

Open-Source Software Procurement

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This Technical Note provides a structured approach to both the technical and procurement aspects of OSS adoption, offering best practices for evaluating, selecting, and acquiring open-source solutions. It aligns with IDB procurement policies for goods, works, non-consulting services, and consulting services financed by the Inter-American Development Bank (IDB), ensuring that governments and project teams can make informed decisions that are technically sound, cost-effective, and sustainable.

Key Areas Covered in This Document:

-Understanding OSS Procurement Dynamics: Key differences from proprietary software acquisition.

- Selecting the Right Procurement Strategy: Analyzing the specific needs of the project to determine the most suitable procurement method, ensuring alignment with market availability, cost-effectiveness, and long-term sustainability.

- Structuring an Effective Procurement Process: Developing clear evaluation criteria, ensuring interoperability, and aligning with national digital strategies.

- Conducting Independent Analysis Before Procurement: Even when procurement is not required, governments must assess OSS options through technical feasibility studies, cost-benefit analyses, interoperability testing, and security evaluations to select the best solution.

- Leveraging Case Studies and Best Practices: Examining real-world OSS implementations in the public sector to identify best practices, challenges, and scalability strategies.

By following these guidelines, public sector institutions supported by IDB-financed operations can streamline OSS adoption, optimize resource allocation, and enhance the efficiency, sustainability, and interoperability of digital solutions.

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COMMON ABBREVIATIONS AND DEFINED TERMS

This section explains the common abbreviations and defined terms that are used in this Guidance.

Abbreviation/Term	Definition
Fit for purpose	Fit-for-Purpose applies to procurement processes, contracts or arrangements and the intended development outcomes. It means the most appropriate approach to meet the project development objectives and outcomes, considering: the value, complexity, nature and context of the procurement, market, and the type/s and level/s of risk. Fit-for-Purpose includes proportionality. This means undertaking a sufficient level of procurement planning, selecting an appropriate procurement process and contract/ arrangement which is proportional to the size, complexity, and value of the development project. This means not overcomplicating simple procurements and putting sufficient safeguards in place for complex procurements.
OSS	An open-source software (OSS) is a type of computer program whose source code is freely available for anyone to inspect, modify, and redistribute. This source code is the human-readable instructions that programmers use to create the software.
RFB	Request for Biddings
RFP	Request for Proposals
Value for Money (VfM)	Value-for-Money means obtaining the optimum benefits with the effective, efficient, and economic use of resources. This requires an evaluation of relevant costs and benefits, along with an assessment of risks, and non-price attributes and/or life cycle costs, as appropriate. The lowest price alone may not necessarily represent Value for Money.

OPEN-SOURCE SOFTWARE

A practical guideline for Project Teams

01. Introduction

This technical note covers the critical aspects of open-source software (OSS) procurement, including general procurement principles and best practices aligned with the policies for the procurement of goods, works, non-consulting services, and consulting services financed by the Inter-American Development Bank¹.

modification and redistribution without significant restrictions since the license guarantees certain freedoms. With this, the user can adapt the software to his specific needs, develop it, and redistribute it. This characteristic contrasts with the traditional proprietary software development and distribution model, in which the vendor restricts access to the source code².

The adoption of this type of software may represent certain benefits that materialize in the medium and long term, such as:

- **Ownership:** Government agencies retain full ownership and control over their customized versions of OSS, ensuring that they can make necessary adjustments, updates, and improvements without reliance on external vendors.
- **Reduced Capex costs:** Open-source software is available for free, which can lead to significant savings on the cost of the license. However, further costs will depend on subsequent adequations and maintenance solution.

02. Definition of Open-source Software

Open-source software (OSS) has gained significant popularity recently due to its numerous advantages for organizations. In theory, this software is characterized by the availability of source code that is ready for

¹GN-2349-15 Policies for the Procurement of Goods and Works financed by the Inter-American Development Bank y GN-2350-15 Policies for the selection and contracting of consultants financed by the Inter-American Development Bank.

²Government Procurement Service (2011). "ICT Advice Note – Procurement of Open Source" <https://assets.publishing.service.gov.uk/media/5a759f9c40f0b67f59fce55c/ICT-Advice-Note-Procurement-of-Open-Source.pdf>

- **Flexibility:** Modifying the source code allows organizations to adapt the software to their needs and workflows, improving efficiency and productivity.
- **Security:** The open nature of open-source development allows for greater scrutiny and collaboration, which can help identify and fix security vulnerabilities more quickly.
- **Collaboration:** Organizations can contribute to the development of open-source software and benefit from the contributions of a global community of developers, fostering innovation and knowledge sharing.

However, adopting this software also represents challenges for organizations, which are essential for the project team to consider before adoption. These challenges may be related to limited support, the potential lack of quality control, incompatibility with existing software, lengthy learning curves, lack of plan for long term sustainability, lack of ownership, and dependence on the developer community that supports the OSS. Sometimes, multiple versions of the software are available, increasing the risk of fragmentation and making it difficult for organizations to select the appropriate version. Furthermore, there is a risk of obsolescence, as the software often has different levels of support and maintenance compared to traditional licenses. Security vulnerabilities may still be present, if the software is not secure-by-design and/or if the task of finding and fixing bugs has not been properly done.

Additionally, the licensing of this software may present various complexities. Different open-source licenses (such as MIT, GPL, and Apache)³ come with specific permissions and restrictions, which determine what users can and cannot do with the software. This can include limitations on commercial use, requirements to share modifications, or obligations to maintain the same licensing terms in derivative works.

03. Planning and Strategy

a. Need Identification

As in other processes, the considerations established in the Bank's policies related to Fit for Purpose and Value for Money are vital when analyzing this license procurement type. These considerations are crucial in this case since open-source software is typically distributed under specific licenses. These licenses define the terms of use, modification, and distribution of the software. There are various open-source licensed

³ MIT (Massachusetts Institute of Technology), GPL (General Public License), and Apache (License created by Apache Software Foundation).

with some allowing for more commercial use or modification freedom than others. Understanding specific licenses is vital for proper use.

For what was mentioned above, before starting the procurement analysis, the technical team must ensure that the open-source license meets all the minimum but essential requirements to cover the project's needs. In addition to analyzing licensing characteristic, other requirements to consider are:

- Security
- Scalability
- Functionality
- Compatibility with existing systems
- Liability limits
- Implementation, support, and maintenance requirements.
- Implementation, support, and maintenance model (inhouse vs external vendors).
- License reuse requirements (i.e. Obligations by using the OSS. Keeping links to the source, logos, sharing back to the community modifications made, etc.)
- Intellectual property and Open Standard issues.
- Infrastructure needed (cost of acquisition and maintenance of such infrastructure).
- Technology used on the OSS.
- In-house IT team capacity to modify/support the OSS:
- Advantages of the open-source solution instead of a proprietary one.
- How will the mix of open-source and proprietary products work.

- How to manage the risk and ensure that the solution meets the project and Institution's needs.
- Exit and transition costs.
- Sustainability of the solution.
- Integration with existing systems to ensure compatibility and seamless operation.
- Community strength.
- Alignment with the National Digital Strategy in those cases where it applies.

In this analysis, the project team and the Executing Agency should involve the technology and legal departments to ensure the selected options suit the project's need, are compatible with the Institution's systems, and the license's scope is crystal clear for the team. It is crucial to remember that although the reuse of the code is free, there are costs related to the implementation, support, maintenance, and development and, therefore, there are costs throughout the product's life.

This analysis will determine the type of product that suits the project's needs. In that way, the procurement team will recommend the best strategy, which should generally involve a regular competitive process over direct contracting, if any procurement is needed. Due to the diversity of licenses and characteristics available in the market, a competitive process is the optimal option.

b. Selecting the best procurement strategy

i. Analysis

With traditional proprietary software, the procurement process usually selects the best deal with the vendor that offers the most suitable product based on technical requirements. The process to implement an open-source software could appear not different. However, a more exhaustive and comprehensive technical analysis is needed for the team to decide based on the best Value-for-Money⁴ solution according to the project needs under a fit-for-purpose approach.

In this phase, it would be necessary to consider the total cost of ownership of the solution, including the whole costs: initial cost and the long-term costs for the implementations, adaptations, integrations, maintenance, operational costs, support, and training, among others⁵. The evaluation of all these costs in comparison to the cost of proprietary solutions will ensure that the team is acquiring the most suitable solutions.

Another mandatory exercise to conduct is a **market analysis**⁶. This exercise will help the team to understand what alternatives or options are available, the support they receive from the OS community, what the main differences between apparently suitable options are, how aligned the project needs with the offer are, and what the potential risks of the process are. This can also be useful to understand the software's ecosystem.

Based on the result of the different analyses conducted, a team of IT, DevOps, security, risk management, legal and procurement specialists would be ready to determine the appropriate procurement method and elaborate the evaluation criteria to include in the Request for Proposal (RFP) or Request for Biddings (RFB), according to the product to be acquired.

ii. Type of products/services

According to the project needs, and the previous analysis conducted, the team could find different alternatives and procurement approaches⁷:

1. Open-source software: When the required product is downloaded open-source software on a “no-cost” and “as is” basis,

4. For definition of Value for Money consult the Core Procurement Principles section in the Policies of the Procurement of Goods, Works, Services and Consulting services financed by the Inter-American Development Bank. Find more information in the technical guideline on <https://idbg.sharepoint.com/sites/vpc-fmp/Shared%20Documents/Forms/AllItems.aspx?id=%2Fsites%2Fvpc%2Dfmp%2FShared%20Documents%2FPublications%2FValue%20for%20Money%20for%20Publication%2Epdf&parent=%2Fsites%2Fvpc%2Dfmp%2FShared%20Documents%2FPublications>

5. For more information visit: <https://assets.publishing.service.gov.uk/m-ia/5a759f9c40f0b67f59fce55c/ICT-Advice-Note-Procurement-of-Open-Source.pdf>

6. The Executing Agency could utilize a request for information as part of the market analysis.

7. Request for information might be a good practice for a better understanding of the alternatives available in the market.

there **is no procurement process**, although the team must conduct the complete analysis described above.

2. Open-source software versus proprietary solution: Sometimes, the project requires analysis of different alternatives that could be either an OSS or proprietary solution. In addition to the analysis described above, the team must conduct a process that evaluates the market's different alternatives to select the most

advantageous offer. In those cases, launching a competitive process is the recommended option.

Regardless of the alternatives selected, implementation might be required the procurement of the complementary services such as: maintenance, training, and **implementation** (including new developments) which should be purchased using competitive procedures as the preferred option.

Table 1. Procurement method according to the type of product

Type of product	Procurement Type	Procurement Method	Bank's Policy
1. Open-Source Software (no-cost and "as-is")	N/A	N/A. Complete analysis of needs and products	N/A
2. Open-Source Software or proprietary solution	Goods	Competitive process using an RFP, according to the Country thresholds.	GN-2349-15
3. Implementation & Developments over an existing Open-Source Solution	Consulting	Competitive process using an RFP, according to the Country thresholds.	GN-2350-15
4. Maintenance for an existing Open-Source	Non-Consulting Services	Competitive process using an RFB, according to the Country thresholds.	GN-2349-15
5. Training about an existing Open-Source	Non-Consulting Service	Competitive process using a RFB, according to the Country thresholds.	GN-2349-15

Direct contracting may apply only in exceptional cases where the technical team justified using this method based on one of the reasons outlined in the policy (paragraph 3.7 – 3.8, GN-2349-15⁸ y paragraph 3.10 – 3.14, GN-2350-15⁹) and if it does not conflict any of the basic procurement principles.

The Bank's policies have a complete set of procurement methods that can be combined with the proper procurement and market approach (e.g., single or multistage / BAFO or Negotiation)¹⁰. Once the team identifies the product that suits the project needs, the procurement strategy should be elaborated using regular procedures (See Annex 1 cases). Also, the Bank counts on the Standard Bidding Documents that the Executing Agency, in conjunction with the project team, will adapt the approach according to the process's needs.

For type of product 2, these relevant aspects should be included in the Request for Proposals:

- The clarity about the needs or problem of this solution intends to solve.
- The type of tasks, services, and requirements for the solution.
- If the process will assess all types of solutions (proprietary or open source), the evaluation criteria must be clear about how the team will analyze the offer/proposal.
- Request specific details about the license that the market is offering.
- The evaluation criteria should explain in detail the weight assignment.
- Key performance indicators to manage the contract and demonstrate that the project is achieving value for money and its goals.
- Licenses legal considerations.

04. How to Structure a Procurement Process to Accommodate OSS

This section presents ideas on how to design a RFP for an Open Source Solution (Product type 2 in the table. However, if the team see added value to use it to focus the analysis of an OSS “as is”, can use it).

A. Explicit Preference For Open-source Solutions

- **Specification Statement:** Clearly state in the procurement documents, the type of solution required. Ensure procurement processes accommodate OSS, allowing for fair and transparent evaluation alongside proprietary solutions. This includes drafting tenders that specify functional requirements rather than brand names or proprietary technologies. This statement should explain the rationale behind the preference, such as ownership, cost-effectiveness, flexibility, community support, and customization opportunities.

8_GN-2349-15 Policies for the Procurement of Goods and Works financed by the Inter-American Development Bank.

9_GN-2350-15 Policies for the Selection and Contracting of Consultants Financed by the Inter-American Development Bank

10_For more information about procurement methods, please visit GN-2349-15 Policies for the Procurement of Goods and Works financed by the Inter-American Development Bank and GN-2350-15 Policies for the Selection and Contracting of Consultants Financed by the Inter-American Development Bank

In those cases where the preference is an open-source ‘as-is’ and “no costs”, even though there is not a procurement process per se, the comparison between different options available in the market is highly recommended.

B. Requirement Specifications

- Calls for tenders for open-source software should be based on functional requirements, not specific products, or vendors. Properties of open standards or open-source software may be part of these requirements either as minimum requirements or as properties that will be favored.
- The tender should specify the function of the software and the technological environment on which the OSS should run or coexist in detail to ensure transparency and objectivity in the procurement process. The software's purpose and essential attributes should be described in a vendor-neutral manner. This is a general principle of public procurement;
- It is not good practice to simply state that software should be "open source." Instead, the properties of open-source software should be described and justified. Open source applies to the conditions under which the software is provided. Desired properties of open source could be included as mandatory requirements in the contract description or documents. Open source can also be included as a preference by incorporating open-source requirements as weighted award criteria. The needs of a public agency may typically require that:
 - The code repository with all its code history is controlled and owned by the public agency, ensuring that the agency and authorized third parties have ongoing access to the codebase for updates, audits, modifications, and sharing without restrictions.
 - Comprehensive technical documentation is provided to ensure that government agencies can effectively use, modify, and maintain the software. This documentation should include detailed installation guides, usage instructions, troubleshooting tips, and ensure compatibility with existing software.
 - **Flexibility and Customization:** Specify the importance of solution flexibility, scalability, and customization capabilities, highlighting how the open-source solutions could offer advantages.
 - **Security and Transparency:** Emphasize the value of security, auditability, and transparency, noting that open-source solutions allow for thorough code inspections and security audits by the community or third-party entities.
 - **Legal and Licensing Considerations:** Require that all solutions, whether open-source or proprietary, comply with relevant legal and licensing requirements, including considerations for any third-party components or libraries used⁴.
 - **Training and Support:** If needed, ask for detailed plans on training and ongoing support, assessing whether open-source solutions provide comprehensive and

cost-effective options for building internal expertise and ensuring long-term sustainability.

C. Considerations For The Evaluation Criteria

In addition to the regular considerations to develop a solid evaluation, the strong recommendation is to include the following elements as part of the criteria to evaluate the bids:

- **Rated criteria¹¹:** refer to the specific factors or standards used to evaluate and score the bids or proposals submitted by suppliers or contractors. These criteria are used to assess the quality, effectiveness, and overall value of the bids beyond just the price. Rated criteria often include elements such as technical capabilities and expertise, compatibility with public agency's infrastructure, quality and reliability of the proposed solution or service, past performance and experience, innovation and added value, environmental and social sustainability practices, and compliance with regulatory and legal requirements. Each criterion is assigned a weight or score, and the bids are evaluated based on how well they meet these criteria. The use of rated criteria ensures a comprehensive assessment of bids, promoting fair competition and the selection of the best value proposal for the public entity.
- **Weighted Scoring:** If the process is open to all types of solutions with a preference for open-source solutions, the team

should assign a specific weight to the technical evaluation criteria, where points are allocated based on the solution's openness, adaptability, and the potential for future modifications and integrations.

- **Cost of Ownership:** Include total cost of ownership (TCO) in the evaluation criteria. Consider long-term costs associated with updates, support, training (if it applies) and customization.
- **Community Support and Sustainability:** Evaluate the strength and activity of the open-source community behind each solution, as a functioning community can indicate the 'solution's sustainability, potential for future enhancements, and availability of support.
- **Open Standards and Interoperability:** Give preference to solutions that adhere to open standards and demonstrate interoperability with other systems, as this can reduce future integration costs and avoid vendor lock-in.

D. Tender Selection

- Bids responding to the call for tenders must be evaluated according to the established criteria, and the most advantageous bid chosen.

The process would end in the download of the product with no fee paid. In addition, all the services, support, implementation must be procure separately as explained in section III, b., ii – and table 1.

¹¹Evaluating Bids and Proposals, Including Use of Rated Criteria for Procurement of Goods, Works, and Non-Consulting Services. Available at <https://thedocs.worldbank.org/en/doc/61a81c4c9c79428afa613f076fa8bb2e-0290032023/original/Evaluating-Bids-and-Proposals-with-Rated-Criteria.pdf> Use of Merit Point Criteria for Bid Evaluation. Available at <http://dx.doi.org/10.22617/TIM210516-2>

CONCLUSION

02. CONCLUSIONS

This technical note provides a comprehensive guide for project teams on the procurement of open-source software (OSS). It emphasizes the importance of aligning OSS procurement with the Bank's established principles of "Fit for Purpose" and "Value for Money."

It also highlights the relevance of strategic planning by the team in analyzing project needs as a basic element to identify the best procurement method according to the type of OSS product (standalone software, bundled services, etc.), the license requirements, and every key element needed to design an adequate Request for Proposal with strong evaluation criteria.

By following these guidelines, project teams can make informed decisions when procuring open-source software, maximizing value for money, and achieving project goals.

ANNEX 1 CASES

04.

Annex

Case 1

A government agency has opted to adapt and customize in-house a solution based on an existing open-source software. To achieve this, it is necessary to train its employees in the customization and deployment of the OSS. This raises the question: Can the government engage the organization that originally developed the open-source software to provide the training through a direct procurement process, or must a competitive bidding process be employed? Furthermore, if the developing organization operates as a non-profit entity, does this status affect the procurement process? Specifically, can the non-profit organization be hired directly under these circumstances?

Procurement types: Consulting services, non-consulting services

Before considering the method to use, the Executing Agency in conjunction with the

project team must distinguish between the procurement to customize/build the solution and the procurement to train government officials to customize and deploy the solution. This distinction is important because this case has two different types of procurement that must use different procurement methods. Customize/build a solution is about consulting services, while the training is a non-consulting service.

Regarding the recommended procurement process: **Single-Source Selection (consulting services)** or Direct Contracting (non-consulting services): These selection methods are generally not preferred due to the lack of competition about quality and cost and lack transparency. These can be used in exceptional cases, such as when a task represents a natural continuation of previous work carried out by the firm, or when only one firm is qualified or has experience of exceptional worth for the assignment (paragraph 3.10 – 3.14, GN-2350 and 3.7 – 3.8, GN-2349-15¹²)

The **good practice on the procurement of Open-Source Software (OSS) recommends issuing a competitive process.** The software may be customized - the ability to be customized extensively is a key advantage of OSS, and customization may be one reason open source was selected by the public agency in the first place. Although limited free support may be available from the open-source community, including specialized communities such as the Open Source Observatory (OSOR) in the case of public sector software, a paid contractor will

12 GN-2350-15 [Policies for the Selection and Contracting of Consultants Financed by the Inter-American Development Bank](#) and GN-2349-15 [Policies for the Procurement of Goods and Works financed by the Inter-American Development Bank](#)

usually have to be selected. For all such additional services, open, competitive calls for tenders should be used to select suppliers. A key property of open-source software is that anyone can provide support or other services, depending on their skills. The market is thus fully competitive. No proprietary control or advantage rests with an "owner" or "sponsor", or their dealers and agents. In a call for tenders placed for the purchase of services related to a specific open-source software system, any independent supplier can bid.

Use of Nongovernmental Organizations (NGOs): Yes, it is possible in the case of consulting services, as established in paragraph 3.17: "NGOs may be included in the short list if they express interest and provided that the Borrower and the Bank are satisfied with their qualifications. Borrowers should preferably not include consulting firms in the short list for services for which NGOs are better qualified. For assignments that emphasize participation and considerable local knowledge, the short list may comprise entirely NGOs"¹².

In relation to training (non-consulting service), the firm could be hired via direct contracting if falls under the assumptions set forth in paragraphs 3.7 - 3.8 on the GN-2349-15¹³.

Case 2

A government agency has selected and downloaded a specific open-source solution and initiates a competitive procurement process to hire a firm that will implement it. May the bidding documents for that process state the specific solution that the vendor would implement?

Procurement types: Consulting services, non-consulting services

To hire the implementation of the specific solution the government downloaded, it is recommended to launch a competitive process. This process involves writing a bidding document that specifies the required service, provides technological details of the downloaded solution (codes, technology, etc), and outlines the complete requirements for a successful deployment. The bidding document plays a crucial role in informing the market about the type of solution the government plans to implement and its associated challenges. This information helps potential service providers assess their ability to handle the job, ensuring that the best candidates are selected.

2.2 Could the Open-Source Solution maintainer charge the vendor hired through the competitive process for training fees, should the vendor require training?

¹³_GN-2349-15 Policies for the Procurement of Goods and Works financed by the Inter-American Development Bank.

This must be clarified from the procurement process design, include this requirement on the bidding documents and aligned with the specific requirements of the specific licensing agreement. However, the decision of the organization to charge the vendor is outside the scope of the procurement process financed by the Bank.

If the executing agency wants to hire organization to provide training to the vendor, it could be contracted directly following the provisions in paragraph 3.7 of GN-2349-15¹³.

2.3 If none of the vendors competing in the procurement process have prior experience with the specific open-source solution, to what extent are the technical requirements critical, considering they will receive training? What if they do not receive training?

When considering a scenario where none of the potential implementors have previous experience with the specific open-source solution but are otherwise experienced integrators, the approach to procurement and evaluation can be adapted while still aligning with the principles outlined in the IDB policies¹³. Identifying the specific technical criteria that will be considered for the evaluation is the responsibility of the technical team.

Competing Without Previous Experience

1. Adaptability of Technical Requirements:

Technical requirements in the procurement documents should focus not only on previous experience with the specific solution but also on related technical

competencies, the ability to learn and adapt, and a proven track record of successfully implementing other digital solutions. This approach broadens the pool of qualified bidders and encourages competition.

2. Evaluation Criteria Modification: Evaluation criteria can be adjusted to emphasize the firm's overall experience with similar technologies, its methodology for tackling new solutions, the strength of its technical team, and its plan for acquiring the necessary knowledge of the open-source solution. This acknowledges the reality that firms may not have direct experience with the specific software but possess the capability to implement it effectively.

Training Considerations

1. Including Training as a Requirement: If training on the specific solution is critical for successful implementation, the procurement documents can specify that bidders include plans for training their team as part of their proposal. This could involve partnering with the developers or another entity for training, or it could include a self-learning plan based on available documentation and community resources.

2. Impact of Not Receiving Training: In scenarios where training cannot be provided, the emphasis during the evaluation process should shift towards assessing the bidder's intrinsic capabilities, including problem-solving skills, technical adaptability, and the resourcef

umentation and support forums. It also becomes crucial to evaluate the support ecosystem of the open-source solution (such as community support, documentation, and availability of learning resources) that the implementors can leverage.

Consideration of Experienced Digital Solution Integrators

- **Competitive Advantage of Broad Experience:** Firms known for their extensive experience in implementing digital solutions, may not have specific experience with the open-source solution in question but have demonstrated capabilities in quickly learning new technologies and successfully implementing complex systems. Their broad experience, methodologies for adopting new technologies, and capacity to manage large-scale digital transformation projects can be considered a significant competitive advantage.
- **Innovation and Adaptability:** These firms' ability to innovate and adapt to new technologies can be a crucial factor in the evaluation process, especially if they demonstrate a clear and credible plan for overcoming their lack of experience with the specific open-source solution.

In conclusion, lacking direct experience with a specific open-source solution is not necessarily a deal-breaker in a competitive procurement process. The technical team must evaluate what is the best option and will decide if that experience is critical for the

job. However, they must consider that the focus can be adjusted to evaluate broader technical capabilities, adaptability, and innovation, along with a concrete plan for acquiring the necessary knowledge and skills through formal training or self-learning initiatives. This approach allows for a fair and competitive process, ensuring that the selected implementor is best suited to effectively meet the project's objectives.

Case 3

A government agency intends to implement an open-source solution to address a specific issue that they know is possible to solve with different OSS available. They need to select the best implementer which can propose the best OSS to solve the government needs. They will launch a procurement process to select the best implementer. Various organizations or consortiums of organizations are expected to participate in the bidding. Among the participants, some Open-Source maintainers are non-profits. Can these non-profit maintainers participate in the procurement process in partnership with a for-profit entity through a consortium?

Procurement types: consulting services

Yes, organizations that maintain open-source solutions, including non-profits, can participate in the procurement process with a for-profit partner through a consortium. This arrangement allows for combining the specific technical expertise and experience of the non-profit organization with the for-profit partner's capabilities in areas such as implementation, customization, and support services, potentially offering a comprehensive solution to the government's specific issue. Our procurement policies allow for such collaboration, recognizing the value that various types of organizations can bring to a project. Here are key points supporting this approach:

- 1. Inclusion of Diverse Organizations:** The IDB's procurement policies are designed to encourage the participation of various suppliers and service providers, including non-profits, NGOs, and for-profit companies. This inclusivity ensures that the Bank's financed projects benefit from a broad spectrum of innovation, expertise, and experience.
- 2. Consortium Participation:** The policies explicitly allow for organizations to form consortia to enhance their collective qualifications, share expertise, and provide a more comprehensive solution than they might be able to offer individually. This is particularly beneficial in complex projects or areas requiring specialized knowledge, such as implementing open-source solutions.

3. Eligibility and Competitive Process: All participants in a consortium, including non-profits, must meet the eligibility criteria outlined in the procurement documents. The competitive process ensures that the selection is based on the consortium's ability to meet the project's requirements effectively and efficiently, considering factors like experience, technical expertise, and cost-effectiveness.

4. Fair and Transparent Selection: The IDB's procurement policies emphasize fair and transparent selection processes. A consortium that includes non-profit organizations with for-profit partners is evaluated based on its collective ability to deliver the required services. The evaluation criteria, which would be outlined in the Request for Proposals (RFP), ensure that all bidders, regardless of their individual organizational structures, are assessed equitably based on their qualifications and the quality of their proposal.

In summary, non-profit organizations maintaining open-source solutions can indeed participate in governments' procurement process with a for-profit partner through a consortium. This collaboration can leverage the strengths of both non-profit and for-profit entities, providing a robust solution to meet the project's goals while adhering to the principles of fair competition and transparency as outlined in the IDB's procurement policies.

Without prejudice to what has been stated above, the conformation of the shortlist must comply with paragraph 2.8 of policy GN-2350-15^{12, 14}.

¹⁴ The short list should preferably comprise consultants of the same category, similar capacity and business objectives. Consequently, the short list should be composed of firms of similar experience or of not-for-profit organizations (NGOs, universities, Specialized Agencies, among others) acting in the same field of expertise. If mixing is used, the selection should be made using Quality-Based Selection (QBS) or Selection Based on the Consultants' Qualifications (CQS) (for small assignments).²³ The short list shall not include individual consultants.

Case 4

Procurement types: Goods

A government agency aims to implement a solution for a specific issue and has decided that the procurement process will not be exclusively for open-source solutions but will favor open-source options. How can this preference be incorporated into the procurement specifications?

A government agency can model its procurement specifications to indicate a preference for open-source solutions while keeping the process open to proprietary options (See Section IV.a.b.). This approach ensures a competitive and inclusive bidding environment, allowing for a wide range of solutions that can be evaluated based on their merits, including the benefits of open-source technologies. **The section IV of this document contains the how to structure procurement specifications.**

By carefully designing the procurement specifications and evaluation criteria, the government agency can effectively communicate its preference for open-source solutions while ensuring a fair and competitive selection process. This approach allows the government to leverage the benefits of open-source software, such as ownership, cost savings, customization, and community support, while still considering proprietary solutions that may offer unique advantages for specific requirements.

REFERENCES