

Project Administration Instructions

PAI 3.05
Revised September 2007
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OTHER FORMS OF PROCUREMENT

1. While international competitive bidding (ICB) is often the method of procurement used under ADB financing, other methods may sometimes be more appropriate. National competitive bidding (NCB) and Shopping are described in PAI 3.04 and other methods of procurement are described here.

A. Direct Contracting

2. Direct contracting (single source) involves contracting without competition (single source) involving a particular manufacturer, supplier, or contractor, and is allowed by ADB in any of the following circumstances:

- when standardization is important, and equipment and spare parts needed to expand or repair existing equipment must be procured from the original supplier or from a supplier of identical goods;
- when the equipment or goods is proprietary and obtainable only from one supplier;
- when critical items are to be procured from specialist suppliers as a condition of a performance guarantee;
- when the civil works are a natural extension of an earlier or ongoing job, or when engaging the same contractor is shown to be more economical and ensures compatibility of work quality;
- when additional items are required under an existing contract, which was awarded in accordance with ICB procedures; and
- in exceptional cases, such as in response to natural disasters.

3. In all these cases, ADB must be satisfied that the prices to be paid are reasonable and that competitive bidding offers no advantage. As such, contract packages to be procured using direct contracting are to be identified in the procurement plan and justified at the management review meeting (MRM).

4. Direct contracting for standardization is justifiable if the original equipment is suitable and outweighs the possible advantages of having another make of equipment and an alternative supplier. Similarly, in direct contacting (negotiation) for extension of civil works, the following must be shown:

- the original contract was awarded following ICB, limited international bidding (LIB), or NCB procedures acceptable to ADB;
- the unit rates of the earlier contract, were updated in accordance with the provisions in the original contract to reflect any increase or decrease in the cost of construction, and were valid and reasonable;
- the contractor's performance has been satisfactory; and
- the additional work would be unlikely to result in lower prices if subjected to bidding.

5. If a number of distributors stock the same parts and are free to compete for their supply, then proprietary parts must be purchased through competitive bidding.

B. Procurement from Specialized Agencies

6. A variation on direct contracting involves single source procurement from agencies such as the UN. This would typically involve the procurement of items such as vaccines or drugs, which an agency such as the UN may offer the best combination of quality, price, and availability. The agency might, for example, benefit from volume purchase and be able to pass on these benefits to the procuring executing agency (EA). Items to be procured from specialized agencies should be packaged so as to take full advantage of the offered benefits (by, for example, combining expected purchases into larger packages to avail of volume pricing). Contracts to be procured from specialized agencies should be identified and justified in the procurement plan.

C. Force Account

7. Execution of works by force account (departmental workforces) means undertaking works using the resources of a public agency of the EA's government without competitive bidding or negotiated contracts. Use of force account is on an exceptional basis and must be fully documented in the procurement plan and justified at the MRM.

8. Force account is employed when the size of the works and its location make it unsuitable to adopt competitive bidding (this may include work such as village wells and village access roads, minor irrigation works, and other small and remote scattered works). Force account may also be used in other special cases where local contractors do not express interest in undertaking the works or where force account can be demonstrated to be the most efficient and effective method of implementation.

9. In agreeing to the use of force account, ADB must be satisfied that the construction facilities are efficient and the EA is capable (with advisers' or consultants' assistance) of undertaking the works quickly and to the required quality, at reasonable cost.

D. Procurement in Loans to Financial Intermediaries

10. The proceeds of loans to financial intermediaries (like agricultural development banks, cooperatives, and fisheries) for relending to small private subborrowers may be used to procure machinery and equipment. This may be done through direct purchase by subborrowers or through centralized procurement by the intermediary agency. For direct purchase by subborrowers, procurement is in accordance with established commercial practices that enable sufficient competition. For centralized procurement, bids are invited by the intermediary agency as in ICB and any interested supplier submits its bid. After the bids have been opened, subborrowers indicate their order from among the lowest responsive bids within a range the EA and ADB previously agreed upon. Use of these methods is to be examined during project processing and must take account of

- conditions in the project area, and
- past procurement experience for similar types of goods.

11. When this procurement method is to be employed, it is documented in the procurement plan, considered at the MRM and, if approved, included in the report and recommendation of the President with

- the circumstances justifying using direct purchase by subborrowers or centralized procurement; and
- the terms and conditions as well as specific procedures to be followed (for centralized procurement, the number or range of responsive bids considered reasonable from which orders may be placed).

12. ADB does not insist on ICB procedures for loans to development finance institutions (DFIs) for relending to subborrowers. It will request DFIs, as a project administration function (including approval of individual subloans), to satisfy ADB that procurement procedures applied by them to individual subborrowers are appropriate. This includes

- reasonable prices being paid,
- procurement from eligible source countries, and
- fair canvassing when selecting suppliers.

Furthermore, ADB will encourage DFIs to require their subborrowers to adopt ICB when the amount of investment is unusually large and use of ICB is economical.

E. Procurement under BOO/BOT/BOOT, Concessions and Similar Private Sector Arrangements

13. ADB does not insist on ICB for its loans to the private sector without government guarantee. ADB does, however, require borrowers to demonstrate that procurement was transparent and preferably through competitive bidding. ADB also requires that goods and works suit the project and are procured from eligible member countries and are suitable for the project.

14. When ADB is participating in financing a project by build, own, operate; build, operate, transfer; build, own, operate, transfer; or similar type of project, either of the following procurement procedures is used.

- The project sponsor will be selected transparently, preferably through competitive bidding, acceptable to ADB. This may include several stages to reach the optimal combination of criteria for establishing the most economic and efficient proposal. These could include performance specifications of the facility offered, costs charged to the user or purchaser, and the period of the facility's depreciation. The project sponsor so selected will then be free to procure the goods and works for the facility from eligible member countries.
- Project sponsors selected differently from the above will be required to ensure that the goods and related services and works for the facility financed by ADB be procured from eligible member countries through competitive bidding procedures acceptable to ADB.

F. Procurement under Loans Guaranteed by ADB

15. Under these schemes and where ADB guarantees all or part of the debt service of a loan made by another lender the goods and related services, and works, financed by the loan will be procured in an economic and efficient manner. ADB must be satisfied that the procedures will allow the project to be carried out efficiently, and that goods and works to be procured

- are from eligible member countries,
- are of satisfactory quality and compatible with the balance of the project,
- will be delivered or completed on time, and
- are priced so as not to undermine the project's economic and financial viability.

G. Performance Based Procurement

16. Procurement for performance based contracts (or output based contracts) would normally follow ICB or NCB procedures. Standard bidding documents are to be used, and review procedures followed as prescribed for these procedures in the procurement plan. Award of contract will be to the lowest evaluated bidder that substantially complies with the requirements of the bidding.

H. Community Participation in Procurement

17. To ensure sustainability and to achieve the social objectives of the project, procurement, specifications and contract packaging of selected components may be adapted to

- involve local communities and nongovernment organizations;
- use more local knowledge and materials; and
- use labor-intensive and other technologies.

18. The procedures to be followed must be stipulated in the relevant financing agreement and the procurement plan. A guide on implementing small projects with community participation is provided in PAI 5.12.

I. Procurement under Disaster and Emergency Assistance.

19. Under ADB's policy¹ for disaster and emergency assistance, flexible approaches are to be applied to procurement so as to speed up the supply of necessary goods, and construction or rehabilitation of needed infrastructure. Various arrangements for works and contracts are possible: abbreviated NCB, direct contracting to contractors already working in the area (working under ADB-funded, or other donor-funded contracts). For supply of goods, LIB is expected to be the norm. In all cases, abbreviated bidding periods may be used.

20. A procurement plan is required. Procurement methods and review procedures (prior or post review) should be documented in the procurement plan.

¹ ADB. 2004. *Disaster and Emergency Assistance Policy*.