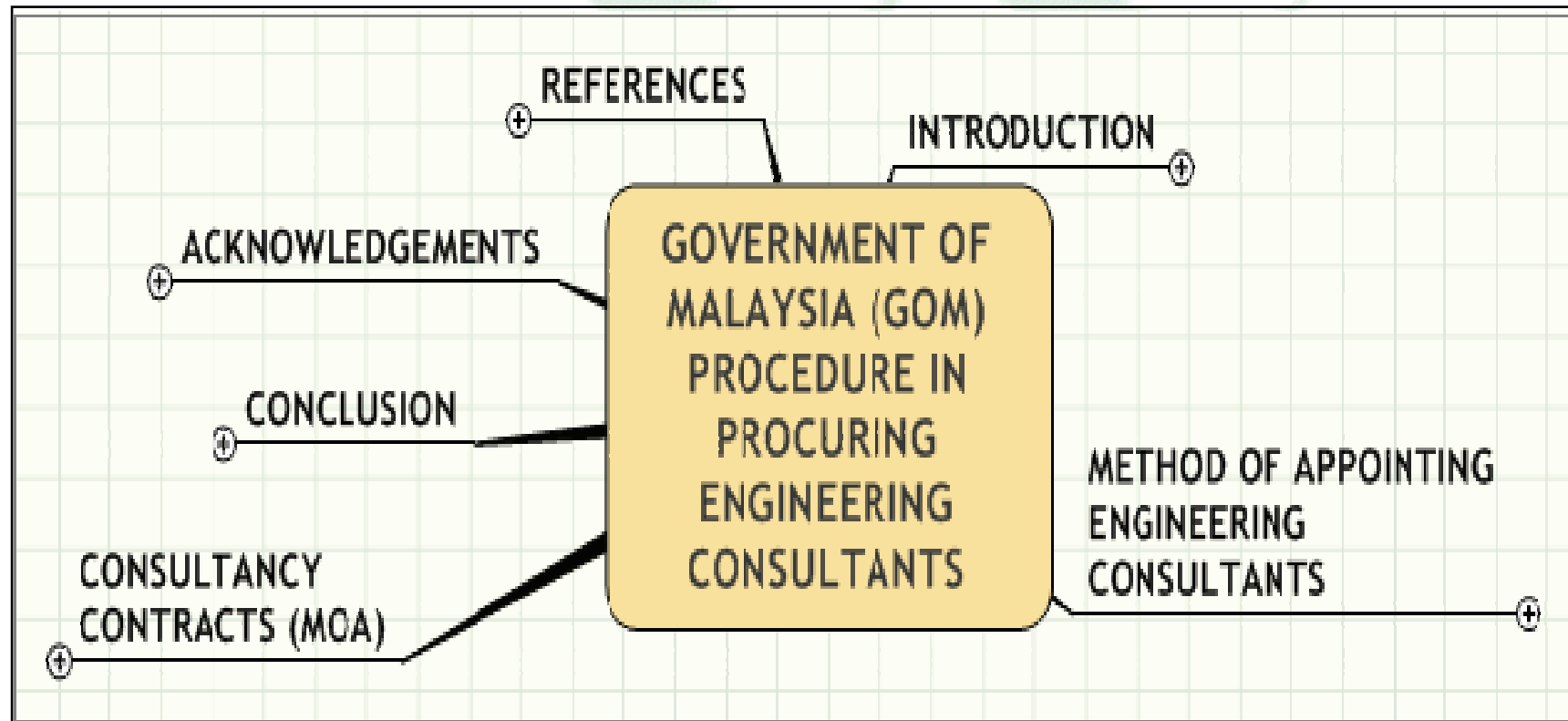




# SELECTION OF CONSULTANTS FOR PUBLIC SECTOR INFRASTRUCTURE PROJECTS IN MALAYSIA

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# Introduction





# Development Expenditure and Allocation for Infrastructure & Utilities under 8<sup>th</sup> & 9<sup>th</sup> Malaysian Plan

Table 1: Development Expenditure and Allocation For Infrastructure and Utilities, 8<sup>th</sup> and 9<sup>th</sup> Malaysia Plans

## Summary

SECTOR	8 <sup>th</sup> . MP (2001-2005) EXPENDITURE (RM billion)	9 <sup>th</sup> . MP (2006-2010) ALLOCATION (RM billion)
TRANSPORT	30,936.50	30,304.40
UTILITIES	7,752.70	16,540.50

Source: Economic Planning Unit, Prime's Minister Department (2001 and 2006)





# The Need for Consultancy Services

The Department of Irrigation and Drainage (DID) is responsible for the following functions :

- River management
- Coastal protection
- Flood mitigation
- Urban Stormwater management
- Hydrology and water resources assessment





# The Need for Consultancy Services

- DID may on occasion use consultancy services for the following purposes :
  - Conduct feasibility studies on proposed projects;
  - Carry out detailed engineering design,
  - Documentation and tendering processes and
  - Supervision of construction works.
- DID has been allocated RM6.078 billion (US\$1.73b) for development programs under the 9<sup>th</sup> Malaysia Plan (2006 – 2010)
- Consultants are engaged in order to expedite the implementation of these development projects





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# **Methods Of Appointing Engineering Consultants**





# MODE OF APPOINTMENT

- **CONVENTIONAL MODE**
  - appointment by Government
- **TURNKEY/D&B MODE**
  - appointment by Contractor





# Registration Requirement

- Approval by the Board of Engineers is a prerequisite requirement before registering with the Ministry of Finance (MOF) or Treasury
- MOF registration is carried out on line [www.eperolehan.com.my](http://www.eperolehan.com.my)







# Registration With Treasury

- Only two (2) categories of consultancy firms are registered with MOF:-
  - Normal registration by firms wholly owned by Malaysian citizens;
  - Joint Venture between Local and Foreign consultancy firms that are formed in Malaysia with the foreign equity share not exceeding 30%
- Renewal every 3 years





# Foreign consultants

- MOF special approval is required
- Expertise → ie. no local consultants available
- Procurement → 'outsourcing' through local consultants
- Totally foreign services on case to case basis





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# Process





# Process

## CONVENTIONAL MODE

- appointment by Government

## TURNKEY/D&B MODE

- appointment by Contractor





# Process

## CONVENTIONAL MODE

- appointment by Government

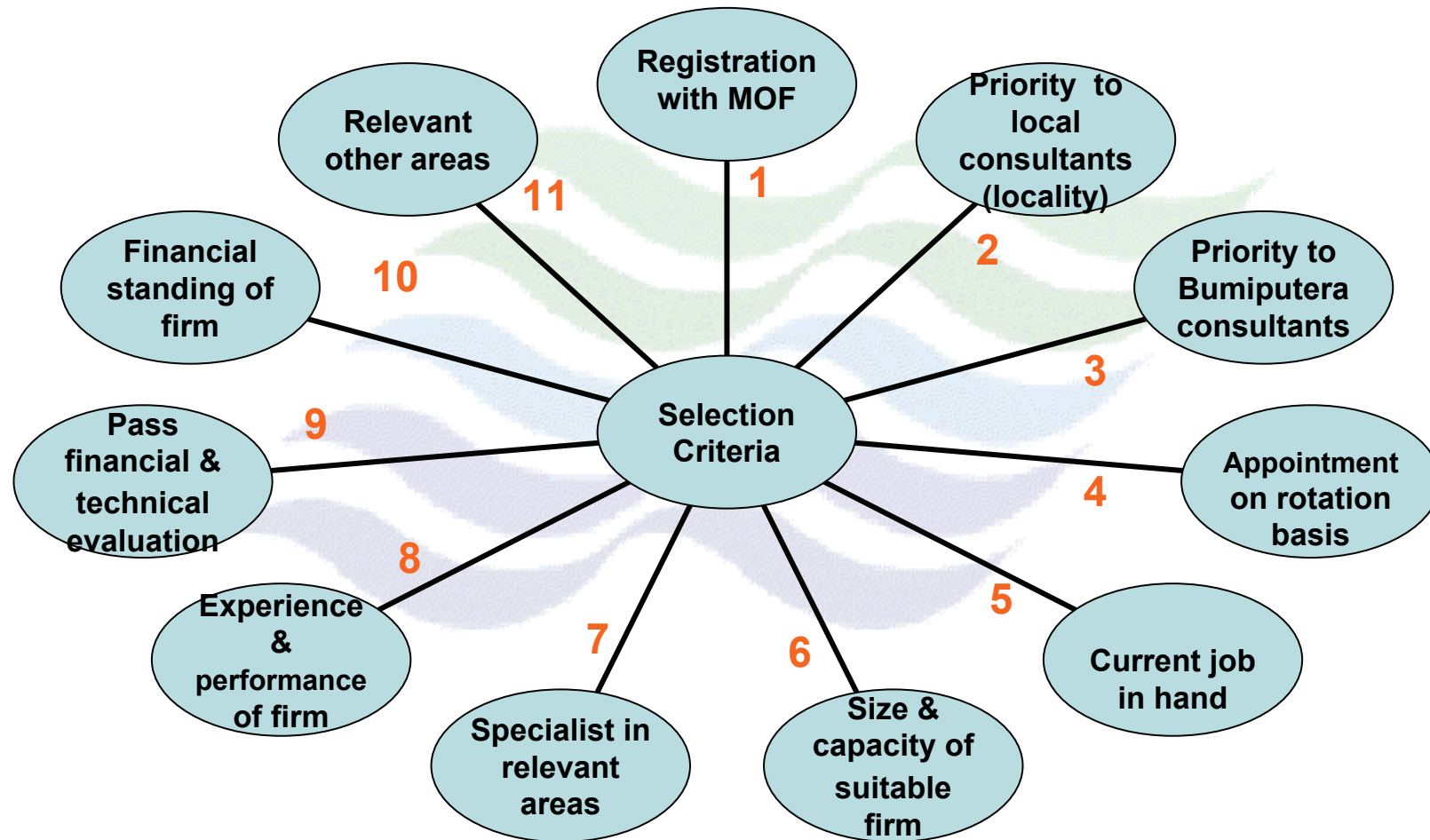
## TURNKEY/D&B MODE

- appointment by Contractor





# Consultancy Selection Criteria (Conventional Mode)



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# Consultants' Selection Criteria

- Registered with MOF with relevant disciplines
- Priority to local consultants (locality)
- Priority to Bumiputera (Bp) consultants
  - Treasury Circular No. 4/1995
  - Minimum 51% Bp equity
  - Minimum 51% Bp Board Members
  - Important Bp posts i.e.. CEO, MD, GM
  - Minimum 51% Bp personnel
  - Financial management by Bp
  - Organizational Chart and Managerial functions reflects full control by Bp





# Consultants' Selection Criteria

- **Appointment on rotation basis**
  - treasury data base on-line
  - common usage for all government agencies
- **Current job in hand**
  - treasury data base on-line
  - common usage for all government agencies
- **Size & capacity of suitable consultancy**
  - treasury data base on-line
  - common usage for all government agencies
- **Specialist in relevant areas**







# Consultants' Selection Criteria

- Experience & performance of consultancy firm
- Need to pass financial & technical evaluation
- Financial standing of consultancy firm
- Other relevant criteria





# Appointment

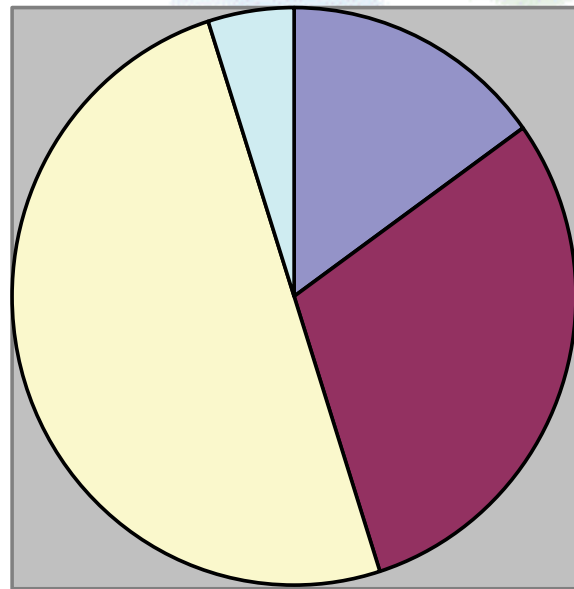
- **Technical & Financial Committee (JTKP)**
- **Direct appointment**
  - Flow Chart of direct appointment
- **Technical & Financial Proposal**
  - Flow Chart of technical & financial proposal
- **Current Financial Rules**
  - Treasury Instructions & circulars
  - MOF Consultancy Services Procurement Manual (2006 Edition)





# Evaluation Technical & Financial Proposal

- The weightage for the evaluation of the technical and financial proposal is set as below:-



Experience	15%
Methodology	30%
Personnel	50%
Other Criteria	5%





# Performance Monitoring Reporting

- Periodical (every 3 months)
- Once if projects < 6 months duration
- Final report 1 month after end of consultancy services
- Complaints to MOF for disciplinary action
  - Warning issued to consultancy firm
  - Suspension of firm's registration with MOF
  - Cancellation of registration with MOF
  - Blacklisting the firm
  - Blacklisting the proprietor/Board Members
  - Other disciplinary action





# Process

## CONVENTIONAL MODE

- appointment by Government

## TURNKEY/D&B MODE

- appointment by Contractor





# Turnkey/D&B Mode : Appointment by the Contractor

- Contractor's own selection criteria
- Contractor's own method of appointment
- Subject to Treasury's terms & conditions
  - Local Bumiputera consultants for projects less than RM50.0 million
- Contractor's own performance monitoring report
- Avenues for Government Agencies to submit a complaint to MOF





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# **Improvements Introduced by Individual Agencies**





# Issues Under Conventional Mode

## Lack of Understanding by the Consultants

- **Terms of Reference (TOR)**
  - Introduce Key Performance Indicators
  - Include TOR as part of Consultancy Agreement
- **MOF selection criteria**
  - MOF Manual on Consultant Services Procurement (2006 Edition)
  - Accessible via web site







# Issues Under Conventional Mode Mismatch Between The Capacity of Consultancy Firm and Project Value

- Set weightage on specific selection criteria depending on the nature of the job
- Pre-qualification of firm's capacity into categories





## Set Weightage On Specific Selection Criteria Depending on the Nature of the Job - DID

- Project size compared to number of professionals 30%
- Job experience 40%
- Similar job experience 20%
- Balance of work in hand 10%
- Scoring
  - Passing mark 60%
  - Recommendation exceeding 80%





## Set Weightage On Specific Selection Criteria Depending on the Nature of the Job - PWD

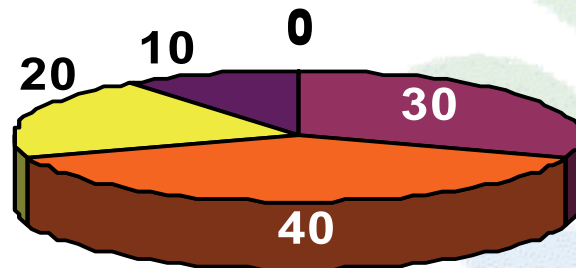
- Specialization 15%
- Professional & Semi Prof staff capacity 20%
- Professional experience 10%
- Firm's experience 10%
- Balance work in hand 10%
- Equity 15%
- Locality 10%
- Performance 5%
- Financial capacity 2%
- Equipments & software 2%
- ISO Certification 1%



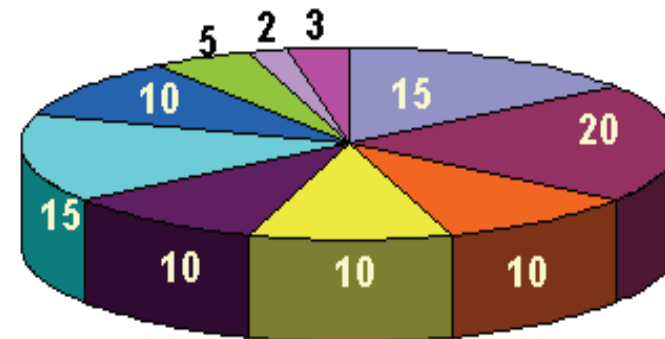


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# Comparison of Weightage Specific Criteria Chart



DID



PWD

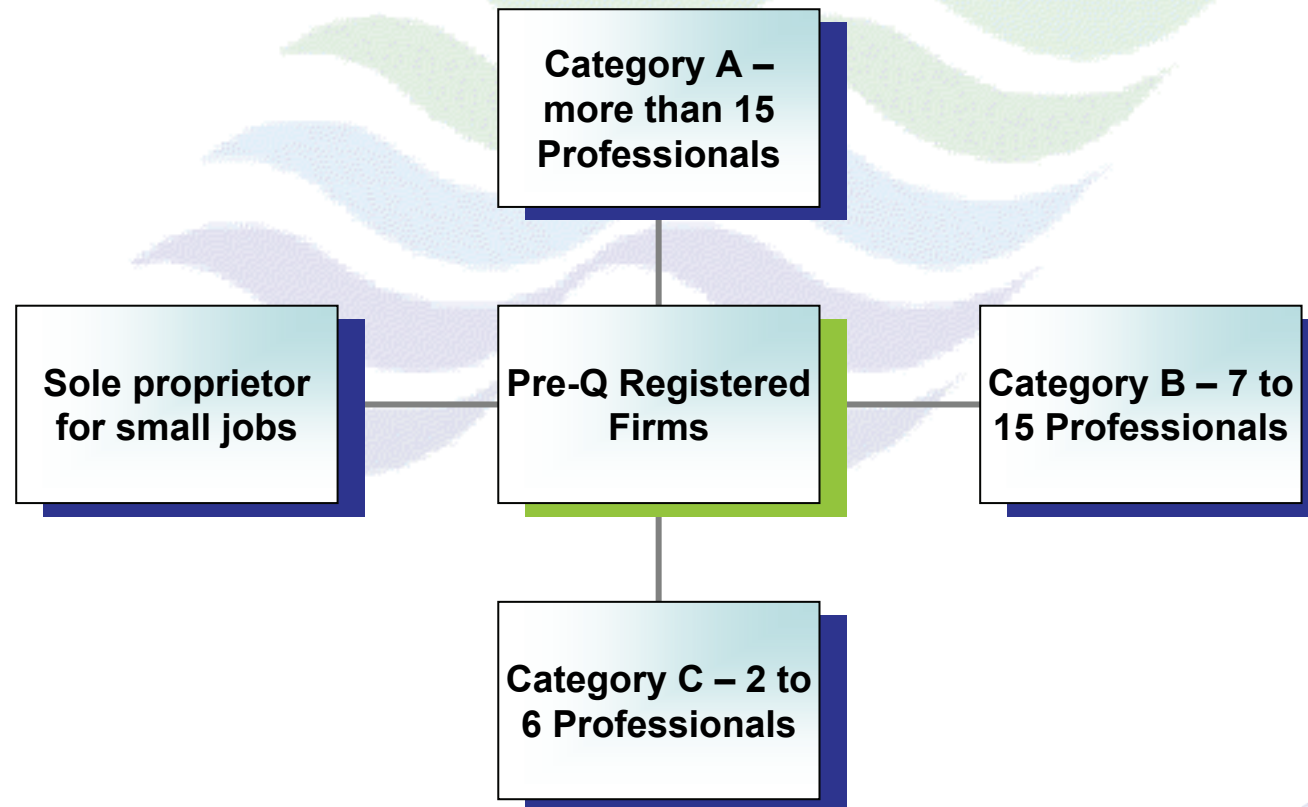
- Specialization
- Professional Experience
- Balance of Works in Hand
- Locality
- Financial Capacity
- Professional & Semi Professional Staff Capacity
- Firm Experience
- Equity
- Performance
- Equipment & Software/ISO





# PWD Pre-qualification of Firm's Capacity Into Categories

- PWD further pre-qualifies the consultancy firm's capacity into categories as shown below





## Issues Under Turnkey/D&B Mode Lack of Professionalism

- Appointment of independent Consultants by the Contractor. In-house Consultants are prohibited;
- Appointment of Consultants is subject to the Project Director's consent; and
- Direct payment by Government to the Consultants subject to the Contractor's consent.





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# Consultancy Agreements





# Consultancy Agreements

- **Conventional Mode of Appointment**
  - BEM/JKR.FORM A (Revised 1/83) - Schedule of Fees
  - Agreement for Consultancy Services (Man-Month) (Revised 1/83)
- **Turnkey/D&B Mode of Appointment**
  - No Standard Consultancy Agreement







# Rights & Liabilities of Employers & Consultants

- Consequences of breach of contract & remedies available
- Resolution of disputes





# Recent & Current Developments

- **Consultancy Agreement is being reviewed by MOF & Board of Engineers Malaysia (BEM)**
- **Professional Indemnity – Insurance**
- **Terms of Reference (TOR)**
- **Intellectual Property Rights (IPR)**





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# Conclusion

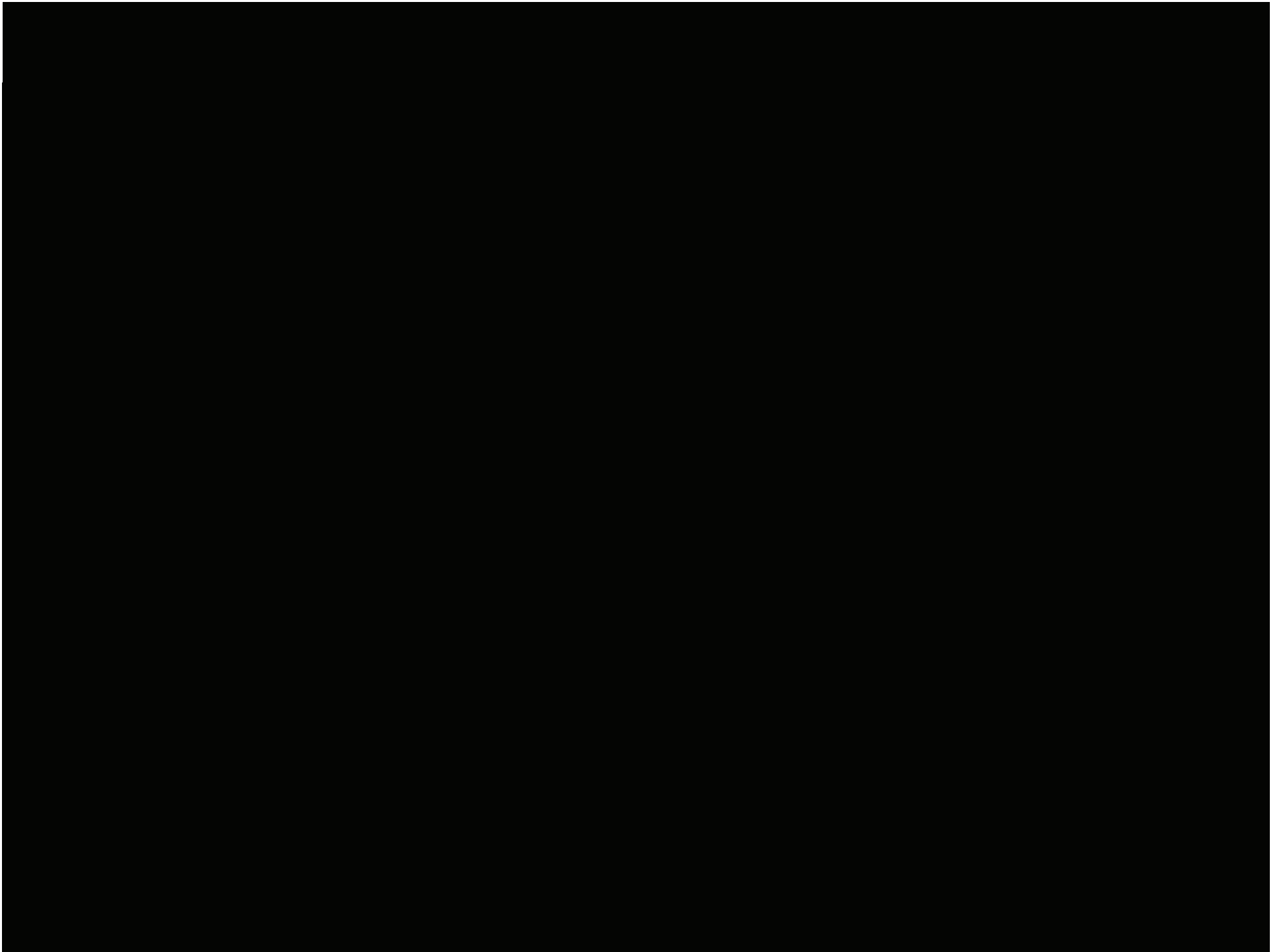




# CONCLUSION

- **Common basis for selection of Engineering Consultants for public projects**
- **Mechanism to ensure the selection of the best consultants**
  - **Conventional mode: Technical & Financial Committee responsible for the selection of the best consultant for the job**
  - **Turnkey/D&B mode: In-built safe-guards to ensure professionalism**
- **Requirement for periodical feedback on performance**
- **Disciplinary action initiated by MOF**
- **Review of the Consultancy Agreement to incorporate improvements**







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# ACKNOWLEDGEMENTS

- Procurement Division of MOF Malaysia
- PWD Malaysia
- Board of Engineers Malaysia (BEM)
- Institution of Engineers Malaysia (IEM)

