

OPERATIONS MANUAL BANK POLICIES (BP)

These policies were prepared for use by ADB staff and are not necessarily a complete treatment of the subject.

CONSULTANTS

A. Introduction

1. The services of consultants may be needed by ADB and its borrowers to help prepare, implement, and operate projects, and to carry out ADB technical assistance (TA) activities (e.g., training, advisory services, regional studies, and workshops). These services may be financed by ADB from its own resources or from another source but administered by ADB.¹ ADB's policy on the use of consultants is governed by Article 14(ix) and (xi) of the Agreement Establishing the Asian Development Bank (the Charter) and is set out in the *Guidelines on the Use of Consultants by the Asian Development Bank and Its Borrowers* dated April 2006 (the "Guidelines").

B. Definition

2. For purposes of ADB's policy, terms used here are defined as follows:

- (i) "Borrower" includes a recipient of ADB-financed loans and/or grants and ADB-administered funds, and where the borrower (or grant recipient) does not directly execute the ADB-financed or ADB-administered project, also includes an executing and/or implementing agency for project, as well as subborrowers to which the loan proceeds are onlent by the borrower;
- (ii) "Consultant" includes private and public legal entities and individuals as referred to in para. 1.3 of the Guidelines;
- (iii) "DMC" means a developing member country of ADB;
- (iv) "National consultant" means a consultant from the borrower's country that is established or incorporated and has a registered office in the borrower's country, or who is a citizen of the borrower's country;
- (v) "NGO" refers to a nongovernment organization; and
- (vi) "Procurement plan" means a plan prepared by a borrower, in consultation with ADB, for procurement of goods and works, and recruitment of consulting services under ADB-financed loans and/or grants or ADB-administered funds, as further described in para.1.27 of the Guidelines.

¹ Staff consultants financed by ADB's administrative budget are not covered by this OM section. For procurement policies relating to goods and civil works, see OM Section J3 on Procurement.

OPERATIONS MANUAL BANK POLICIES (BP)

- (vii) “Services” means a wide range of services, generally of an intellectual and advisory nature, as referred to in para 1.7 of the Guidelines.

C. The Policy

3. ADB's policy requires that:

- (i) Consultants financed by ADB-financed loans and/or grants or from ADB-administered funds be engaged from ADB member countries, except as otherwise specifically permitted by the Board of Directors pursuant to Article 14(ix) of the Charter;
- (ii) Consultants financed by ADB from its Special Fund resources be engaged from any of the eligible source countries specified by ADB from time to time;²
- (iii) The proceeds of ADB-financed loans or grants and ADB-administered funds be used only for the purposes for which such loans, grants, and funds were granted, with due considerations of economy and efficiency;³
- (iv) The highest standard of ethics be observed during the selection process and in the execution of contracts; and
- (v) Competitive selection be the standard mode of consultant recruitment, based on quality and cost, except in cases of single-source selection.

D. Scope of the Policy

1. The Role of ADB and Borrower

4. The borrower is responsible for selecting, engaging, and supervising Consultants engaged under loans and/or grants funded or administered by ADB.

5. ADB is responsible for selecting, engaging, and supervising the experts who perform missions for ADB under TA, staff consultants, and resource persons (whether financed from ADB's own resources, or financed by another institution and administered by ADB), unless otherwise agreed by ADB and the borrower.⁴

² The loan proceeds from contributions to the Asian Development Fund (ADF) are used to engage consultants from the territories of ADF contributors and all DMCs. See ADF Regulations, 7 February 2005, Section 4.03.

³ See OM Section D10 on Private Sector Operations and OM Section E1 on Cofinancing.

⁴ To increase country ownership and improve sustainability of TA project benefits, ADB may, in particular circumstances, delegate responsibility to a borrower to recruit and supervise TA consultants. See OM Section D12 on Technical Assistance and the policies described therein.

OPERATIONS MANUAL BANK POLICIES (BP)

2. Principles of the Use of Consultants

6. While the specific rules and procedures to be followed for employment of consultants depend on the circumstances of a particular case, six main considerations guide ADB policy on the selection process:

- (i) the need for high-quality consulting services;
- (ii) the need for economy and efficiency;
- (iii) the need to give all qualified consultants an opportunity to compete in providing the services financed by ADB;
- (iv) ADB's interest in encouraging the development of national consulting industries and use of national consultants from DMCs;
- (v) the need for transparency in the selection process; and
- (vi) the need for increasing focus on anticorruption and observation of ethics.

7. High-quality consulting services are best achieved through a competitive selection and engagement process based on quality and cost. Appropriate selection methods and contracting arrangements⁵ shall be used, with due regard for economy and efficiency. Past consultant performance should be linked to future business opportunities.

8. To foster competition, ADB permits qualified consultants from all ADB member countries to offer services to be financed by ADB.

9. ADB provides capacity development to DMCs to enhance (i) country capacity and ownership, (ii) the borrower recruitment capacity at the project level, and (iii) development of DMC consulting industries by addressing capacity building requirements at (a) policy and regulatory, (b) consulting association, (c) firm, and (d) individual consultant levels.

10. Preparation of the Procurement Plan will increase borrower ownership, including borrower participation in determining consultancy requirements, producing and endorsing terms of reference, and focusing more on identification of national consultants.

11. Transparency and fairness in the selection process require that any unfair competitive advantage be prevented by ADB and its borrowers.

⁵ The Guidelines provide for a flexible range of selection methods for use in engagement of consulting firms: quality- and cost-based selection (QCBS), which is ADB's preferred selection method, quality-based selection (QBS), fixed-budget selection (FBS), least-cost selection (LCS), consultant-qualification selection (CQS) and single-source selection (SSS), as well as various types of contracting methods, depending on particular circumstances, which include time-based, retainer and/or contingency fee, indefinite delivery, lump sum, and performance-based contracts.

OPERATIONS MANUAL BANK POLICIES (BP)

12. In accordance with ADB's policy on anticorruption, the highest standard of ethics must be observed by borrowers, beneficiaries, as well as consultants under contracts financed by ADB loans and grants, and ADB-administered funds. Corrupt, fraudulent, collusive, or coercive practices, and conflict of interest⁶ are strictly prohibited and will be dealt with as set out in the Guidelines.

13. If recruitment of Consultants is not carried out as agreed, ADB will declare misprocurement and exercise appropriate remedies as described in para. 1.18 of the Guidelines.

Basis: This OM section is based on:

ADB. 2006. Doc. R12-06. *Use of Consultants by the Asian Development Bank and Its Borrowers*. 12 January. Manila.

ADB. 2004. Doc. R 185-04. *Anticorruption Policy: Proposed Clarifications and Related Changes to Consulting and Procurement Guidelines*. 1 October. Manila.

ADB. 1998. Doc. R89-98. *Anticorruption Policy*. 11 June. Manila.

This OM section is to be read with OM Section J2/OP and OM Section C5 (Anticorruption).

Compliance: This OM section is not subject to compliance review.

For inquiries: Questions may be directed to the Principal Director, Central Operations Services Office.

⁶ Definitions of corrupt, fraudulent, collusive, or coercive practices, and conflict of interest are provided in Section 1.23 of the Guidelines.

**OPERATIONS MANUAL
OPERATIONAL PROCEDURES (OP)**

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CONSULTANTS

The operational procedures for this OM Section are contained in the *Guidelines on the Use of Consultants by the Asian Development Bank and Its Borrowers* (April 2006) and *Project Administration Instructions*, chapter 2, as well as the documents cited therein.

- Basis:** This OM section is based on OM Section J2/BP and the documents cited therein.
- Compliance:** This OM section is not subject to compliance review.
- For inquiries:** Questions may be directed to the Principal Director, Central Operations Services Office.