

OPERATIONS MANUAL BANK POLICIES (BP)

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

PROCUREMENT

A. Introduction

1. ADB's policy on procurement is governed by Article 14(ix) and (xi) of the *Agreement Establishing the Asian Development Bank* (the Charter), and is set out in the *Procurement Guidelines*, dated April 2006.

B. Definition

2. The terms used here are defined as follows for the purposes of ADB's policy:

- (i) "Borrower" includes recipients of ADB-financed loans and/or grants and ADB-administered funds, and also refers to the executing agency for a project. In some cases, the borrower acts only as an intermediary, and the project is carried out by another agency or entity, in which case "borrower" includes such agencies and entities, as well as subborrowers under onlending arrangements.
- (ii) "Financing" includes financing provided by an ADB-financed loan or grant, or ADB-administered funds.
- (iii) "Services" means works, typically construction works, and all project-related services, such as surveying, design, commissioning, and supervision, including consulting services provided as part of a single-responsibility contract.

C. The Policy

3. The policy requires that (i) the proceeds of ADB loans, ADB-financed grants, and ADB-administered funds be used only for procurement in member countries of goods and services supplied from and produced in member countries (unless specifically permitted otherwise by the Board) pursuant to the provisions of Article 14(ix) of the Charter; (ii) the proceeds of loans or grants from Special Funds resources be used only for procurement in the territories of all contributors and all developing member countries of goods and services supplied from and produced in such territories; (iii) the proceeds of any ADB financing be used only for the purposes for which the financing was approved; (iv) procurement be carried out with due consideration of economy and efficiency; (v) borrowers, as well as bidders, suppliers, and contractors under ADB-financed contracts observe the highest standard of ethics during the procurement and execution of such contracts; and (vi) ADB provide equal and fair opportunity to all bidders, suppliers, and contractors from all member countries for the supply of goods, works, and services financed by ADB.

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D. Scope of the Policy

4. ADB-financed procurement must comply with the *Procurement Guidelines*, as provided for in the relevant financing agreement. The rights and obligations of the borrower and the provider of goods, works, and services are governed by the bidding documents, and by the contracts signed by the borrower with the providers, not by the *Procurement Guidelines*.

5. The responsibility for procurement under ADB financing rests with the borrower. ADB has the obligation to ensure that the proceeds of its financing are used in accordance with ADB procurement policy and with due attention to considerations of economy, efficiency, and transparency.

E. Anticorruption

6. In accordance with ADB's policy on anticorruption, the borrowers, bidders, suppliers, contractors, and ADB staff are to observe the highest standard of ethics. Refer to OM Section C5 (Anticorruption). Corrupt, fraudulent, collusive and coercive practices are strictly prohibited and will be severely dealt with as set out in the *Procurement Guidelines*.

F. Domestic Preference Scheme under ICB

7. ADB recognizes that domestic manufacturers and contractors are faced with high and variable levels of import duties and other indirect taxes on intermediate inputs, capital goods, and equipment. To allow competition with foreign counterparts on more equal terms, domestically manufactured goods and domestic contractors may be given a margin of preference when goods and works are procured following international competitive bidding (ICB). The preference scheme is applicable only to procurement of goods, works, and some additional services as specified in the procurement documents, and excludes consulting services.

8. All developing member countries receiving ADB financing are eligible to participate in the domestic preference scheme in respect of certain goods using the proceeds of the financing. The preference is applicable only to goods procured through ICB where specified in the procurement documents. Under the scheme, goods manufactured in the country of the borrower may be eligible for a preference when comparing bids offering such goods with those offering goods manufactured abroad. It is the origin of goods that determines application of preference, not the nationality of the manufacturer or supplier.

9. The domestic preference scheme is applicable to bona fide domestic contractors for works conducted in qualifying member countries.¹ The preference is applicable only to contracts procured through ICB where specified in the procurement documents. Under the scheme, the evaluation of bids for works in qualifying member countries may apply a preference when

¹ Qualification is based on annual per capita gross national product, reviewed periodically and published in the Project Administration Instructions (PAI).

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comparing bids from eligible domestic contractors with those from foreign firms. It covers both works and some additional services (including but not limited to aerial photography, mapping, exploratory drilling, crop spraying, plant commissioning, and training of the executing agency's staff in the operation of plant and equipment, but excluding consulting services).

G. Technical Assistance

10. For procurement using technical assistance funds, also refer to OM Section D12 on *Technical Assistance* and the policies described therein.

H. Procurement of Consulting Services

11. For procurement of consulting services, refer to OM Section J2 on *Consultants* and the policies described therein.

I. Private Sector Operations

12. For procurement utilizing funds provided under private sector operations, refer to OM Section D10 on *Private Sector Operations* and the policies described therein.

J. Cofinanced Procurement

13. Procurement that is jointly cofinanced and administered, or parallel cofinanced and administered by ADB, is to be undertaken in accordance with the *Procurement Guidelines*. Refer also to OM Section E1 on *Cofinancing*.

Basis: This OM section is based on:

ADB. 2006. Doc. R11-06. *Revising the Procurement Guidelines*. 3 February. Manila.

ADB. 2004. Doc. R185-04. *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.

ADB. 1991. Doc. R108-91. Revision 1, Final, *Review of Domestic Preference Scheme*. 8 August. Manila.

This OM section is to be read with OM Section J3/OP.

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BANK POLICIES (BP)**

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

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

OPERATIONS MANUAL OPERATIONAL PROCEDURES (OP)

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

PROCUREMENT

The operational procedures for this OM section are contained in the *Procurement Guidelines*, and *Project Administration Instructions* (PAI), Chapter 3, as well as the documents cited therein. For procurement using technical assistance funds, refer also to the *Guidelines for Disbursements of Technical Assistance Grants*, and PAI Section 5.11. For procurement of consulting services, refer to the *Guidelines for Use of Consultants by ADB and Its Borrowers*, and PAI Chapter 2.

Basis: This OM section is based on OM Section J3/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.