

PROCUREMENT POLICY

January 2016

VISION STATEMENT

Application of the Procurement Policy in AIIB Projects aims to support Recipients to achieve the successful implementation of Bank-financed Projects through efficient, fair, ethical and transparent procurement processes that optimize both value-for-money and social and environmental sustainability.

Acronyms

AIIB	Asian Infrastructure Investment Bank
CPS	Country Procurement System
FfP	Fit for Purpose
MDB	Multilateral Development Bank
PDS	Project Delivery Strategy
VfM	Value for Money

1. Purpose

1.1 This policy (Procurement Policy) sets out the principles on the basis of which the procurement under Projects financed by the Asian Infrastructure Investment Bank (the Bank) is to be conducted.

1.2 The Procurement Policy promotes good procurement processes in projects through:

- a) application of an implementation methodology which adopts a strategic, cost effective and efficient approach to procurement;
- b) optimal value for money (VfM) throughout the procurement and Project cycle by application of a fit-for-purpose (FfP) methodology;
- c) application of global innovation and advances in procurement practice;
- d) close collaboration with other multilateral and bilateral development institutions;

- e) application of an appropriate level of risk-based fiduciary oversight;
- f) inclusion of sustainable socio –economic and environmental objectives in the Project’s procurement¹ ; and
- g) sound procurement governance and accountability.

2. Definitions

2.1 As used in the Procurement Policy, the following terms have the meanings set out below:

- (a) Project means the specific set of activities defined in the agreement between the Bank and the Recipient providing for Bank financing of said activities, regardless of the financing instrument or the source of such financing or whether the Project is financed in whole or in part by the Bank.
- (b) Private Entity means any natural or legal person, whether publicly or privately owned:
 - (i) which is carrying out or is established for a business purpose, and is operating on a commercial basis;
 - (ii) which is financially and managerially autonomous from the government;
 - and (iii) whose day-to-day management is not controlled by the government.
- (c) Public Entity means any entity that is not a Private Entity.
- (d) Recipient means the beneficiary of Bank financing for a Project, which is responsible for the procurement of the goods, works and services required for the Project implementation of the Project.

3. Scope of Application

- 3.1** The Procurement Policy governs the procurement of goods, works, non-consulting services and consulting services required for a Project that are to be financed by the Bank.
- 3.2.** The Procurement Policy applies to all stages of the procurement cycle for a Project. It applies to all contracts for goods, works and services financed in whole or in part by the Bank under both sovereign and non-sovereign financing. The Procurement Policy also applies to funds provided by other financiers and administered by the Bank where the procurement is carried out by the Recipient and the agreement establishing such funds stipulates the use of the Bank’s Procurement Policy. For funds used by the Bank to finance its own activities, the Corporate Procurement Policy of the Bank applies.

4. General Requirements

4.1 Articles of Agreement

The following extracts from the Bank’s Articles of Agreement provide the pillars on which the Procurement Policy is based.

¹ See the Environmental and Social Policy of the Bank.

“Article 1 Purpose

1. The purpose of the Bank shall be to: (i) foster economic development, create wealth, and improve infrastructure connectivity in Asia by investing in infrastructure and other productive sectors; and (ii) **promote regional cooperation and partnership in addressing development challenges by working in close collaboration with other multilateral and bilateral development institutions.**”

“Article 13. Operating Principles

4. The Bank shall ensure that each of its operations **complies with the Bank’s operational and financial policies, including without limitation, policies addressing environmental and social impacts.**

8. The Bank shall place **no restriction upon the procurement of goods and services from any country from the proceeds of any financing undertaken in the ordinary or special operations of the Bank.**

9. The Bank shall take the necessary measures to ensure that the proceeds of any financing provided, guaranteed or participated in by the Bank are used only for the purposes for which the financing was granted and with **due attention to considerations of economy and efficiency.**”

4.2 Roles and Responsibilities

The respective roles and responsibilities of the Recipient and the Bank for Projects are defined in the financing agreement between the Bank and the Recipient for the Project.

4.2.1 Recipient’s Role

The Recipient is responsible for implementing the Project, including all aspects of the procurement process from the design, tendering and planning stage through to contract award and supervision of contract implementation. The rights and obligations of the Recipient, *vis-à-vis* the providers of the goods, works and services required for the Project, are governed by the tender or request for proposal documents and by the contracts signed by the Recipient and the respective supplier, contractor or consultant, and not by this Procurement Policy.

4.2.2 Bank’s Role

The Bank may advise and assist a Recipient during the procurement process for a specific Project, but does not prepare designs or assist in negotiations nor is it a party to any resulting contracts. The Bank satisfies itself through its own reviews, or other oversight modalities, that the procurement process, including procurement procedures, documents, evaluations, award recommendations and contracts, is carried out in accordance with the provisions of the Procurement Policy and the financing agreement. In all of its review and fiduciary oversight activities the Bank will apply sound professional judgment as to whether the procurement process being followed by the Recipient is satisfactorily meeting the objectives of a Project.

4.3 Development

The Bank assists Recipients meet their objectives of achieving economic and efficient infrastructure development by carefully selecting the Projects it finances and fostering sound procurement policies and competent organizations to administer them by assisting with the development of appropriate policies and institutions that are consistent with the needs of their economies.

5. Requirements for Procurement by Public Entities

The provisions of this paragraph 5 apply to all Bank-financed contracts procured by Public Entities.

5.1 Core Procurement Principles

The following principles (“Core Procurement Principles”) apply to the procurement of all Bank-financed contracts for goods, works or services required for the Project.

5.1.1 Economy

The procurement process demonstrates that the total price outcome of contracts for goods works and services, including economic life and Project cycle costs does, not have a negative impact on the Project.

5.1.2 Efficiency

Procurement implementation arrangements are proportional to the required outcome with regard to implementation capacity and time constraints, and are cost effective.

5.1.3 Effectiveness

The procurement process facilitates the achievement of the ultimate objectives of the Project, taking into account the Recipient’s socio-economic and other development objectives.

5.1.4 Fairness; Good Governance

The procurement process is open, fair, non discriminatory and provides equitable opportunity and treatment for tenderers and consultants in their submission of tenders and proposals. It also provides for clear rights and obligations as between Recipients on the one hand, and suppliers, contractors, and consultants on the other. The procurement process is aligned with principles of good governance.

5.1.5 Value-for-Money (“VfM”)

The procurement process enables the Recipient to obtain optimal benefits with the resources utilized. This may include not only the initial costs, but also costs over the economic life of the procured item, the quality of the output, fitness-for-purpose (see paragraph 5.1.6 below), timeliness,

and the achievement of other socio-economic and environmental development objectives of the Recipient. Price alone may not necessarily represent VfM.

5.1.6 Fit-for-Purpose

To realize VfM, the procurement process ensures that the procurement methods and procedures applied by the Recipient for the Project, and the nature and extent of Bank oversight, are fit for purpose (“FfP”). The procurement modalities appropriately reflect the strategic needs and circumstances of the situation. Standardized approaches may be used for low-value, low-risk or low-complexity procurement. Where procurement complexity, risk and impact are high, a customized approach with transaction-specific documentation and method may be the most efficient and effective approach.

5.1.7 Transparency

The Bank is committed to achieving a high level of transparency under each Project. Transparency during the procurement process is a key element in establishing a good procurement outcome. To this end, sufficient and relevant information is required to be made available in an open manner to interested parties and for appropriate scrutiny.

5.2 Risk-Based Engagement

The nature and extent of the Bank’s procurement assistance to the Recipient and intensity of fiduciary oversight depends on the quality and application of the methodology used for implementation of the Project. Such assistance may be provided at country, sector or individual Project level. The Bank’s assistance to the Recipient is risk-based and may include either advisory work that is systemic in impact or Project specific transactional oversight, including prior or post reviews of individual procurement transactions, procurement audits, third party services or a combination of these.

5.3 Procurement Standards

In applying this Policy to a specific Project the Bank requires that the procurement arrangements of the Recipient comply to the Bank’s satisfaction with, among others, the following requirements:

- a) strategic procurement planning;
- b) transparent and, unless other approaches are adequately justified, international open competitive processes;
- c) optimized balance between price and quality to generate desired development results on a sustainable basis;
- d) credible recourse and impartial and equitable dispute resolution; integrity throughout the procurement process including during contract management and closure;

- e) quality assurance, compliance checks, audits, inspections, and, as appropriate, third party verification; and
- f) credible mechanism to address complaints of bidders and providers of goods, works and consulting services.

5.4 Use of Country Procurement Systems (CPS)

The Bank may agree to the use by the Recipient, of its applicable procurement system for certain Bank-financed contracts, if the Bank determines that the procurement system for these contracts is consistent with the Core Procurement Principles and Procurement Standards. The Bank's determination is based on its assessment² of the Recipient's procurement system and the fiduciary risk associated with the use of the Recipient's system. The Bank may rely on an assessment of the Recipient's system made by another development partner, provided the Bank is satisfied with the quality of such assessment.

5.5 Procurement Strategy and Planning

Prior to the implementation of the Project, the Recipient develops and furnishes to the Bank for review a proposed Project Delivery Strategy ("PDS"). The PDS provides the following details:

- a) Details of the proposed tendering and contracting strategy for the project;
- b) The implementation arrangements, including resources and management structures;
- c) The proposed contract supervision arrangements;
- d) The proposed procurement plan showing procurement activities and key milestones; and
- e) The key procurement objectives and outcomes.

5.6 Procurement Methods

An international open competitive tender process is the normal method of procurement conducted for a Bank-financed contract. Alternative methods may be applied, provided the Recipient demonstrates to the Bank's satisfaction that the alternative method is the best strategic procurement approach for the Project and that it adequately reflects the Core Procurement Principles (see paragraph 5.1 above)

5.7 Development of Domestic Industry

The Bank may, under special circumstances and conditions, accept the application of provisions of the relevant Bank member country's procurement rules that promote or encourage the development of domestic industry through preference margins, 'offsets', preference schemes or

² The Bank's determination will be based on a review of the outcome of an assessment conducted in accordance with the *OECD's Methodology for Assessing Procurement Systems*.

similar innovative approaches; however, the Bank must be satisfied that such provisions satisfy the Core Procurement Principles.

5.8 Eligibility

5.8.1 The Bank permits firms and individuals from all countries to offer goods, works and services for a Bank-financed contract, regardless of whether the country is a member of the Bank. Any conditions for participation are limited to those that are essential to ensure the eligible firm or individual's capability to fulfill the contract in question.

5.8.2 A Recipient may not exclude a firm or individual from competition for a Bank-financed contract for reasons unrelated to the firm's or individual's capability to perform the contract in question, unless:

- a) the firm or individual has been declared, and remains, as at the relevant date, ineligible pursuant to Section 8 below; or
- b) as a matter of law or official regulation, the Recipient's country prohibits commercial relations with the firm or individual's country, provided that the Bank is satisfied that such exclusion does not preclude effective competition for the supply of goods, works and services required.

5.9 Conflict of Interest

The Bank requires that all those who are involved in the procurement process for a Bank-financed contract not have a conflict of interest with regard to the procurement concerned. Providers of goods, works and services and consulting services are required to remain professional, objective, and impartial. They are required at all times to hold the Recipient's interests paramount, without any consideration of future work; and to avoid conflicts with other assignments and their own corporate and personal interests.

5.10 Complaints

Complaints may be furnished at any time to the Recipient or the Bank (or both) about any part of the procurement process from the design planning stage through to contract completion. To promote an open, fair and transparent procurement process, complaints should be satisfactorily resolved by the Recipient in a timely manner. The Bank monitors the process of resolution of any complaint that is brought to its attention.

5.11 Co-financing

The Bank seeks to increase its flow of investments to countries by co-financing Projects with other multilateral development banks (MDBs) and with bilateral agencies, export credit agencies, and

commercial entities. The Bank may provide such co-financing on a parallel³ or joint basis⁴.

5.11.1 Parallel Co-Financing

Where Bank financing is provided on a parallel basis with one or more co-financiers, the Procurement Policy applies only to the contracts financed by the Bank. The respective procurement policies of each co-financier apply to the contracts it finances. The Bank satisfies itself that the scope and specifications of the goods, works and non-consulting services, and the terms of reference for consulting services financed by the other co-financiers, are appropriate to ensure that the contracts not being financed by the Bank deliver the benefits to the Project as intended.

5.11.2 Joint Co-financing

Where Bank financing is provided on a joint basis with one or more co-financiers, it normally requires as a condition of its financing that the Procurement Policy apply to all contracts so jointly co-financed.

5.11.3 Use of Co-financier's Procurement Policy

In exceptional circumstances involving joint co-financing, if the Bank has determined that the co-financiers' procurement policies are consistent with the Bank's Core Procurement Principles and Procurement Standards, the Bank may agree on a common procedure framework with the other co-financiers. The procurement rules and the roles and responsibilities of the co-financiers are defined in the procedure framework; normally, the lead co-financier is responsible for overseeing the procurement process, applying its own procurement policy and internal review and clearance procedures, and determining whether the procurement has been conducted in accordance with its own policy.

5.12 E-Procurement

The Bank encourages Recipients to continually modernize their procurement systems including incorporating procurement through electronic means (e-procurement), because e-procurement can facilitate efficiency, economy and transparency in the procurement process. Recipients may use e-procurement systems for communications with tenderers, for advertisements, notices and amendments, distribution of procurement documents and submission of tenders or proposals, provided the Bank is satisfied with their adequacy, efficiency and the security of information and of any signatures.

³ Parallel co-financing" means an arrangement whereby the Bank and one or more parties other than the Recipient individually finance separate contracts.

⁴ Joint co-financing means an arrangement whereby the Bank and one or more parties other than the Recipient finance portions of the same contracts.

5.13 Procurement Monitoring and Evaluation

Each Recipient of financing for a Project is required to prepare and maintain clear documents and records relating to the procurement process for the Project from planning to completion of the contract, for the purpose of effective monitoring and evaluation of the procurement cycle by the Recipient and to facilitate review thereof by the Bank.

5.14 Procurement of Consultants

The procurement of consulting services financed by the Bank will apply the Core Procurement Principles and be conducted through competition among qualified short-listed firms and individuals in which the selection is based on the quality of the proposal and, where the Bank deems appropriate, on the cost of the services to be provided. All eligible consultants are provided an equal opportunity to participate in the competitive process. In exceptional cases, the Bank may agree to the use of a less-competitive or non-competitive process.

6. Requirements for Procurement by Private Entities

The provisions of this paragraph 6 apply to all Bank-financed contracts procured by a Private Entity.

6.1 Established Commercial Practices

The Bank's concerns for the appropriate use of funds, with due consideration for economy and efficiency, apply equally to Bank-financed contracts procured by Private Entities. Private Entity Recipients often meet these concerns by following established private sector or commercial practices other than formal international open competitive tendering for their procurement. Nevertheless, whenever the Bank deems appropriate, it may require the use of competitive tendering methods by Private Entities, particularly for large contracts.

6.2 Appropriate Procurement Methods

The Bank satisfies itself that the Private Entity Recipient uses appropriate procurement methods that ensure a sound selection of goods and services at fair market prices and that its capital investments are made in a cost-effective manner.

6.3 Market Price

The Bank requires that contracts awarded by a Private Entity Recipient be in the best financial interest of the Private Entity Recipient as distinct from those of any other sponsor(s) of the Project. Where a shareholder of the Recipient or one of its affiliates, including parent companies and affiliates of such parent companies, is also a contractor or supplier to the Project, the Bank satisfies itself that the costs are in line with current market prices and the original cost estimates in the Project report, and that the contract conditions are fair and reasonable. The Bank does not finance costs that it determines exceed market prices.

6.4 Public Private Partnerships and Concessions

Where the Bank is providing financing for a Project involving a Private Entity operator, or concessionaire, of a public concession, the Recipient follows tendering procedures acceptable to the Bank in the selection of the concessionaire and of contracts procured by the concessionaire.

7. Prohibited Practices; Integrity⁵

7.1 Recipients (including beneficiaries of Bank-financed Projects) as well as suppliers, contractors, service providers, consultants, concessionaires and their agents (whether declared or not), as well as sub-contractors, sub-consultants, and any personnel thereof, are required to observe the highest standards of transparency, ethics and integrity during the procurement, administration and implementation of Bank-financed contracts.

7.2 The Bank takes action in accordance with the Bank's Policy on Prohibited Practices in connection with a prohibited practice under a Project (as defined in said policy).⁶

8. Related Documents

Directive: Procurement Instructions for Recipients (*under development*)

Directive: Procurement Instructions for Staff (*under development*)

Environmental and Social Policy (including Standards)

Directive: Environmental and Social Procedures (*under development*)

Policy on Prohibited Practices (*under development*)

Operational Policy on Financing

Operational Directive on Sovereign-backed Financing (*under development*)

Public Information Interim Policy

General Conditions applicable to Sovereign-backed Loans (*under development*)

⁵ This paragraph will be elaborated on further once the Policy on Prohibited Practices has been approved by the Board of Directors.

⁶ This provision will only take effect once the Policy on Prohibited Practices has been approved by the Board of Directors.