidance set forth in Task Order #9 and the Prime IQC contract, together with applicable provisions of the USAID Acquisition Regulations (“AIDAR”) and Federal Acquisition Regulations (“FAR”).

Task Order #9 requires that Nexant provide technical assistance in the design and implementation of energy efficiency demonstration projects in publicly-owned facilities in municipalities in Serbia selected by USAID. Nexant is specifically responsible for procuring engineering/contractor services, equipment and materials to complete the energy efficiency demonstration projects.

**1.2 NEXANT ORGANIZATION**

Nexant will procure the services of engineering and contractor companies and purchase materials and equipment to complete energy efficiency demonstration projects in four to six municipalities in Serbia. After presentation to USAID of the Rapid Assessment Report that identifies suitable demonstration projects with estimated energy cost savings, Nexant will carry out a procurement action for each project approved by the USAID Cognizant Technical Officer. The organizational structure of the Nexant project and procurement staff is set forth in detail in Section 2 of this Manual. In addition, all contractual requirements to conduct this procurement of Nexant to USAID pursuant to both the Prime IQC Contract and Task Order #9 are outlined in this Section. All procurement commitments for the SEEEP project shall be recorded and tracked in a separate spreadsheet or database exclusively for this project, and Nexant’s electronic and paper filing structure is summarized in this Section.

**1.3 PREPARATION OF SOLICITATION PACKAGES**

The formal procurement process for the SEEEP project will start when Nexant’s staff in the Belgrade field office (“Project Staff”) prepare technical specifications for each project and submit them together with a requisition to the assigned Procurement Specialist. Section 3 of this

<sup>1</sup> IQC No. LAG-I-00-98-00006-00

<sup>2</sup> E1-Nexant-Serbia AWD MOD TO#9

Manual sets forth the procedures for preparing the Solicitation packages and subcontracting documents for each project. The Project Staff will conduct market research to identify local Serbian firms with the technical capability and capacity to perform each project. The Resident Program Director, or his designee, will then issue a solicitation to the bidder's list prepared by the Project Staff.

Each Solicitation will include a draft subcontract document for either a purchase contract, a purchase order or an indefinite quantity contract (collectively referred to as "subcontracts" in this Manual). The Procurement Specialist will draft subcontract documents that comply with the requirements of Task Order #9, the Prime IQC contract, relevant FAR/AIDAR provisions, and Nexant's own commercial practices. These subcontracts will be approved by the Contracts/Procurement Manager. In addition, the Procurement Specialist will review these same sources to determine the requirements for performance bonds, insurance, and representations and certifications. Finally, Nexant's requirements to establish subcontractor or supplier qualifications and the sources eligible under Task Order #9 are reviewed in this Section.

#### **1.4 EVALUATION OF PROPOSALS**

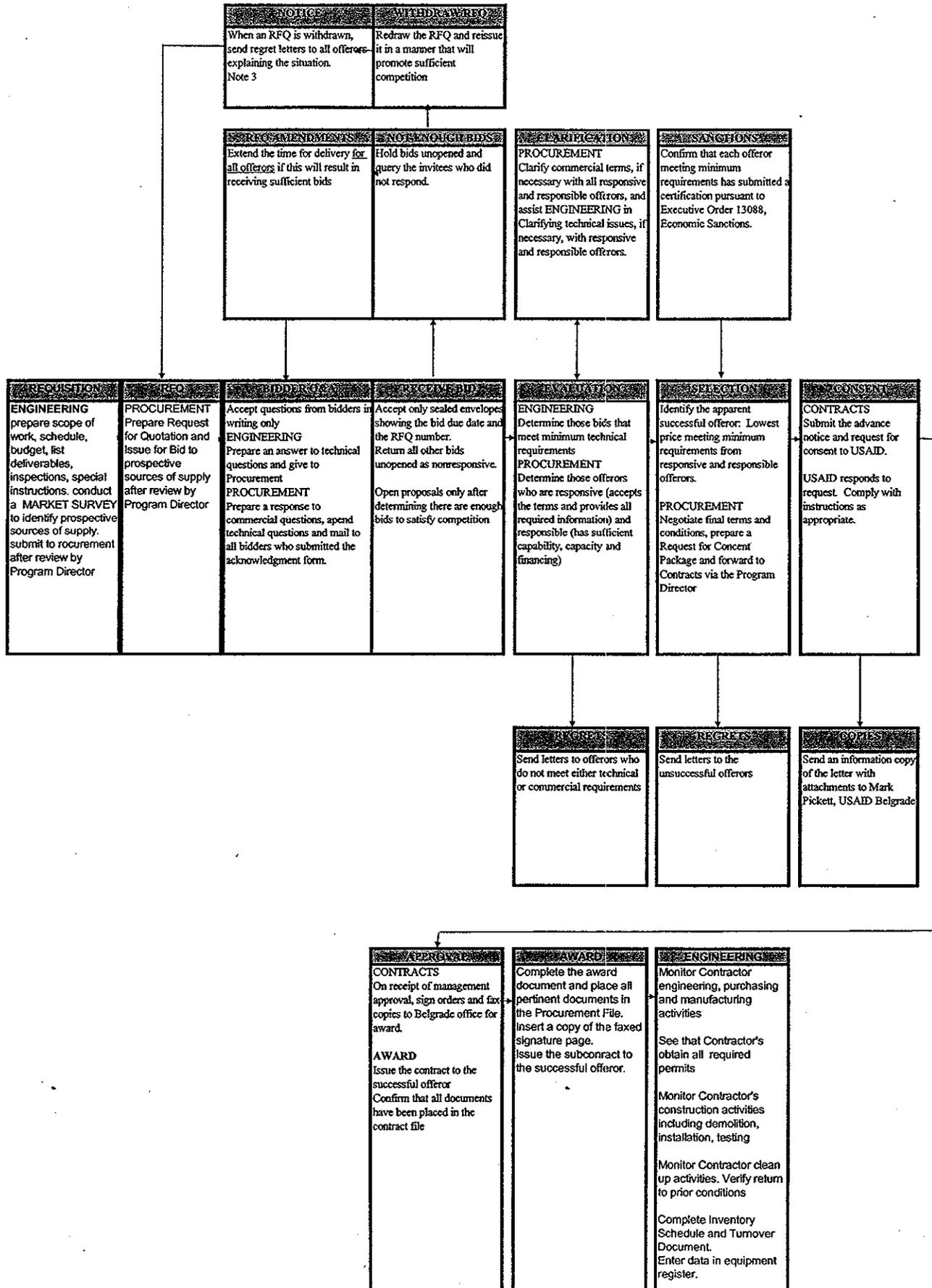
Nexant's procedures for the evaluation of proposals and submission of final recommendations for USAID consent is set forth in Section 4 of this Manual. A technical evaluation will be performed by three members of the Project Staff and a commercial evaluation will be performed by the Procurement Specialist, who will then prepare a final recommendation, draft an advance notice and request for consent to USAID, and submit the procurement package to through the Program Director to the Contracts/Procurement Manager. In the event that the proposals require clarifications or price negotiations, those negotiations will be performed by the Project Staff, with the advice of the Procurement Specialist, and shall be documented in accordance with the procedures set forth in this Section. The final procurement recommendation and a complete procurement package shall be submitted to the Contracts/Procurement Manager for approval and process with the signature of the Nexant Unit Director (serving as the IQC Manager or Deputy Manager) prior to forwarding to USAID for consent as required by Task Order #9. The Contracts/Procurement Manager will be given the opportunity to review and revise prior to the submission of the packages to USAID.

#### **1.5 SUBCONTRACT EXECUTION AND PERFORMANCE**

The procedures for subcontract execution and for issuing payments to the subcontractor are set forth in Section 5 of this Manual. The Contracts/Procurement Manager shall arrange for execution of the subcontract after receipt of USAID consent and the appropriate insurance, performance bond and other pre-award deliverables from each subcontractor. In the event that a project requires a subcontract modification, the Project Staff shall follow the procedures set forth in this Section to determine appropriate cost or price analysis, and each modification shall be submitted by the Contracts/Procurement Manager to USAID for consent. Procedures for early termination and dispute resolution are provided in this Section. The Project Staff shall arrange for the execution of the appropriate Close-Out documents, including Title Transfer Agreements and Turnover Documents, upon completion of each subcontract.

Procedures for payment of subcontractor invoices, including progress payments, are set forth in Section 5. Before a final payment will be issued, each subcontractor must provide a release and certification of final payment of lower-tier subcontractors.

# 1.6 SEEP PROCUREMENT PLAN: REQUISITION TO CLOSE-OUT



## Section 2

## NEXANT ORGANIZATION

### 2.1 NEXANT PROCUREMENT AUTHORITY

All procurement activity under the SEEPP project shall be overseen by the Nexant Contracts/Procurement Manager for the Washington, DC office. The assigned Project Procurement Specialist shall seek advice from the Contracts/Procurement Manager for subcontracting matters and the SEEPP Program Director for technical matters. The authority to obligate Nexant by signing subcontracts is delegated to the Nexant Unit Director (serving as IQC Manager or Deputy Manager) and the Contracts/Procurement Manager. The SEEPP Project Staff in Belgrade shall report to the Resident Program Director who reports to the Program Director.

### 2.2 CONTRACT REQUIREMENTS SUMMARY

The table below outlines all of Nexant's obligations to USAID under both the IQC Prime Contract and Task Order #9 related to the SEEPP project. The appropriate Nexant personnel responsible for each obligation are also set forth. In any case where such obligation is required to flow down to subcontractors, the Procurement Specialist shall ensure that such obligation is properly set forth in the subcontract.

USAID CONTRACT: LAG-1-09-98-00006-00

TYPE: TIME AND MATERIALS, INDEFINITE QUANTITY - DEFINED TASK ORDERS

TASK ORDER: Southeast Europe Energy Efficiency, EI-Nexant-Serbia-AWD MOD TO#9

CONTRACTOR: NEXANT, Inc..

DUNS NUMBER: 119560824

CONTRACTING OFFICER: Sherrill Facht, USAID Office of Procurement, M/OP/B/LA, Rm 7.09-114, Ronald Reagan Building, 1300 Pennsylvania Avenue, NW; Washington, DC 20523; 202-712-1277

CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE (CTO): Ira Birnbaum and Mark Pickett

#### REQUIREMENTS

PAGE	REFERENCE	DESCRIPTION	RESPONSIBLE	OCCURRENCE
	<u>CONTRACT</u>			
31	C.7.(b)(1)	Assess, analyze, and develop specification for commodities – procurement review	Proc Spec	once ea. Spec.
31	C.7.(b)(2)	Procurement of approved commodities	Proc Spec	ongoing
31	Note	Commodities are subject to source, origin and nationality requirements	Proc Spec	ongoing
36	D.3	Mark reports, supplies and equipment or commodities	Proc Spec	ongoing

PAGE	REFERENCE	DESCRIPTION	RESPONSIBLE	OCCURRENCE
		purchased and shipped or provided in accordance with AIDAR 752.7009		
37	E.	Maintain an inspection and acceptance system in support of the CTO	Program Dir	ongoing
64	H.2	Geographic code for procurement of goods and services is 000 (US) [but see Task Order page 3 part 1.14]	Proc Spec	ongoing

	TASK ORDER			
2	1.8	Term of Performance: 3/28/01 - 9/30/02 TCO may extend 30 days	Program Dir	ongoing
3	1.14	Authorized Geographic Code 000 and NIS [but see Task Order page 3 part 1.14]	Proc Spec	ongoing
3	1.19	Non-expendable property is subject to property and subcontracting clauses	Proc Spec	ongoing
10	V.5¶2	Assist and manage Municipal Programs, supervise installation of energy efficient improvements	Program Dir	ongoing
	<u>APPENDIX 1</u>			
14	II¶1	Nexant will provide Technical assistance in design/implementation of energy efficiency improvement projects	Program Dir	ongoing
14	II¶1	Oversight of installation	Program Dir	ongoing
14	II¶2	Procure equipment from Serbia and Hungary, Romania, Bulgaria, US and elsewhere	Proc Spec	ongoing
14	II¶4	Provide assistance: • select facilities where improvement will be made • determine improvements • review designs, specifications, bills of quantity • oversee installation	Program Dir	ongoing
14	II¶5	Procure engineering/contractor services and equipment/materials	Proc Spec	ongoing
15	III.1	Assist USAID in reviewing	Program Dir	ongoing

		feasibility of improvements, recommend specific facilities		
16	III.3	Develop methodology and protocol for determining savings. Model improvements or develop alternate approach based on engineering estimates for analyzing cost effectiveness	Program Dir	
17	III.3	Consider improvements: <ul style="list-style-type: none"> <li>• Meters</li> <li>• Insulation</li> <li>• Caulking and weather stripping</li> <li>• Thermostatic radiator valves</li> <li>• Radiator heat reflectors</li> <li>• Building controls</li> <li>• Structural improvements</li> <li>• Water heating efficiency</li> <li>• Load management</li> <li>• High efficiency lighting</li> <li>• High efficiency street lighting</li> <li>• High efficiency water/wastewater pumps/motors/drives</li> </ul>	Program Dir	
17	III.4¶1	Procure equipment and services according to US Government procedures. However, utilize local private construction contractors, (or, if justified to Mark Pickett, USAID, municipal communal enterprises or state owned firms) for facility renovation	Proc Spec	ongoing
17	III.4¶2	Prepare procurement procedures conforming to US government procedures/regulations	Proc Spec	once
17	III.4¶4	Give top priority to services and equipment from Serbia followed by Hungary, Romania, Bulgaria, U.S. and elsewhere.	Proc Spec	ongoing
17	III.4¶5	Prepare a procurement package for each site proposed for renovation. Submit each package for consent including: <ul style="list-style-type: none"> <li>• subcontract</li> <li>• amount</li> <li>• bid evaluation</li> </ul>	Proc Spec	each facility

		<ul style="list-style-type: none"> <li>• tender document</li> <li>• designs</li> <li>• specifications</li> <li>• bill of quantity</li> <li>• cost estimate</li> <li>• construction schedule</li> </ul>		
18	III.4¶6	Obtain Title Transfer Document after delivery of equipment	Program Dir	ongoing
18	III.4	Deliverables: <ul style="list-style-type: none"> <li>• Procurement Procedures</li> <li>• Procurement Plan</li> <li>• Procurement packages</li> <li>• Title Transfer Documents</li> <li>• Turnover documents</li> </ul>	Proc Spec and Program Dir	as req'd
18	III.5¶3	Acquire in-country office accommodations	Program Dir	once
18	III.5¶4	Procure services of local contractors	Proc Spec	ongoing
18	III.5¶5	Perform oversight and quality control, perform inspections, approve change orders, joint final inspection with USAID, document turnover of equipment	Program Dir	ongoing
18	III.5¶6	Deliverables: <ul style="list-style-type: none"> <li>• Technical Specs for Tender Docs</li> <li>• Engineering designs/drawings for Tender Documents</li> <li>• Turnover Docs</li> </ul>	Proc Spec and Program Dir	ongoing
19	III.6¶2	Submit training materials and Training summary report	Proc Spec	once
19	III.7¶1	Procure monitoring equipment	Proc Spec	as req'd
20	III.9	Use Nexant's normal management tools and procedures. Provide Procurement Plan, monthly progress reports and summary report	Proc Spec and Program Dir	ongoing
20	IV.A	Duration: 15 months		
20-21	IV.B	Timetable: Procurement Plan within 30 days Installation complete 11/1/01 Evaluation report 5/15/02 Summary report 5/31/02	Program Dir	once each
21	IV.C	Level of Effort: Procurement Specialist 1 - 75 days Procurement Specialist 2 - 40 days	Proc Spec	ongoing

## 2.3 PROCUREMENT FILE STRUCTURE

Within the structure of the overall Southeastern Europe Energy Efficiency Project filing system, the SEEEP project files relating to procurement shall be organized by the Belgrade Project Office and the Washington, DC (or White Plains, NY) Project Office in accordance with the master project file structure set forth below. All original procurement subcontracts and close-out documents will be kept in both hard copy and electronic format by Nexant Corporate Services (Contracts/Procurement) with a copy to the project file. Electronic copies of all documents shall also be stored on compact discs. Upon completion of each procurement, the files will be transferred from the Belgrade office to a Nexant office in the United States for storage in accordance with the time periods set forth in FAR part 4.8.

### FOR COMPETED PROCUREMENTS:

1. SPECIFICATION/ENGINEERING REVIEW
2. REQUISITION
3. BIDDERS LIST
4. SOLICITATION
5. TECHNICAL EVALUATION
6. UNSUCCESSFUL PROPOSALS
  - Offer clarifications
  - Notice to unsuccessful offerors
  - Unsuccessful proposals
7. SUCCESSFUL PROPOSAL
  - Successful proposal
  - Offer clarifications
  - Negotiations records
8. COMMERCIAL EVALUATION/ RECOMMENDATION
9. USAID REQUEST FOR CONSENT PACKAGE
10. USAID APPROVAL
11. SUBCONTRACT/PURCHASE ORDER
  - Award letter
  - Subcontract/Purchase Order
  - Insurance
  - Performance Bond (copy)
  - Representations and Certifications
12. INVOICES
13. SITE ACTIVITIES
  - Inspection Reports
  - Site Photos
  - Inventory Receipts
14. DELIVERABLE DOCUMENTATION
15. CLOSE-OUT DOCUMENTS
  - Checklist
  - Release and Certification of Final Payment

- Turnover Document
  - Title Transfer Agreement
  - Warranty Assignment (if applicable)
16. CHANGE ORDER DOCUMENTS (including any of the above categories as applicable)

FOR A SOLE-SOURCE PROCUREMENT:

1. SCOPE OF WORK DEFINITION
2. MARKET RESEARCH
3. PROPOSAL
4. USAID REQUEST FOR CONSENT PACKAGE
5. USAID APPROVAL
6. SUBCONTRACT/PURCHASE ORDER
  - Award letter
  - Subcontract/Purchase Order
  - Insurance
  - Performance Bond (copy)
  - Representations and Certifications
7. INVOICES
8. SITE ACTIVITIES
  - Inspection Reports
  - Site Photos
  - Inventory Receipts
9. DELIVERABLE DOCUMENTATION
10. CLOSE-OUT DOCUMENTS
  - Checklist
  - Release and Certification of Final Payment
  - Turnover Document
  - Title Transfer Agreement
  - Warranty Assignment

Note: All correspondence will be put in the relevant section of the file. For instance, any correspondence relating to the subcontract negotiations will be in that tab.

## 2.4 COMMITMENT REGISTER

All procurement commitments for the SEEEP project shall be recorded and tracked in a separate spreadsheet or a database exclusively for this project. Records will be initiated during the project planning stage and will serve to track each transaction from inception to closeout. The database or spreadsheets shall be maintained by the project staff, will become the property of USAID when prepared, and will be deliverable in electronic format upon request and at the conclusion of Task Order #9. The following items shall be included in the Project Staff's Commitment Register tracking:

Project Identifier

Sequential number assigned by procurement

Name	Description of goods or services
Cost Estimate	For planning purposes only
Estimated Delivery	Desired delivery or completion date
Requisition	Date received by Procurement Specialist
RFQ/RFP	Date issued
Offers	Date opened
Evaluation	Date completed
RFC to USAID	Date issued
USAID approval	Date received
Pre-Award letter	Date issued
Subcontract	Effective date
Supplier	All supplier contact information
Amount	Amount of subcontract
Installation Completed	Date completed
Final Invoice	Date paid by Nexant
Close out:	
Title Transfer Agreement:	Date executed
Turnover Document:	Date executed
Subcontractor Release/Certification	Date executed

**3.1 REQUISITIONS**

A requisition form will formally initiate a procurement. Requisitions are prepared by the responsible engineer for a project and submitted to the Resident Program Director and forwarded by his signature to the Procurement Specialist after verifying that all pertinent information is included in the requisition. The requisition form in Annex 7.1 is to be properly completed and accompanied by any required supporting documentation, such as a technical specification, budget, schedule, etc.

**3.2 SUBCONTRACT FORMATION****3.2.1 General**

General provisions will be developed by the Procurement Specialist for the different types of subcontracts that will be used to implement the SEEPP project taking into consideration circumstances applicable to specific acquisition types, AIDAR and FAR requirements for procurement in foreign countries and other requirements of the Prime IQC Contract and Task Order #9. A firm-fixed-price subcontract, which best utilizes the basic profit motive of business enterprise, will be the preferred method of subcontracting. For the purposes of this Manual, the term "subcontract" will be used to mean either a purchase contract, a purchase order or an indefinite quantity contract.

The Procurement Specialist will prepare draft subcontracts as part of the solicitation packages which will be reviewed and approved for issuance by the Contracts/Procurement Manager. The following guidance as to contracts types should be considered by the Procurement Specialist and presented to the Contracts/Procurement Manager for selecting contract types for each project. Sample subcontract documents for each type are included in Annex 7.2.

**3.2.2 Mandatory Flow Down Clauses**

Many clauses of the Prime IQC Contract are required to flow down, or be incorporated, into subcontracts in whole or in part. The prescription for this incorporation may be found in the specific language of the prime contract clause itself; e.g., "insert this clause", "insert the substance of this clause", etc. However, certain clauses may not be applicable to subcontracts of small value and other clauses may be applicable when the prime contract is a different type than contemplated subcontract (refer to the applicable instruction and to the tables at FAR Part 52.3).

**3.2.3 Optional Flow Down Clauses**

Contract provisions and clauses without flow down prescription may be incorporated in subcontracts at the discretion of Nexant, and such provisions and clauses may be altered to suit the particular needs of Nexant subject to its good business practices and other policies and procedures.

### **3.2.4 Use of other FAR Clauses and Provisions**

Virtually any FAR language that is found to meet the needs of Nexant may be incorporated in subcontracts. The Contracts/Procurement Manager will ensure that any risk or responsibility that is placed on Nexant as a prime contractor is appropriately passed on to subcontractors. A reference to FAR clauses applicable to the various types of contacts is found at the end of FAR 52.3, Provision and Clause Matrices.

## **3.3 SOLICITATIONS**

### **3.3.1 Bidder's List.**

Upon receiving USAID technical approval to proceed with a particular procurement, the project staff will select from the market research a list of potential sources for each acquisition. Solicitations will be issued to the list of firms generated by this research. The list of sources to be invited to respond shall not be less than the number of sources from which a reasonable number of offers is expected for purposes of competition. Offer solicitation packages may be provided to any firm that expresses an interest in a specific procurement action and that is determined to be reasonably qualified even though that firm had not been previously placed on the selected list.

### **3.3.2 Solicitation Package**

At the beginning of the SEEEP Project, the Procurement Specialist shall prepare a proforma solicitation package to submit to the Contracts/Procurement Manager for review and approval of the general format and content that shall be the model for each procurement package. The Procurement Specialist shall prepare solicitation packages for each procurement action ordered by a properly prepared and approved requisition. Include in each package the following:

- Invitation Letter and Quotation Instructions
- Acknowledgement Form
- Offer
- Representations and Certifications
- Exhibits
  - A. Subcontract
  - B. Schedule of Quantities, Prices and Deliveries
  - C. Description, Specifications and Work Statement
  - D. Packaging and Marking Instructions
  - E. Inspection and Acceptance
  - F. Deliveries and Performance
  - G. Contract Administration
  - H. Special Contract Requirements
  - I. General Conditions
  - K. Representations, Certifications and other attachments

Draft solicitation documents shall be submitted for technical review to the Resident Program Director prior to issuance.

The project staff shall receive and hold unopened any quotation received during the solicitation period. An evaluation team, comprised of two Nexant ex-patriate staff and one local staff, shall be appointed by the Program Director. All quotations shall be opened in the presence of the Resident Program Director or his designee and the names of each offeror shall be recorded.

Copies of each proposal shall be prepared for the technical evaluation team and the Procurement Specialist and the original of each offer sent to the project file.

The project staff will record all requests for clarification or information received from firms who have indicated their intention to submit a proposal or quotation. They will prepare a written response to each question using information obtained from the project and obtain the concurrence of the Resident Program Director. With the advice of the Procurement Specialist, the Resident Program Director shall issue the approved response, including questions and answers, to each firm on the bidder's list as an amendment to the solicitation.

### **3.3.3 Pre-proposal conferences**

A pre-proposal conference may be held to brief prospective offerors after a solicitation has been issued but before offers are submitted. Generally, these conferences are used in complex negotiated acquisitions to explain or clarify complicated specifications and requirements. The Procurement Specialist shall decide if a pre-proposal conference is required and make the necessary arrangements, including the following:

- (1) If notice was not in the solicitation, give all prospective offerors who received the solicitation adequate notice of the time, place, nature, and scope of the conference.
- (2) If time allows, request prospective offerors to submit written questions in advance. Prepared answers can then be delivered during the conference.
- (3) Arrange for technical and legal personnel to attend the conference if appropriate.

The Procurement Specialist shall conduct the pre-proposal conference and furnish all prospective offerors identical information concerning the proposed acquisitions. Conferees shall be advised that remarks and explanations at the conference shall not qualify the terms of the solicitation and that terms of the solicitation and specifications remain unchanged unless the solicitation is amended in writing.

### **3.3.4 Amendment of solicitations before closing date.**

After issuance of a solicitation, but before the date set for receipt of proposals, it may be necessary to:

- (1) make changes to the solicitation, including, but not limited to, significant changes in quantity, specifications, or delivery schedules,

- (2) correct defects or ambiguities, or
- (3) change the closing date for receipt of proposals.

The Procurement Specialist shall determine if the closing date needs to be changed when amending a solicitation. If the time available before closing is insufficient, notify prospective offerors, fax or telephone of an extension of the closing date, and confirm the notification in the written amendment to the solicitation.

Any information given to a prospective offeror shall be furnished promptly to all other prospective offerors as a solicitation amendment if the information is necessary to submit a proposal or the lack of such information would be prejudicial to a prospective offeror.

### **3.3.5 Receipt of proposals and quotations.**

Proposals and quotations shall be marked with the date and time of receipt. After receipt, proposals and quotations shall be safeguarded from unauthorized disclosure.

### **3.3.6 Late proposals and modifications.**

Offerors are responsible for submitting offers, and any modifications to them, so as to reach the office designated in the solicitation on time.

Proposals, and modifications thereto, that are received in the designated office after the exact time specified are 'late' and shall be considered only if they are received before award is made and the circumstances of consideration are in the best interests of Nexant.

When a late proposal or modification is received and it is clear from available information that it cannot be considered for award, the Procurement Specialist shall promptly notify the offeror that it was received late and will not be considered. The notice need not be given when the proposed contract is to be awarded within a few days and the notice to all unsuccessful offerors would suffice.

Late proposals and modifications that are not considered shall be held unopened, unless opened for identification, until after award and then retained with other unsuccessful proposals.

The following shall, if available, be included in the files for each late proposal, quotation, or modification:

- (1) The date of mailing, filing, or delivery.
- (2) The date and hour of receipt.
- (3) Whether or not considered for award.
- (4) Evidence of date of submission.

### 3.4 ELIGIBLE SOURCES

In accordance with the provisions of Task Order #9 set forth below, Nexant shall give priority to identifying and contracting with Serbian firms or individuals to implement the SEEPP project.

- Task Order #9 states that "...in conducting the energy efficiency improvement projects, a strong emphasis will be placed on job creation by training Serbian workers to perform the installations and utilizing local contractors. If commensurate with the time schedule and if available, Equipment will be procured from Serbia or neighboring countries. If necessary, equipment will be procured from the U.S. or other free world countries."<sup>3</sup>
- Task Order #9 further states that "Nexant will procure the services of engineering and contractor companies, materials and equipment subject to considerations of cost, quality, and expedient delivery, giving top priority to Serbian service and equipment sources, followed by sources in the neighboring Central Eastern European countries of Bulgaria, Hungary, and Romania, the U.S. and elsewhere."<sup>4</sup> .....

In accordance with *Executive Order 13088 on Sanctions on the Government of the FRY and the Government of the Republics of Serbia and Montenegro*, certain persons are banned from having any relationship with a firm or person with which Nexant may contract to implement the SEEPP project. As part of procurement due diligence, the Procurement Specialist shall review the latest information on blocked persons maintained by the Department of Treasury's Office of Foreign Assets Control and request guidance from USAID if such a relationship is identified.

A separate small business subcontracting plan will not be required for the SEEPP project since the relevant socioeconomic business categories are not established in Serbia, thus precluding the application of FAR part 19 regulations. In addition, a general small business subcontracting plan was already filed with USAID by Nexant under the IQC Prime Contract.

### 3.5 REPRESENTATIONS AND CERTIFICATIONS

It is the responsibility of the Procurement Specialist to obtain representations, certifications and disclosures from all prospective offerors as may be required by the Prime IQC Contract, Task Order #9 or other relevant laws or executive orders. Each prospective offeror that is invited to submit a proposal in response to a solicitation must submit a completed and signed representations and certifications form and disclosures to the Procurement Specialist. A sample of the representations and certifications required for the SEEPP project is included in Annex 7.3.

### 3.6 BONDS AND INSURANCE

Bonding and insurance requirements for the SEEPP project subcontracts will be established by the Program Director, with the advice of the Contracts/Procurement Manager, in accordance with the requirements of Prime IQC Contract, Task Order #9, relevant FAR and AIDAR provisions and Nexant commercial practices. The Contracts/Procurement Manager, with the advice of the Procurement Specialist and Project Staff, will be responsible for the review and approval of the

<sup>3</sup> IQC No. LAG-I-00-98-00006-00, Attachment A, Appendix I, Replacement Page 10

<sup>4</sup> IQC No. LAG-I-00-98-00006-00, Attachment A, Appendix I, Replacement Page 17

bonds and insurance policies as to legal form and sufficiency. The general obligations for SEEPP project subcontractors, subject to modification by the Program Director and the Contracts/Procurement Manager, will be as follows:

- A performance bond issued by a first class bank according to SR Yugoslavia Obligation Laws 1083 and 1087, in the form of a guarantee without objection on first call in the name of NEXANT, Inc. and the United States Agency for International Development for the total amount of the contract. This guarantee must be valid from the date of contract signature through thirty (30) days after final delivery.
- A certificate of insurance from a first class insurance company covering Construction All Risk (CAR) and Erection All Risk (EAR) in the name of NEXANT, Inc. and the United States Agency for International Development. This insurance must be valid from the date of subcontract signature through thirty (30) days after final delivery and in the amount of 150% of the subcontract value.

**4.1 EVALUATION OF PROPOSALS****4.1.1 Project cost estimate**

A requisition form submitted to the Procurement Specialist shall contain an estimate of the proper price level or value of the supplies or services to be purchased. Any changes to a project's cost estimate subsequent to issuance of a solicitation shall be discussed with the Program Director and presented to the Contracts/Procurement Manager in writing.

**4.1.2 Responsibilities**

The Resident Program Director or his designee is responsible for the technical evaluation of each proposal. The Procurement Specialist is responsible for commercial evaluation and recommending source selection, which is reviewed by the Contracts/Procurement Manager for submission to USAID for consent.

**4.1.3 Evaluation factors**

The evaluation factors that apply to an acquisition and the relative importance of those factors are within the broad discretion of the project team. However, price or cost shall be included as an evaluation factor in every source selection. Quality also shall be addressed in every source selection. In evaluation factors, quality may be expressed in terms of technical excellence, management capability, personnel qualifications, prior experience, past performance, and schedule compliance. Any other relevant factors, such as cost realism, may also be included.

While the lowest price or lowest total cost is properly the deciding factor in many source selections, in certain acquisitions, Nexant may select the source whose proposal offers the greatest value in terms of performance and other factors. A determination of this kind will be properly documented.

**4.1.4 Changes in requirements**

When Nexant changes, relaxes, increases, or otherwise modifies its requirements, the Procurement Specialist shall issue a written amendment to the solicitation. When time is of the essence, oral advice of changes may be given if all firms are notified as near to the same time as possible. The Procurement Specialist shall make a record of the oral advice and promptly confirm that advice in writing.

In deciding which firms to notify of a change, the Procurement Specialist shall consider the stage in the acquisition cycle at which the change occurs and the magnitude of the change. If proposals

are not yet due, the amendment will be sent to all firms that have received a solicitation. If the time for receipt of proposals has passed but proposals have not yet been evaluated, the amendment will be sent only to the responding offerors. If a change is so substantial that it warrants complete revision of a solicitation, the Procurement Specialist shall cancel the original solicitation and issue a new one, regardless of the stage of the acquisition.

If the proposal considered to be most advantageous involves a departure from the stated requirements, the Procurement Specialist shall provide all offerors an opportunity to submit new or amended proposals on the basis of the revised requirements; provided, that this can be done without revealing to the other offerors the solution proposed in the original departure or any other information that is entitled to protection.

#### **4.1.5 Disclosure of mistakes before award**

Examine all proposals for minor informalities or irregularities and apparent clerical mistakes. Communication with offerors to resolve these matters is clarification, not discussion. However, if the resulting communication prejudices the interest of other offerors, the Procurement Specialist shall not make award without discussions with all offerors.

Mistakes not covered above are usually resolved during discussion.

When award without discussion is contemplated, and if a mistake in a proposal is suspected, advise the offeror (pointing out the suspected mistake or otherwise identifying the area of the proposal where the suspected mistake is) and request verification. If the offeror verifies its proposal, award may be made. If an offeror alleges a mistake in its proposal, advise the offeror that it may withdraw the proposal or seek correction. If an offeror requests permission to correct a mistake in its proposal, make a written determination permitting the correction; provided, that both the existence of the mistake and the proposal actually intended are established by clear and convincing evidence from the solicitation and the proposal.

If the determination above cannot be made, and the Procurement Specialist still contemplates award without discussion, the offeror shall be given a final opportunity to withdraw or to verify its proposal.

Verification, withdrawal, or correction is not considered discussion. If, however, correction of a mistake requires reference to documents, worksheets, or other data outside the solicitation and proposal in order to establish the existence of the mistake, the proposal intended, or both, the mistake may be corrected only through discussions.

#### **4.1.6 Proposal evaluation**

Competitive proposals shall be evaluated solely on the factors specified in the solicitation.

If any technical evaluation is necessary beyond ensuring that the proposal meets the minimum requirements in the solicitation, the cognizant technical representative, in documenting the technical evaluation, shall include the basis for evaluation; an analysis of the technically acceptable and unacceptable proposals, including an assessment of each offeror's ability to accomplish the technical requirements; a summary, matrix, or quantitative ranking of each technical proposal in relation to the best rating possible; and a summary of findings.

All proposals received in response to a solicitation may be rejected if the Procurement Specialist determines in writing that all otherwise acceptable proposals received are at unreasonable prices; the proposals were not independently arrived at in open competition, were collusive, or were submitted in bad faith; or for other reasons, cancellation is clearly in Nexant's interest.

#### **4.1.7 Written or oral discussion**

The requirement for written or oral discussion need not be applied when it can be clearly demonstrated from the existence of full and open competition or accurate prior cost experience with the product or service that acceptance of the most favorable initial proposal without discussion would result in the lowest overall cost at a fair and reasonable price; provided, that the solicitation notified all offerors of the possibility that award might be made without discussion; and the award is in fact made without any written or oral discussion with any offeror.

However, if the proposals received in response to a solicitation are not comparable from a technical standpoint given variances in the types of goods and services proposed, written requests for clarifications or modifications shall be issued to offerors as appropriate.

The Procurement Specialist or the Resident Program Director shall control all discussions; advise the offeror of deficiencies in its proposal so that the offeror is given an opportunity to satisfy the requirements; attempt to resolve any uncertainties concerning the technical proposal and other terms and conditions of the proposal; resolve any suspected mistakes by calling them to the offeror's attention as specifically as possible without disclosing information concerning other offerors' proposals or the evaluation process; and provide the offeror a reasonable opportunity to submit any cost or price, technical, or other revisions to its proposal that may result from the discussions.

The Procurement Specialist and other project personnel involved shall not engage in technical leveling (i.e., helping an offeror to bring its proposal up to the level of other proposals through successive rounds of discussion, such as by pointing out weaknesses resulting from the offeror's lack of diligence, competence, or inventiveness in preparing the proposal); technical transfusion (i.e., disclosure of technical information pertaining to a proposal that results in improvement of a competing proposal); or auction techniques, such as indicating to an offeror a cost or price that it must meet to obtain further consideration; advising an offeror of its price standing relative to another offeror (however, it is permissible to inform an offeror that its cost or price is considered to be too high or unrealistic); and otherwise furnishing information about other offerors' prices.

#### 4.1.8 Best and final offers

Best and final offers may be solicited from offerors in the event that one or more proposals are received with a negligible price differential. Following evaluation of the best and final offers, select that source whose best and final offer is most advantageous, considering price and any other factors included in the solicitation.

#### 4.2 CONFIDENTIALITY OF PROPOSALS

Releasing proposal information before a decision as to the award of a subcontract, or transferring valuable and sensitive information between competing offerors during the competitive phase of the acquisition process, would seriously disrupt and undermine the integrity of the decision-making process, thus adversely affecting the ability to solicit competitive proposals and award a contract which would best meet Nexant's needs. Therefore, to the extent permitted by law, none of the information contained in proposals is to be disclosed before deciding to award a contract. "Sensitive business information" means technical, financial or other information disclosed in connection with an offer that, if released to a third party, could result in damage to the offeror's competitive position.

After receipt of proposals, none of the information contained in them or concerning the number or identity of offerors shall be made available to the public or to anyone not having a legitimate interest. During the preaward or preacceptance period of a negotiated acquisition, only the Procurement Specialist and others specifically authorized shall transmit technical or other information and conduct discussions with prospective contractors.

Information shall not be furnished to a prospective subcontractor if, alone or together with other information, it may afford the prospective contractor an advantage over others. However, general information that is not prejudicial to others may be furnished upon request.

Prospective subcontractors may place restrictions on the disclosure and use of data in proposals and quotations. Proposals shall not be excluded from consideration merely because they restrict disclosure and use of data, nor shall they be prejudiced by that restriction. The portions of the proposal that are so restricted (except for information that is also obtained from another source without restriction) shall be used only for evaluation and shall not be disclosed without permission of the offeror.

Information contained in proposals will be protected to the extent permitted by law, but the Procurement Specialist shall make it clear to offerors that Nexant assumes no liability for the use or disclosure of sensitive information not made subject to such notice.

If proposals are received with restrictive conditions, the Procurement Specialist shall consult with the Contracts Manager as to whether the proposal should be accepted as marked or returned. Any authorized restrictive legends placed on the proposal by the prospective contractor or subcontractor shall be applied to any reproduction or abstracted information made by the evaluator.

Decisions to release proposals for evaluation purposes shall be made by the Procurement Specialist. Information contained in the proposal will be used only for evaluation purposes and will not be further disclosed. Upon completing the evaluation, all copies of the proposal, as well as any abstracts thereof, shall be returned to the Procurement Specialist who initially furnished them for evaluation.

The submitter of any proposal shall be provided notice adequate to afford an opportunity to take appropriate action before release of any information contained therein pursuant to a request under the Freedom of Information Act; and, time permitting, the submitter will be consulted to obtain assistance in determining the eligibility of the information in question as an exemption under the Act.

#### **4.3 SUBCONTRACTOR QUALIFICATIONS**

Before making a determination of responsibility, the Procurement Specialist shall possess or obtain information sufficient to be satisfied that a prospective subcontractor/supplier currently meets the following standards:

- Have adequate financial resources;
- be able to comply with the delivery or performance schedule;
- have a satisfactory performance record;
- have a satisfactory record of integrity and business ethics;
- have the necessary organization, experience, controls, and technical skills, or the ability to obtain them;
- have the necessary production, construction, and technical equipment and facilities, or the ability to obtain them; and
- be otherwise qualified and eligible to receive an award under applicable laws and regulations.

Information may be obtained from:

- Proposal information, questionnaire replies, financial data, information on production equipment, and personnel information obtained from the prospective subcontractor/supplier.
- Records and experience data, including information from suppliers, subcontractors, financial Institutions, government agencies, and business and trade associations.

Documents supporting a determination of responsibility appropriate to the type of goods and services to be procured shall be included by the Procurement Specialist in the subcontract file.

Information obtained for the purposes of determining responsibility shall not be released or disclosed outside Nexant except as may be required by USAID.

#### **4.4 PRICE NEGOTIATIONS**

Price competition exists if offers are solicited and two or more responsible parties submit priced offers responsive to the solicitation's expressed requirements. If price competition exists, the Procurement Specialist shall presume that it is adequate unless the solicitation is made under conditions that unreasonably deny to one or more known and qualified offerors an opportunity to compete, the low offeror has such a decided advantage that it is practically immune from competition, or the lowest price is unreasonable.

#### **4.5 RECOMMENDATION AND APPROVAL**

The Procurement Specialist shall prepare each recommendation for ease of review, including preparation of a properly organized file. The Procurement Specialist shall develop a suitable method of confirming that all necessary steps have been taken prior to recommending approval. Procurement approval shall be obtained from the Program Director and then forwarded to the Contracts Manager for final approval.

#### **4.6 ADVANCE NOTICE AND REQUEST FOR CONSENT**

A technical evaluation will be performed by three members of the Project Staff and a commercial evaluation will be performed by the Procurement Specialist, who will then prepare a final recommendation, draft an advance notice and request for consent to USAID, and submit the procurement package through the Program Director to the Contracts/Procurement Manager.

Nexant shall obtain USAID's written consent before placing any subcontract for which advance notification is required. A Request for Consent (RFC) package will be sent to USAID for consent by the Contracting Officer with the advice of the Cognizant Technical Officer. This RFC package will include a cover letter summarizing the project and the contractor selection process, a copy of the solicitation, the bidder's list, the technical and commercial evaluations, a proposed subcontract, the contractor's proposal, and a statement that issuance of the proposed subcontract will not increase the ceiling price of Task Order #9.

## **Section 5 SUBCONTRACT EXECUTION, PERFORMANCE AND CLOSE-OUT**

### **5.1 EXECUTION**

Following receipt of USAID consent, the Contracts/Procurement Manager will issue a pre-award letter that will notify the prospective subcontractor of USAID's consent and inform them of Nexant's performance bond and insurance requirements that must be fulfilled before execution. The Procurement Specialist shall forward the approved subcontract document to the Resident Program Director who shall arrange for signature in duplicate by the subcontractor after receiving the appropriate performance bond and insurance policies. After signature by the subcontractor, the Procurement Specialist shall coordinate with the Contracts/Procurement Manager who shall sign or arrange for signature by the Unit Director. One original executed subcontract shall be forwarded to the Contracts/Procurement Manager and the other returned to the subcontractor, with copies sent to the project files. The Contracts/Procurement Manager will notify Accounts Payable and the Program Director that a subcontract has been executed so that progress payments, if any, could be promptly processed.

### **5.2 INVOICES AND PAYMENT**

Review of invoices will consider the following requisites:

- Does the invoice correctly identify a governing subcontract?
- Do the line items for which compensation is requested correspond to the pay items of the governing subcontract?
- Is there evidence showing receipt and acceptance of items for which compensation is claimed?
- Has the purchase order or subcontract been funded for the payment of items claimed?
- Is there a provision for retention, and if so, has the retention been set aside?
- Does the subcontract require subordinate deliveries (e.g., material test reports, catalog cuts, drawings), and have these items been received and accepted?
- Are there any prior claims against the subcontractor or supplier for which an offset should be taken against the invoice in review?
- When the amount due is based on direct units (e.g., labor hours, material costs) extended by unit rates (e.g., hourly rates, indirect multipliers), have the unit rates applied by the subcontractor been approved for use?

- Does the cumulative amount of all charges compare favorably with the earned value of work performed?

Having considered the appropriate requisites in determining that an invoice is accurate, the Resident Program Director will sign the invoice indicating that the goods or services have been received and accepted.

For a partial invoice, the Resident Program Director will verify the validity of the equipment list and any labor tasks claimed. The Resident Program Director will also verify that the total of partial invoices disbursed is less than 90% of total subcontract amount. For a final invoice, the Resident Program Director will check to make sure all close-out documents are signed. After approval of an invoice by the Resident Program Director, the invoice will be faxed to the Washington DC Project Office Accounts Payable and Business Manager. Funds will be transferred from Nexant USA to Nexant Belgrade's bank account, a written authorization is submitted by Nexant Belgrade to their local bank to release funds to subcontractor. This authorization must be signed by two of the three following persons: Program Director, Resident Program Director and one designated project staff person.

Upon determining that an invoice contains errors or is otherwise unacceptable, process the invoice in one of the following ways:

- Discuss the discrepancies with subcontractor by phone or issue a letter requesting a replacement invoice and advise Accounts Payable.
- Issue a letter to subcontractor identifying those elements of the invoice that are unacceptable and indicating that the invoice has been processed for payment at a value less than the amount claimed. Mark the invoice to show the amount to be paid and provide a copy of the letter with the invoice to Accounts Payable as instruction for payment.
- Issue a letter to subcontractor rejecting the invoice and provide a copy to Accounts Payable.

When it is expected that several invoices will be received for a subcontract, maintain a separate file and keep copies of invoices and all correspondence associated with the review process. A log will be kept by the Resident Program Director showing the invoice value, amount processed for payment, cumulative amount processed for payment and appropriate remarks.

Upon determining that all the requirements of the subcontract have been complied with, that an invoice has been received claiming the total amount due less previous payments made, and that a release and certification of final payment has been received if required by the subcontract, process the invoice for payment and close-out the subcontract.

### **5.3 CONTRACT MODIFICATIONS**

When a subcontractor considers that Nexant has effected or may effect a change in the contract that has not been identified as such in writing and signed by the Contracts/Procurement Manager,

it is necessary that the subcontractor notify Nexant in writing as soon as possible. This will permit Nexant to evaluate the alleged change and confirm that it is a change, direct the mode of further performance, and plan for its funding; countermand the alleged change; or notify the contractor that no change is considered to have occurred.

Generally, subcontracts will contain a changes clause that permits the Contracts/Procurement Manager to make unilateral changes in designated areas within the general scope of the contract. These are accomplished by issuing written change orders unless otherwise provided. If a change is expected to cause an equitable adjustment in the subcontract price or delivery date, then Nexant shall issue a formal subcontract modification. All subcontract modifications shall be subject to the provisions of this Manual relating to execution and USAID consent.

#### **5.4 DISPUTES**

Every effort shall be made to amicably settle disputes by direct discussion in a cost effective and timely manner. Any dispute that cannot be settled by discussion between the Resident Program Director and the Subcontractor shall be reduced to writing and shall be submitted to the Contracts/Procurement Manager for review. A recommended action shall be included in each written record.

#### **5.5 TERMINATION**

The Program Director shall seek the advice of the Contracts/Procurement Manager regarding the termination of any subcontract for convenience or default. The Contracts/Procurement Manager may terminate subcontracts with written notice to the subcontractor that shall state:

- 1) The contract is being terminated for convenience (or for default) under the contract clause authorizing the termination;
- 2) The effective date of termination;
- 3) The extent of termination;
- 4) Any special instructions including:
  - a) Work immediately on the terminated portion of the contract and stop placing subcontracts;
  - b) Terminate all subcontracts related to the terminated portion of the contract;
  - c) Immediately advise of any special circumstances precluding the stoppage of work;
  - d) Perform the continued portion of the contract and submit promptly any request for an equitable adjustment of price for the continued portion if the termination is partial;

- e) Take necessary or directed action to protect and preserve government property in the contractor's possession and, as directed, deliver the property to;
- f) Promptly notify of any legal proceedings growing out of any subcontract or other commitment related to the terminated portion of the contract;
- g) Settle outstanding liabilities and proposals arising out of termination of subcontracts; and
- h) Promptly submit the contractor's own settlement proposal, supported by appropriate schedules.

After issuing a notice of termination the Program Director shall:

- 1) Direct the action required of the contractor;
- 2) Examine the settlement proposal of the contractor and, when appropriate, its subcontractors.

Settlement of fixed-price contracts terminated for convenience may be effected by negotiated agreement. The Program Director shall negotiate a fair and prompt settlement with the contractor, subject to the final approval of the Contracts/Procurement Manager.

The Contracts/Procurement Manager shall promptly examine each proposed subcontract settlement to determine if the settlement was arrived at in good faith, is reasonable in amount, and is allocable to the terminated portion of the contract.

If it appears that a settlement agreement may not be possible between the Nexant and the contractor, the Contracts Manager shall immediately prepare a report for Legal Counsel describing the pertinent aspects of the situation.

## **5.6 CLOSE-OUT**

All close-out actions for each subcontract shall be completed within 2 months of the month in which the Resident Program Director receives evidence of physical completion. A subcontract file shall not be closed if the subcontract is in litigation or under appeal, or in the case of a termination, all termination actions have not been completed. The Resident Program Director shall follow the detailed procedures below for closing out subcontract project files. A subcontract close-out checklist shall be developed by the Procurement Specialist for the Resident Program Director, which shall be reviewed and approved by the Contracts/Procurement Manager and the Unit Director.

When appropriate, determine that-

- 1) For any subcontract containing a property clause: property has been inventoried and dispositioned;

- 2) For any subcontract that contained subcontracting opportunities: lower tier subcontracts and purchase orders are settled and required certifications and releases are obtained;
- 3) For any subcontract terminated in whole or in part, or is claimed by the Subcontractor to have been changed: terminations and claims have been settled;
- 4) All work has been accepted and for goods certificates of compliance and warranty have been received, if required;
- 5) Subcontractor's final invoice has been paid and Subcontractor's release and certification of final payment has been received (see attached sample in Section 7.x).
- 6) Title Transfer and Turnover Documents have been executed by the Municipalities (see samples in Annexes 7.5 and 7.6).

When the actions above have been verified, the Resident Program Director shall prepare a contract close-out checklist (see sample in Annex 7.7) containing the following information:

- 1) Contract number;
- 2) Last modification number;
- 3) Contract value and total amount paid;
- 4) A summary of actions that were accomplished to close the subcontract;
- 5) Turnover Document;
- 6) Title Transfer Agreement;
- 7) Release and Certification of payment of lower tier subcontractors;
- 8) Warranty Assignment; and
- 9) Name and signature of the Resident Program Director.

## 6.1 REQUISITION FORM

## REQUISITION FORM

Job #	Sub	Activity *	Requestor's Name (Print & Initial)	Date
23865	109	08		
Contract	Application		Brief Description of Commodity/Service	
SEEE				

(complete heading, part 1 or 2, and part 3 below)

(for catalog items, do NOT complete part 1, 2 or 3; use page 2 of the form)

1. Purchase engineered commodities (mark applicable entries/attachments)

- Specification (attach a reproducible manuscript or a diskette)
- Drawings (attach a drawing list and 1 reproducible set)
- Value \$ \_\_\_\_\_ (attach a cost breakdown if >\$25,000)
- Delivery requirements (attach a schedule of preferred milestones)
- Testing (describe specific tests and performance criteria)
- Inspection (attach a list of required witness and hold points)

Information to be supplied with proposals (attach a list of required information)

2. Performance of service (mark applicable entries and attachments)

- Scope of work (attach detailed description and diskette)
- Estimated Cost: \$ \_\_\_\_\_ (attach a cost breakdown) ]
- Period of Performance: Start \_\_\_\_\_ End \_\_\_\_\_

3. Special Conditions (Mark applicable entries)

- Contacts (name/address/phone of Plant contacts) \_\_\_\_\_
- 
- Management systems (describe planning and reporting requirements)
- Deliverables (list required submittals, frequency, distribution, e.g., Drawings, Reports, insurance, Management or QA/QC plan, Procedures, Cost Estimate/Schedule Projection, etc.)
- Meetings and travel (list attendance at meetings or training)
- Staffing, Key Personnel (identify requirements)
- Work Rules (attach description of requirements, i.e., access, safety, security, training)
- Property (list property provided by Nexant or USAID)
- Other (attach information)
- Suggested Sources of supply (Attach any significant correspondence with potential suppliers)



6.2 SAMPLE REPRESENTATIONS AND CERTIFICATIONS

**REPRESENTATIONS, CERTIFICATIONS, AND DISCLOSURES  
(ALL SUBCONTRACTS AND PURCHASES OVER 10K)**

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**CHECK OR COMPLETE ALL APPLICABLE PARENTHESES AND BLANKS.**

**FAR 52.215-6 TYPE OF BUSINESS ORGANIZATION (Jul 1987)**

The offeror, by checking the applicable parentheses, represents that it operates as

( ) an individual, ( ) a partnership, ( ) a nonprofit organization, ( ) a joint venture, or  
( ) a corporation, registered for business in \_\_\_\_\_ (Country).

**52.215-11 AUTHORIZED NEGOTIATORS (Apr 1984)**

The offeror represents that the following persons are authorized to negotiate on its behalf with Nexant in connection with this request

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Name	Title	Phone
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**CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (Apr 1985)**

(a) The offeror certifies that—

(1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to (i) those prices, (ii) the intention to submit an offer, or (iii) the methods or factors used to calculate the prices offered;

(2) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or subcontract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory—

(1) Is the person in the offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or

(2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above (insert full name of person(s) in the offeror's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the offeror's organization);

(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2) (i) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

(iii) As an agent, has not personally participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above.

(c) If the offeror deletes or modifies subparagraph (a)(2) above, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

#### PLACE OF PERFORMANCE (Apr 1984)

(a) The offeror, in the performance of any subcontract resulting from this solicitation, ( ) intends, ( ) does not intend (check applicable block), to use one or more plants or facilities located at a different address from the address of the offeror as indicated in this proposal or quotation.

(b) If the offeror checks "intends" in paragraph (a) above, it shall insert in the spaces provided below the required information:

Place of Performance (Street Address, City, County, State, Zip Code)	Name and Address of Owner and Operator of the Plant or Facility if Other than Offeror
_____	
_____	

**CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (Apr 1991)**

(a) The definitions and prohibitions contained in the clause, in FAR 52.203-12, Limitation on Payments to Influence Certain Federal Transactions, included in this solicitation, are hereby incorporated by reference in paragraph (b) of this certification.

(b) The offeror, by signing its offer, hereby certifies to the best of his or her knowledge and belief that on or after December 23, 1989—

(1) No Federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress on his or her behalf in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement;

(2) If any funds other than Federally appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress on his or her behalf in connection with this solicitation, the offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to Nexant's Procurement Specialist; and

(3) He or she will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

(c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by Section 1352, Title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each failure.

**CERTIFICATION WITH RESPECT TO EXECUTIVE ORDER 13088  
AS REVISED BY EXECUTIVE ORDER 13121**

I have examined the list of specially designated nationals and blocked persons maintained by the Department of the Treasury's Office of Foreign Assets Control and identified by the bracketed suffix initials [FRYM], and I hereby certify:

No person listed therein:

- (a) is an employee, officer, director or advisor,
- (b) is an owner, shareholder or holds an interest, or
- (c) holds a lien of any kind against the assets

of \_\_\_\_\_ Except individuals named below.  
(Name of company)

Insert names:

---

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Enclosure:

List of Specially Designated Nationals, Annex (in OFAC SDN list format)

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION OR INELIGIBILITY  
FOR AWARD**

The offeror certifies, to the best of its knowledge and belief, that--

(1) The offeror and/or any of its principals [ ] are, [ ] are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any agency; and

(2) [ ] Have, [ ] have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a contract or subcontract; violation of antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

[ ] are, [ ] are not presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses.

**COMPANY CERTIFICATION**

The official signing this form certifies that he/she is acting within the scope of his/her authority to make such representations, certifications, and disclosures, and that the information furnished herein is current, complete, and accurate as of the date of signing.

Offeror \_\_\_\_\_

By \_\_\_\_\_  
Signature of Authorized Individual

\_\_\_\_\_  
Type Name

Title \_\_\_\_\_

Date \_\_\_\_\_

**6.3 SAMPLE RELEASE AND CERTIFICATION OF LOWER-TIER SUB PAYMENT**

With reference to Contract No. \_\_\_\_\_ dated \_\_\_\_\_, 2001 as amended, between the undersigned Contractor \_\_\_\_\_ and Nexant, Inc. for " \_\_\_\_\_ ", the Undersigned hereby certifies and represents that it has made full payment of all costs, charges, and expenses incurred by it or on its behalf for work, labor, services, materials, and equipment supplied to the foregoing premises and/or used in connection with its work under said contract.

The Undersigned further certifies that to its best knowledge and belief, each of its subcontractors and material procurements has made full payment of all costs, charges, and expenses incurred by them or on their behalf for work, labor, services, materials, and equipment supplied to the foregoing premises and/or used by them in connection with the Undersigned's work under said contract and has obtained releases to this effect.

In consideration of \$xxxxxx as final payment under the Contract, the Undersigned hereby unconditionally releases and forever discharges the Customer ( \_\_\_\_\_ ), and the Customer's premises and property from all claims, liens, and obligations of every nature arising out of or in connection with the performance of the said Contract and all amendments thereto except as set forth below:

As additional consideration for the final payment, the Contractor agrees to the fullest extent of the law to, indemnify and hold harmless the said Customer from and against all costs, losses, damages, claims, causes of action, judgments and expenses, including attorney's fees, arising out of or in connection with claims against the said Customer, which claims arise out of the performance of the work under the Contract and which may be asserted by the Contractor or any of its suppliers, subcontractors of any tier or any of their representatives, officers, agents or employees except for those claims listed above, and except for claims arising out of the sole negligence or willful misconduct of the party indemnified or held harmless.

The foregoing shall not relieve the Undersigned of its obligations under the provisions of said Contract, as amended, which, by their nature, survive completion of the work, including without limitation, warranties, guarantees, and indemnities.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

\_\_\_\_\_  
NAME OF CONTRACTOR

By \_\_\_\_\_

Title \_\_\_\_\_

**6.4 SAMPLE TURNOVER DOCUMENT**

Municipality:

PC- \_\_\_\_\_ : Summary of Contract Completion Requirements (prepared by Nexant)

<u>From Contract between Nexant and Subcontractor</u>		
<u>Exhibit C: (Description, Specifications, Work Statement)</u>		
<u>Deliverables: (List below)</u>	<u>Documentation required?</u>	<u>Documentation supplied?</u>
Calculations		
Drawings (list type)		
Equipment (list)		
Test Reports		
<u>From Contract Exhibit E (Inspection and Acceptance)</u>		
Inspection Reports at Nexant		
<u>Final Inspections:</u>	<u>Acknowledgement of Satisfactory Completion</u>	
Engineering		
Fabrication		
Demolition		
Installation		
Site Restoration		

Prepared by Nexant, Inc.:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

The undersigned, representing the Municipality of \_\_\_\_\_, acknowledges receipt of the equipment listed above, with attached documentation where applicable, and hereby acknowledges that this equipment has been properly installed and is in good working order.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

6.5 SAMPLE TITLE TRANSFER AGREEMENT

INVENTORY SCHEDULE AND TITLE TRANSFER

TYPE OF INVENTORY		SUBCONTRACT NO.:	
<input type="checkbox"/> Raw Material	<input type="checkbox"/> Finished Goods	PROJECT NUMBER NO.:	
<input type="checkbox"/> Purchased Parts	<input type="checkbox"/> Finished Product		

CONTRACTOR RELEASING INVENTORY ("Releasing Party")	MUNICIPALITY RECEIVING INVENTORY ("Receiving Party")
NEXANT, INC.	Name:
Address: Mose Pijade (Decanska) 4/2, 11000 Belgrade, Serbia	Address:
Contact: Dr. Amedeo Simoncini	Contact:
Phone: 381 11 334 2936	Phone:

The undersigned, as a representative of the Releasing party, certifies that this Inventory Schedule consisting of page numbers \_\_\_\_\_ through \_\_\_\_\_ inclusive has been prepared in accordance with applicable instructions; that the inventory described is allocable to the contract designated above; and that the costs shown on this Schedule are in accordance with the releasing party's records and books of account.

Signature:	Typed Name: Dr. Amedeo Simoncini
Date:	

The undersigned, as a representative of the Receiving party, certifies that the items listed in this Inventory Schedule have been received and accepted in the quantity and condition shown, and that the Receiving Party accepts responsibility, accountability and legal title for said inventory.

Signature:	Typed Name:
Date:	



6.6 SAMPLE CLOSE-OUT CHECKLIST

PROJECT NO.:       SUBCONTRACT NO.:  
 PROJECT:  
 SUBCONTRACTOR:

CLOSE-OUT PERFORMED BY: \_\_\_\_\_

CLOSE-OUT REVIEWED BY: \_\_\_\_\_

DESCRIPTION	DATE	APPROVAL/COMMENTS
<p>Confirm that the contractor was paid the amount specified in the subcontract:</p> <p>(1) Confirm documentation for payment is contained in the contract file (list all invoices on attached sheet, including for each the date submitted, amount of invoice and date paid);</p> <p>(2) Confirm that taxes of the host country have been excluded from payments; and</p> <p>(3) Confirm that final payment is supported by Subcontractor's <i>Release and Certification of Final Payment</i>, a copy of which should be attached hereto.</p>		
<p>Confirm that the work was performed in accordance with the scope of work:</p> <p>(1) Confirm acceptance by Nexant of all deliverables identified in the subcontract in accordance with the delivery schedule; and</p> <p>(2) Confirm that custody of all property acquired in connection with the subcontract has been released by Nexant and accepted by the municipality in accordance with the following documents, a copy of which should be attached hereto:</p> <ul style="list-style-type: none"> <li>• <i>Inventory Schedule and Title Transfer</i></li> <li>• <i>Turnover Agreement</i></li> </ul>		
<p>Confirm that the Marking requirement was satisfied (AIDAR 752.7009).</p>		

DESCRIPTION	DATE	APPROVAL/COMMENTS
Confirm that inspections were performed in accordance with the inspection system and the list of inspection activities; and that supplies, construction and dismantling have been found to be in conformity with contract requirements if relevant.		
Confirm that key personnel, if indicated, were assigned.		
Confirm that reports of hazardous materials and disposition, if any, are included in the contract file. If there are none, then so indicate in the comments section.		
Confirm that insurance certificates and a copy of the performance bond are included in the contract file.		
Describe change orders issued, if any. Verify that the substance of any changes was considered in the close out process.		
Identify termination, default or stop-work proceedings, if any.		
Identify differing site conditions claimed by the contractor, if any.		

*Documents in italics should follow the standard Nexant model.*

#### INVOICE PAYMENT SUMMARY

Invoice Number	Amount	Date Submitted to Nexant	Date Paid