ALTERNATIVE PROCUREMENT ARRANGEMENTS

GUIDANCE NOTE ON PROCUREMENT

JUNE 2018

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ISBN 978-92-9261-254-2 (print), 978-92-9261-255-9 (electronic)
Publication Stock No. TIM189230-2
DOI: <http://dx.doi.org/10.22617/TIM189230-2>

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ABOUT THIS PUBLICATION

In April 2017, the Asian Development Bank (ADB) approved its new procurement framework, the ADB Procurement Policy: Goods, Works, Nonconsulting and Consulting Services (2017, as amended from time to time); and the Procurement Regulations for ADB Borrowers: Goods, Works, Nonconsulting and Consulting Services (2017, as amended from time to time). These replace the former Guidelines on the Use of Consultants (2013, as amended from time to time) and Procurement Guidelines (2015, as amended from time to time). The procurement policy and the procurement regulations address the procurement activities of project executing agencies and implementing agencies on projects financed in whole or in part by a loan or grant from ADB, or by ADB-administered funds. ADB designed the 2017 procurement policy to deliver significant benefits and flexibility throughout the project procurement cycle, as well as to improve project delivery through a renewed focus on the concepts of quality, value for money (VFM), and fitness for purpose.

This note is part of a series of guidance notes published by ADB in 2018 to accompany the 2017 procurement policy and the procurement regulations. Each note discusses a topical issue for borrowers (including grant recipients), bidders, and civil society under the new framework (see list below). The guidance notes cross-reference each other frequently and should be read in conjunction. All references to “guidance notes” pertain to these notes. The notes may be updated, replaced, or withdrawn from time to time.

List of Guidance Notes for the 2017 ADB Procurement Policy and the Procurement Regulations

1. Value for Money	14. High-Level Technology
2. Procurement Risk Framework	15. Quality
3. Strategic Procurement Planning	16. Bidding-Related Complaints
4. Procurement Review	17. Noncompliance in Procurement
5. Alternative Procurement Arrangements	18. Standstill Period
6. Open Competitive Bidding	19. State-Owned Enterprises
7. Price Adjustment	20. E-Procurement
8. Abnormally Low Bids	21. Framework Agreements for Consulting Services
9. Domestic Preference	22. Public-Private Partnerships
10. Prequalification	23. Contract Management
11. Subcontracting	24. Fragile, Conflict-Affected, and Emergency Situations
12. Consulting Services Administered by ADB Borrowers	
13. Nonconsulting Services Administered by ADB Borrowers	
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ADB procurement reforms intend to ensure VFM by improving flexibility, quality, and efficiency throughout the procurement cycle (see illustration below and the *Guidance Note on Value for Money*). VFM is part of a holistic procurement structure with three support pillars: efficiency, quality, and flexibility. The two key principles of transparency and fairness weave across all elements of the structure.

Time

Time is an important element of VFM. When a project is delivered promptly or when a process is completed rapidly, greater value is created for all stakeholders. For example, a road project completed early provides economic benefit, security, or other value to the community it serves. It increases the return on investment to the executing agency and accelerates the project and payment cycle to the successful bidder. Likewise, a project delivered late loses significant value.

When considering VFM in the context of procurement, pay attention to anything that (i) shortens the procurement cycle time frame or (ii) accelerates delivery of the development project.

Objective

This guidance note is intended to assist readers by elaborating on and explaining ADB's 2017 procurement policy and procurement regulations for borrowers (including grant recipients).

This note identifies additional information for the reader to consider when applying ADB's procurement policy and procurement regulations to their circumstances.

Living Document

This guidance note is intended to be a living document and will be revised as required.

Be sure to check the ADB Business Center website for the latest version and updates, <https://www.adb.org/business/main>.

The Reader

In many circumstances, readers are expected to use this guidance note in a manner unique to their needs. For consistency throughout the suite of guidance notes, the following assumption is made about the reader:

The reader is a professional involved in activities financed in whole or in part by an ADB loan or grant, or by ADB-administered funds.

FAQs

Frequently asked questions, clarifications, examples, additional information, links to training, and other useful resources will be made available on the ADB website.

Be sure to check the ADB Business Center website for more information, <https://www.adb.org/business/main>.

Legal and Order of Priority

This guidance note explains and elaborates on the provisions of the Procurement Regulations for ADB Borrowers: Goods, Works, Nonconsulting and Consulting Services (2017, as amended from time to time) applicable to executing (and implementing) agencies under sovereign (including subsovereign) projects financed in whole or in part by an investment loan from ADB (i.e., excluding ADB results- or policy-based loans), ADB-financed grant (excluding ADB-administered technical assistance and staff consultancies), or by ADB-administered funds.

In the event of any discrepancy between this guidance note and the procurement regulations, the latter will prevail. The financing agreement governs the legal relationships between the borrower and ADB. The rights and obligations between the borrower and the provider of goods, works, or services are governed by the specific procurement document issued by the borrower and by the contract signed between the borrower and the provider, and not by this guidance note.

ABBREVIATIONS

ADB	—	Asian Development Bank
APA	—	alternative procurement arrangement
CPS	—	country partnership strategy
CSPRA	—	country and sector/agency procurement risk assessment
EOI	—	expression of interest
MDB	—	multilateral development bank
RBL	—	results-based lending
RFP	—	request for proposals
VFM	—	value for money

EXECUTIVE SUMMARY

Through this guidance note, ADB addresses for the first time the usage of alternative procurement arrangements (APAs) in its mainstream procurement operations. Now, subject ADB's determination of APA, it is possible to use the procurement arrangements of an accredited agency of the borrower or those of another development partner.

Effective application of APA may

Increase Efficiency and Reduce Procurement Time

- Faster implementation of cofinanced development projects by permitting use of one set of procurement rules and regulations.
- Reduce delays in carrying out the procurement process by using well-developed procurement systems of executing agencies.

Ensure Quality and Manage Risk

- Meet fiduciary requirements.
- Ensure quality and manage risk through up-front accreditation.

Deliver Value for Money

- Enable greater procurement harmonization and use of well-developed agency procurement systems.

I. Introduction

1.1 This guidance note aims to assist borrowers and project cofinanciers to understand and implement alternative procurement arrangements (APAs) for projects financed in whole or in part by an Asian Development Bank (ADB) loan or grant, or by ADB-administered funds. The note discusses how key procurement activities should apply under an APA, including procurement and market risk assessment, strategic procurement planning, and procurement review.

1.2 The use of APAs is an integral part of the strategic priorities of ADB, reflecting its commitment to support more efficient project implementation and to encourage the use of country systems. The aim is to alleviate burden on borrower agencies and reduce delays in the procurement process. The use of APAs can simplify the procurement process by allowing ADB to apply the procurement rules and procedures of another multilateral or bilateral agency or organization involved in the project, or those of an accredited agency or entity of the borrower. As described in the ADB Procurement Policy: Goods, Works, Nonconsulting and Consulting Services (2017, as amended from time to time), such an APA must (i) be compatible with the value, risk, or complexity of the procurement; (ii) be consistent with ADB's core procurement principles; (iii) continue to apply ADB's member country eligibility restrictions, unless waived; and (iv) continue to apply ADB's Anticorruption Policy (1998, as amended to date), Integrity Principles and Guidelines (2015, as amended from time to time), and contractual remedies in applicable financing agreements with the borrower.

1.3 The use of an APA for a specific loan or grant is determined at the project conceptualization and preparation stage of the ADB procurement cycle (see Figure), when an assessment to this effect is undertaken. Different criteria and approaches may apply, depending on whether the APA is with a borrower's accredited agency or entity (hereinafter referred to as "agency") or with another multilateral or bilateral agency or organization involved in the project (hereinafter referred to as "partner"). The decision to use an APA is made during or prior to loan or grant negotiations, is reflected in the relevant legal and financing agreements for the specific operation, and is approved by the ADB Board of Directors or its Management (where applicable) as part of project approval (except when considering an APA for an ongoing operation, as discussed in section II).

Figure: Alternative Procurement Arrangements in the ADB Procurement Cycle

Source: Asian Development Bank.

II. General Considerations for Alternative Procurement Arrangements

A. Alternative Procurement Arrangement Partners

2.1 ADB's 2017 procurement policy permits the procurement rules and procedures of certain agencies and partners to be used under an APA. The procurement policy envisages the use of an APA with another multilateral or bilateral agency or organization involved in the project, or with an agency or entity of the borrower accredited by ADB. ADB may consider other multilateral development banks (MDBs), bilateral or regional agencies, specialized United Nations agencies, nongovernment organizations, and others.

2.2 Partner(s) whose procurement rules and procedures are authorized for use in ADB-financed operations may be lead cofinanciers of the respective operations. These usually comprise official donors, specifically MDBs and bilateral agencies. These partners must abide by the requirements that protect the privileges and immunities of ADB¹ and ensure compliance with the Articles of Agreement of ADB.²

B. Collaborating among Cofinanciers

2.3 As per ADB policies on cofinancing, ADB will carry out the up-front analyses and assessments to justify the use of APAs jointly and in collaboration with third-party financiers. In such cases, when making its decision, ADB may rely on the cofinancier's risk assessments, analyses, conclusions, and recommendations. The cofinanciers should decide unanimously on the use of an APA by an agency or partner.

2.4 ADB does not recommend using an APA in cases where cofinancing is tied or if cofinancing is collaborative.³

¹ It is important that ADB immunities and privileges are preserved under APAs, as for all ADB financing, as these features facilitate access to international financial markets, establish limits of jurisdictional and legal challenges, grant fiscal advantages, and help the institution fulfill its mandate, especially with respect to independence, governance, staffing, integrity, and access to information.

² ADB. 1966. *Agreement Establishing the Asian Development Bank*. Manila.

³ For further details on ADB's cofinancing policy and procedures, including definitions see: ADB. 2014. *Financing Partnerships. Operations Manual*. OM E1/BP and OP. Manila.

C. Universal Requirements

2.5 In the earliest stages of project preparation, and no later than negotiations of the specific operation, agreements should be established between ADB and the agency and/or partner on a set of universal requirements that correspond to the obligations of ADB under its Articles of Agreement and 2017 procurement policy. This entails agreements on

- (i) the ADB member country eligibility restrictions (unless waived by the ADB Board of Directors);
- (ii) adherence to the provisions for United Nations sanctions and MDB-agreed cross-debarments;
- (iii) the allowance for ADB to review transactions and/or carry out audits;
- (iv) provisions for ADB to impose remedies in the case of noncompliance;
- (v) the ability of ADB to collect and obtain data on procurement;
- (vi) adherence to the ADB Anticorruption Policy and Integrity Principles and Guidelines;
- (vii) the procurement complaint handling mechanism of the APA partner or agency;
- (viii) the right of ADB to revoke the use of an APA;
- (ix) the preservation of the privileges and immunities of ADB; and
- (x) the requirement to communicate procurement transactions in English or as agreed to by the parties.

2.6 These APA-related agreements should be reflected in the corresponding legal, financing, and project agreements, and other understandings with the borrower or executing agency, and with the other relevant parties. ADB may also incorporate these agreements into a standing cooperation agreement, protocol, or framework that ADB could apply across multiple operations with a particular agency, member country, and/or partner.

D. Country and Sector Eligibility

2.7 Borrowers that benefit from the use of APAs will generally meet the normal lending criteria of ADB. However, ADB does not normally support the use of APAs with agencies in countries considered fragile and/or at high risk from the perspective of procurement and governance. Exceptions will be considered on a case-by-case basis and will be accompanied by appropriate mitigation measures.

2.8 There are no sector restrictions for the use of APAs, though the use of an APA with an agency may be less amenable in certain sectors, such as for social and decentralized infrastructure. These may also be better suited to ADB's results-based lending (RBL) modality, which is outside the scope of this guidance note.

E. Financing Modality

2.9 This guidance note applies to sovereign investment loans and grants. For nonsovereign financing, ADB already accepts the use of procurement procedures by the private sector sponsor. For sovereign financing, ADB also already relies on country procurement systems under its RBL and policy-based lending modalities, which are outside the scope of this guidance note. The appropriate sovereign financing modality (RBL, policy-based lending, or investment lending) is determined following the normal operational processes of ADB as part of country partnership strategy discussions; country operational planning; and project identification, processing, and approval.

F. Project-Specific Determination

2.10 ADB authorizes the use of an APA for a specific project as part of the financing agreement, which will indicate the procurement rules and procedures that will be applicable during project implementation. As such, the use of an APA with an agency or partner for one project does not guarantee that ADB will authorize an APA for any future investment lending with the same agency or partner, since future project procurement needs and circumstances may differ. Nevertheless, once accredited, the aim is to continue to authorize use of an APA by the agency or partner, subject to satisfactory performance and taking into consideration the nature of the project and its specific procurement risks.

G. Partial Application

2.11 There may be operations in which the use of an APA is justified for only some of the anticipated procurements, while the remaining procurements use ADB's 2017 procurement policy and Procurement Regulations for ADB Borrowers: Goods, Works, Nonconsulting and Consulting Services (2017, as amended from time to time). This can apply for APAs with both agencies and partners. Such circumstances could arise when dealing with specific high-risk or high-value, complex procurement, which may be best procured under ADB procedures (or that of the cofinancing partner) and not by those of the agency. The decision on whether to use an APA in these cases will be determined by analyzing the comparative advantage of one approach over the other, including the complexity of the procurement and the related technical and procurement expertise residing in one party versus the other.

H. Ongoing Operations

2.12 ADB may consider the use of APAs for ongoing operations. This could be the case if a new operation with the same executing agency, or with the same executing agency and the same cofinancing partner, is being prepared while the

ongoing operation is still under implementation. The assessment done for the new operation, or an assessment specifically undertaken at the request of the borrower or executing agency, forms the basis for determining whether an APA is justified for all or part of an ongoing operation. Determination of how to approve such changes to the procurement arrangements under an ongoing operation follows normal ADB procedures for amending its operations under implementation.

I. Nonprocurement-Related Considerations and Risks

2.13 The use of APAs follows the operational requirements of ADB with respect to the design, preparation, and approval of its investment lending. The usual policies of ADB on economic, financial, technical, social, and environmental assessments; financial management; reporting and monitoring; integrity due diligence; etc. continue to apply. Following the usual practice under investment lending, ADB makes disbursements in accordance with the payment conditions of the contract concluded under an APA.

2.14 Projects classified as category A from a safeguard perspective (environment, resettlement, or indigenous peoples) warrant attention when deciding whether to use an APA, particularly with an agency.⁴ For example, if the project has high risks on social and environmental factors, but there is a low correlation between these risks and the manner in which procurement is carried out, there may be low risk of using an APA. However, if there is a strong correlation between them (e.g., because of the complexity of detailed engineering designs, specifications, or technical parameters in relation to questions of sustainability, pollution, hazardous materials, resettlement, protected areas, etc.; and/or because of the need for close oversight at the contractor level), then APAs should be used with caution. ADB will consider these factors during project preparation.

⁴ ADB. 2009. *Safeguard Policy Statement*. Manila.

III. Alternative Procurement Arrangements and the Country Partnership Strategy

3.1 The potential for using APAs is initially addressed in the country partnership strategy (CPS) based on

- (i) the country and sector/agency procurement risk assessment (CSPRA) (see the *Guidance Note on Procurement Risk Framework* for further details),
- (ii) cofinancing opportunities, and
- (iii) other forms of collaboration with partners.

3.2 Consideration of the use of an APA at this stage is indicative, with no commitment to use the APA(s) for the planned operation(s). Once ADB understands the country and sector/agency procurement risk and governance environment, as well as the interest by the borrower or other development partners, ADB may decide to undertake an assessment to determine if the use of an APA is permissible. This assessment is independent of the CPS preparation cycle. ADB can also address the potential for the use of an APA in its annual country operations business plans for specific pipeline projects.

3.3 ADB considers different factors for APAs with agencies and with partners, as described in the following subsections.

A. Use of Alternative Procurement Arrangements with Agencies: Country and Sector/Agency Procurement Environment

3.4 The use of APAs with agencies depends on the country and sector/agency procurement risk environment. The results of the CSPRA inform the determination of the potential for the use of an APA by the agency. Where ADB has not carried out a CSPRA as part of the CPS process, ADB should do so for an APA assessment, with emphasis on the relevant sector/agency, following the *Guidance Note on Procurement Risk Framework* and section IV of this guidance note.

3.5 The CSPRA will help determine if the agency's country and sector/agency procurement environment will be amenable for the use of an APA. ADB will amplify agency-level assessments already available following the procedures outlined in section IV. ADB may consider an APA where the country and sector/agency procurement risks are low or moderate. Executing agencies for operations facing

high or extreme country or sector/agency risks would not normally be eligible for an APA. ADB may, however, selectively approve such operations for use of APA on a case-by-case basis with appropriate risk mitigation measures. Operations in countries facing high or extreme risks would not be eligible unless (i) agency risk is medium or low and (ii) the specific project procurement risk profile has a medium or low rating. Moreover, in situations of high or extreme country and sector/agency risks, measures to mitigate risks should accompany the use of APAs.

B. Use of Alternative Procurement Arrangements with Partners

3.6 The country and sector/agency procurement risk environment is not a consideration in the use of APAs with cofinanciers or other partners, as different criteria apply. There are five main factors in determining the potential for the use of APAs with partners:

- (i) relative share of cofinancing: the partner with the largest stake will likely assume the lead financier role;
- (ii) origin of the project: the partner involved at inception will likely have greater knowledge and understanding of the project compared to partners that become involved later;
- (iii) nature and depth of the existing relationship between the partner and the executing agency;
- (iv) fit of the project in each partner's mandate and business model; and
- (v) prior experience in cofinancing, cofinancing protocols, memoranda of understanding, and other indications of the likelihood of reaching agreement on the universal requirements discussed in section II of this guidance note.

3.7 At CPS stage, the use of a partner's procurement system is indicative. ADB assesses the potential use of a partner's procurement rules and procedures following relevant business operational plans, tools, and processes, and project concept and approval reviews.

3.8 An agreement among the MDBs facilitates ADB's use of APAs with other MDBs.⁵ The agreement establishes the areas of cooperation and provides a general protocol for the members to use. Members may invoke the agreement when preparing the CPS, operational business plans, and/or the project itself.

⁵ MDB Heads of Procurement Joint Cofinancing Working Group. 2017. Final Report. Unpublished.

IV. Alternative Procurement Arrangements with Agencies

4.1 The decision to use an APA with an agency for a specific operation depends on it being accredited through (i) an agency procurement assessment and (ii) a project procurement risk profile that ADB undertakes. This section discusses how to use these two tools to consider whether an agency should be accredited for an APA.

A. Agency Procurement Assessment

4.2 The agency procurement assessment is based upon professional judgment, backed by experience with the agency and preliminary indications of the country and sector/agency procurement risk environment resulting from the CSPRA. ADB can perform the assessment (i) at a relatively early stage in project processing for a specific operation; (ii) concurrently to the preparation of the CPS or country operations business plan, in anticipation of future financing; or (iii) at any point for an ongoing operation.

4.3 The factors to consider in identifying agencies for the potential use of APAs include whether the agency

- (i) is a known entity—already an ADB borrower or executing agency for the past two or more investment lending operations;
- (ii) has a positive track record under those operations—successful project outcomes and low-risk or high performance ratings in ongoing portfolio reviews;
- (iii) possesses solid knowledge of relevant ADB procurement rules and procedures;
- (iv) exhibits sound institutional capacity, and managerial and technical competence;
- (v) employs effective systems and processes that enhance transparency, integrity, fairness, and accountability;
- (vi) demonstrates, with quantitative evidence, efficient and effective procurement (low levels of unresponsive procurement, rapid turnaround of bids, adequate levels of response or competition, reliance on open competitive procedures, on-time completion, limited cost overruns), no major procurement noncompliance, few unresolved complaints and disputes, and no adverse investigation findings by ADB's Office of Anticorruption and Integrity; and
- (vii) enjoys a positive reputation among the public, industry, civil society, and other donors.

4.4 The assessment is informed by preliminary fact finding, interviews and consultations, available data, past project results, ongoing portfolio reviews, project procurement-related reviews, integrity due diligence, and any other reports and assessments carried out by ADB and other partners.

4.5 The procedures for undertaking an agency procurement assessment for an APA are the same as those for an agency procurement assessment within a CSPRA, for investment lending without an APA.⁶ However, the content assessed is different, as discussed further in this subsection. ADB can choose to use an agency procurement assessment done by another partner, if relevant.

4.6 The content assessed during an agency procurement assessment for an APA is different than for one without an APA. ADB has prepared a tool that may be used for an APA-related agency procurement assessment. The tool consists of the overall risk summary (Appendix 1 of this guidance note), scoring mechanism (Appendix 2), and checklist (Appendix 3). It is a modified version of the existing sector/agency procurement assessment tool used by ADB for non-APA investment lending (footnote 6). It retains the four themes that constitute the core of the Organisation for Economic Co-operation and Development's "Methodology for Assessing Procurement Systems": (i) legislative, policy, and regulatory framework; (ii) institutional framework and management capacity; (iii) procurement operations and market practices; and (iv) integrity, accountability, and transparency.

4.7 The tool does not require a separate assessment at the level of the agency's project management unit. However, the tool can be used at this level, if mandated.

4.8 The main agency assessments incorporated in the tool include

- (i) understanding of market practices, industry capacity, and competition;
- (ii) impact of secondary objectives, such as preferences and international agreements, that may distort procurement decisions;
- (iii) adherence to high standards of integrity and ethics, including training, code of conduct, financial disclosure, whistleblower provisions, cooling-off provisions, hotlines, interagency protocols, and evidence that allegations of integrity violations are addressed;
- (iv) demonstrated technical competence in defining specifications and carrying out bid evaluation;
- (v) independence, especially from political interference, in procurement decision-making, along with organizational stability and maturity;
- (vi) specific procedures and processes for procurement planning, market analysis, risk identification, contract packaging, etc.;

⁶ Procedures for undertaking an agency procurement assessment for investment lending without an APA are described in the *Guidance Note on Procurement Risk Framework*.

- (vii) the use of innovative and/or nontraditional procurement methods, or e-procurement;
- (viii) effective processes and procedures for contract management, including monitoring of contractor performance and complaints; and
- (ix) adequate information and data management systems, record-keeping, analysis, and reporting that underpin successful procurement operations.

4.9 While the assessment poses different questions, the scoring methodology used to assess agency risks for APAs provided in Appendix 2 is the same as for non-APAs in the CSPRA, i.e., the assessment rates each indicator on a scale of 0 to 3. The score for each key theme is the average of the scores for all related indicators.

4.10 The assessment bases the overall agency risk rating for use of an APA on the weakest score, and not the overall average of the four themes. The reason is that agencies considered for the use of an APA should demonstrate consistency, competency, and performance across all four themes. This is especially important in areas less amenable to risk management and mitigation, particularly theme (iii) on procurement operations and theme (iv) on integrity.

4.11 As with non-APA agency procurement assessments, the risk rating for APAs is portrayed as extreme, high, medium, or low. The assessment bases the overall rating on the risk matrix in Table 1. This establishes minimum scores for themes (iii) and (iv), and average scores for individual themes. To be rated as posing low or medium risk, the agency should not have any indicator that rates below a score of 2, meaning that no dimension of its procurement system requires substantial improvement.

Table 1: Agency Procurement Risk Matrix

Agency Risk Rating	Scoring Indicators
Extreme	<ul style="list-style-type: none"> • Average scores on themes (iii) and (iv) are each less than 1.5 • Average scores on either theme (i) or (ii) are less than 1.5
High	<ul style="list-style-type: none"> • Average scores on themes (iii) and (iv) are each less than 2 • Average scores on themes (i) and (ii) are 2 or greater
Medium	<ul style="list-style-type: none"> • Average scores on all themes are each 2 or greater • No indicator within the themes is scored less than 2
Low	<ul style="list-style-type: none"> • Average scores on all themes are each 2.5 or greater • No indicator within the themes is scored less than 2

Source: Asian Development Bank.

B. Project Procurement Risk Profile

4.12 The other factors to consider before deciding whether to authorize the use of an APA by an agency are the specific risks in the procurement to be undertaken. ADB does this via the construction of a project procurement risk profile of the procurement(s) anticipated under the project.⁷

4.13 There are two reasons for doing this. First, the use of an APA by the agency reduces the ability of ADB to affect individual procurements via its prior review, including deviations from open competition. Second, the risk of the use of an APA by an agency depends on its capacity and the nature of the procurement to be undertaken. The project procurement risk profile addresses both of these concerns.

4.14 The need for this assessment increases the importance of good procurement planning for the project. Procurement planning consists of determining a risk rating for each major procurement envisaged within the next 18 months, and then extending the time horizon to cover all anticipated procurement under the life of the project.

4.15 As early as possible during project preparation, ADB makes a first assessment of the project procurement risk based on (i) project scope, (ii) initial cost estimates, (iii) feasibility studies, (iv) the nature and specification of inputs required for the project, (v) progress in procurement planning, and (vi) past experience with similar projects. ADB refines and updates this assessment as project preparation and due diligence proceed, based on refined cost estimates, technical specifications, and the elaboration of detailed project procurement plans. ADB makes the final project procurement risk rating available at negotiations, based on the detailed project design and the latest available procurement plan. This is the point at which ADB makes the decision to use an APA with the agency for the specific operation.

4.16 Using the risk profile outlined in Table 2, ADB rates the overall project procurement risk as high, medium, or low, based on the individual risks and values of major tenders, components, cost categories, and/or expenditure categories.⁸ ADB specifically identifies high-value or high-risk procurements as part of this exercise, while assessing low- and medium-risk procurements by broader contract or expenditure category. The identification of such procurements aids in the decision to adopt partial use of an APA and helps determine if the agency has the capacity to deal with high-risk procurement.

⁷ See the *Guidance Note on Procurement Risk Framework* and the *Guidance Note on Strategic Procurement Planning* for details on assessing project procurement risk.

⁸ See ADB. 2014. *Preparing and Presenting Cost Estimates for Projects and Programs Financed by the Asian Development Bank. Financial Management Technical Guidance Note*. Manila.

Table 2: Project Procurement Risk Profile

Factors	Low Risk	Medium Risk	High Risk
Strategic importance	<ul style="list-style-type: none"> • Goods, works, and services, consumed internally • Frequently used or commodities • Administrative and backroom activities 	<ul style="list-style-type: none"> • Goods, works, and services used across the agency • Needed for delivery of the agency's core business 	<ul style="list-style-type: none"> • Goods, works, and services critical for successful project outcomes • High impact if procurement fails
Supply factors	<ul style="list-style-type: none"> • Goods, works, and services that are easy to secure • Available "off-the-shelf" • Substitutes available 	<ul style="list-style-type: none"> • Goods, works, and services that are hard to secure, but of low value, or those that are easy to secure, but of high value 	<ul style="list-style-type: none"> • Goods, works, and services that are rare, difficult to secure, and/or of high value
Supply markets	<ul style="list-style-type: none"> • Multiple sources • Secure supply • Many local suppliers, typically small and medium-sized enterprises • Stable, verifiable prices • Low barriers to entry for new suppliers 	<ul style="list-style-type: none"> • Mature market, comprised of both local and international suppliers • Few suppliers, but well known, competitive, and reliable • Extensive distribution and maintenance networks 	<ul style="list-style-type: none"> • Few suppliers • High barriers to entry by new suppliers • Anticompetitive behaviors • Volatility in prices, quality and quantity, and availability • Supply constraints, such as intellectual property or raw materials • Complex supply chains with weak links • Exposure to external risks, e.g., weather, or political or economic situation
Technical aspects	<ul style="list-style-type: none"> • Quality standards are known, easy to specify, and easily met • Commonly known and available spare parts • No problems of compatibility • Low operation and maintenance costs • User familiarity 	<ul style="list-style-type: none"> • Established standards are available • Reliable quality assurance and monitoring • Important life cycle costs, such as cost for maintenance, after-sales service, and operating costs • High demand for user training and competency 	<ul style="list-style-type: none"> • Difficult to specify or unique • Complex manufacturing, construction, and/or design processes • High life cycle costs • High technical expertise needed by users • Opaque quality assurance

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Table 2 continued

Factors	Low Risk	Medium Risk	High Risk
			<ul style="list-style-type: none">• Risks in implementation• Specialized or customized• Rapid technological change or obsolescence• Concerns about safety, hazards, or socio-environmental impacts
Procurement process	<ul style="list-style-type: none">• Repeat order• Large number of similar transactions• Transactions using e-procurement and/or standard bidding documents• Centralized processing and/or easily monitored• Simple delivery, reception, and/or warehousing	<ul style="list-style-type: none">• Decentralized procurement across multiple agency units• Packaging and bundling of procurements• Intensive monitoring of contract administration and contractor performance	<ul style="list-style-type: none">• Infrequent transactions• Innovative processes or contractual form unfamiliar to the agency (e.g., public-private partnership)• High costs in terms of due diligence, preparation, time, expertise, and monitoring• Time constraints, e.g., in response to an emergency

Source: Asian Development Bank.

4.17 The preponderance of risk by contract value (not number) determines the overall project procurement risk rating. Risk is high if greater than 50% of the value of planned procurement rates as high; risk is medium if greater than 50% of planned procurement rates as medium; and risk is low if greater than 50% of planned procurement rates as low.

C. Decision to Use an Alternative Procurement Arrangement

4.18 The final step in accrediting the agency and determining the use of an APA for a specific project is to combine the agency procurement assessment with the project procurement risk profile.

4.19 As described in Table 3, agencies with extreme agency procurement risk would not be eligible for the use of an APA even if the project procurement risk were low, while agencies with high agency procurement risk may be able to use an

APA for operations that involve largely routine, low-value, low-risk procurement. Such operations would likely be infrequent and limited in scope. More importantly, operations could be designed with only partial use of an APA to reduce the risk of procurements undertaken by the agency. Conversely, agencies with low risks may handle the full range of procurement operations through an APA.

Table 3: Use of an Alternative Procurement Arrangement by an Agency Depending on Agency and Project Procurement Risks

Agency Procurement Risk Rating	Project Procurement Risk Profile		
	Low-Risk Procurement	Medium-Risk Procurement	High-Risk Procurement
Extreme	X	X	X
High	✓	X	X
Medium	✓	✓	X
Low	✓	✓	✓

✓ = alternative procurement arrangement by agency allowed, X = alternative procurement arrangement by agency not allowed.

Source: Asian Development Bank.

V. Alternative Procurement Arrangements with Partners

A. Cofinancing Policies and Procedures

5.1 ADB processes sovereign investment lending that uses an APA with partners in accordance with ADB's cofinancing rules and procedures (footnote 3). Cofinanciers undertake relevant project analyses and assessments, and make financing decisions, in accordance with their own operational rules and procedures. Not all potential cofinanciers are eligible for an APA. Cofinancing under an APA should be contractual and untied, thus excluding cofinancing that is collaborative or tied.

5.2 ADB maintains cofinancing agreements with bilateral and multilateral or regional agencies that enable the application of ADB policies and ADB administration under joint or untied parallel financing arrangements. In such cases, ADB takes the lead role and responsibility for carrying out procurement on behalf of these cofinanciers. If there is mutual understanding for the cofinancier to handle procurement, ADB can approve an APA for these arrangements. Nevertheless, ADB's Anticorruption Policy and Integrity Principles and Guidelines, and contractual remedies in applicable financing agreements with the borrower, shall continue to apply.

B. Mutual Reliance and Recognition

5.3 The use of an APA with partners is grounded in the principles of mutual reliance and recognition. ADB expects the use of an APA will be mainly with other MDBs, with whom acceptance of this reciprocity is most advanced. In such case, the MDB joint agreement to this effect governs such operations (footnote 5). In the event that ADB considers the use of procurement arrangements of a non-MDB financing partner, ADB would address this on a case-by-case basis, following the same principles and parameters contained in the MDB joint agreement.⁹

⁹ If provisions for an APA are not already part of the prospective partner's policy, this could be facilitated by a waiver, either by financier or by project. In addition, an APA with non-MDB partners might require further exercise of integrity due diligence in line with ADB's relevant rules and procedures to this effect.

C. Roles and Responsibilities

5.4 Once the financing parties have agreed on the nomination of the lead financier, the parties agree to their respective roles and responsibilities for the specific operation. This understanding should cover

- (i) commitment by the lead financier to carry out delegated tasks with due diligence;
- (ii) procurement planning, including overall strategy, eligibility, specific procurement procedures, packaging, retroactive financing, advance contracting, cost estimates, updates, and timeline, reflecting contract value, risk, and complexity;
- (iii) procurement monitoring, approach to prior and post review (sampling), etc.;
- (iv) use of master or standard bidding documents;
- (v) consultation and communication of procurement decisions, transactions, contract award, etc.;
- (vi) handling of complaints;
- (vii) declaration of noncompliance and remedies;
- (viii) adherence to the ADB Anticorruption Policy and Integrity Principles and Guidelines, including cooperation and exchange of information on integrity allegations;
- (ix) contract variations and amendments;
- (x) disbursements;
- (xi) status of project implementation;
- (xii) status of an APA agreement and compliance; and
- (xiii) resolution of differences.

5.5 It is understood that these roles and responsibilities are reciprocal. They apply to ADB in case it is the lead financier and to the lead financier in other cases. It is understood that the responsibility of assuming the role of lead financier, in terms of costs, is not a concern for the partners entering an APA agreement, as incremental costs are likely to be low and, without cofinancing, the lead financier would have borne responsibility. Further, under parallel financing, each financier would have incurred their own procurement-related costs. Costs among partners may be neutral over time, depending on the frequency of which different partners take on the lead financier role.

D. ADB Implementation Support and Reporting

5.6 In addition to the areas listed in subsection C of this section, the agreement should also address issues of operational support and reporting during implementation. While the lead financier takes on the prime responsibility for monitoring procurement during implementation, partners may be consulted on particular transactions, and collaborate in other ways in providing implementation support and monitoring progress.

5.7 In cases where ADB is not the lead financier, ADB remains responsible for providing internal status reports to its Board of Directors and Management, and to the public, on project progress and results.¹⁰

E. Legal Agreements

5.8 As noted above, the agreements on universal requirements and the respective roles and responsibilities of the lead financier and other partners are to be part of the legal and financing agreements for the project. With frequent cofinancing, these agreements may be embodied in a standing cooperation framework or understanding. Specific legal agreements formalize such arrangements.¹¹

¹⁰ It is likely that various internal reports, reports to the Board, and those available to the public on procurement under ADB-financed operations will have to be modified to cover procurement that is undertaken using an APA.

¹¹ Footnote 5 contains a draft model cooperation framework and project-specific agreement.

VI. Other Considerations for Alternative Procurement Arrangements

A. The Decision to Use Alternative Procurement Arrangements

6.1 The final decision to recommend the use of an APA, whether with an agency or partner, and whether or not ADB will assume the role of lead financier, is taken by the relevant ADB authorities, at the procurement planning stage and as part of the decision-making for the project, corresponding to the sign-offs and approval stages required for the procurement. In any case, recommendations will also be made, as appropriate, regarding advance contracting, retroactive financing, the use of master documents, and procurement review arrangements.

6.2 The rationale for the use of an APA is described in the report and recommendation of the President, stipulating that the universal requirements in section II have been met and adding any other key agreements reached. These latter agreements should address respective roles and responsibilities, monitoring, and information reporting requirements. The APA is approved as part of project approval by the ADB Board of Directors or its Management (where applicable).

6.3 Any major changes to the APA during implementation must be approved by ADB.¹² This includes introducing an APA for any ongoing project or to an existing standard project procurement arrangement.

B. The Role of ADB

6.4 The main change with the use of an APA is that ADB (if not the lead financier) no longer endorses what procurement methods are to be used and when. ADB also does not undertake prior reviews of individual procurement transactions. Instead, ADB focuses on ensuring that the procurement planning is carried out efficiently at the project preparation and approval stage, leading to the approval for the use of an APA, and subsequent monitoring and reporting during implementation.

¹² This provision is under ADB's Project Administration Instructions 5.02, and will be used and referred to pending issuance of a new set of staff instructions relating to project administration actions. See ADB. 2015. Change of Loan and/or Grant Funded Projects. *Project Administration Instructions*. PAI 5.02. Manila.

6.5 Projects using an APA, either with an agency or partner, are given a “category A” procurement risk classification by default (see the *Guidance Note on Procurement Risk Framework* and the *Guidance Note on Strategic Procurement Planning* for further details). As is currently ADB’s policy, the procurement classification can be updated and changed as more information becomes available.

6.6 In connection with its oversight and monitoring, ADB’s role will vary depending upon whether the APA is being applied to an agency or partner. For an agency, ADB will need to pay particular attention to procurement review, monitoring, and auditing arrangements. For a partner, ADB’s involvement will be defined in accordance with the agreement reached with the partner.

C. Fiduciary Requirements under Alternative Procurement Arrangements

6.7 The starting point of meeting ADB’s fiduciary requirement is that procurement systems used under an APA are reasonably adequate and that they ensure that ADB financing is used for the purposes intended. While there is no official definition, this typically means that sound principles for public procurement—competition, efficiency, effectiveness, fairness, transparency, and equal opportunity—are evident in the system, both in terms of the rules as stated and in terms of their application. These procurement principles should be coupled with measures to protect the integrity of the process and ensure the institutional capacity for implementation. What is considered adequate depends on the context, the risks, and the operational requirements.

6.8 In the case of the use of APAs with partners, expected to be mostly MDBs and bilateral donors, the assertion that ADB’s fiduciary requirements are met is based on the principles of mutual reliance and recognition among the parties. This is reflected in the agreements with the lead financier, specific procurement arrangements for each operation, regular exchange of information on the status of procurement during implementation, periodic involvement of ADB in monitoring overall progress and transactions as needed, and appropriate recourse by ADB in the event of disagreement and/or noncompliance.

6.9 With the use of an APA with agencies, assurances that ADB’s fiduciary obligations will be met arise from the tools and methodologies used to assess and accredit the agency and the proposed APA.

6.10 For APAs with both agencies and partners, the ability for ADB to meet its fiduciary obligations is reflected in the commitment with the agencies and partners to the universal requirements laid out in section II of this note. These agreements allow ADB to adhere to its commitments and to exercise remedies and recourse as appropriate.

D. This Guide Is No Substitute for Good Judgment

6.11 This guidance note and associated tools are provided to assist country teams to assess procurement risks associated with the appropriate use of an APA, with agencies and partners. However, guidance cannot be a substitute for professional judgment. It is up to the ADB country team to determine how best to obtain sufficient assurances that ADB funds will be used for intended purposes, with due regard to efficiency and effectiveness.

Appendix 1: Agency Procurement Assessment—Risk Summary

Indicators	Score	Narrative and/or Verification or Clarification Required
1. Legislative, Policy, and Regulatory Framework	[Average of 1.1–1.4]	
1.1 Does the national public procurement law (including supporting regulations, standard bidding documents, model contracts, and operational manuals or guides) apply to the agency?		[The assessor should give a narrative response and determine whether additional information or verification is required.]
1.2 Is there a sector- or agency-specific legal framework, and does it embody and demonstrate ADB's core procurement principles?		
1.3 Is the agency procurement system supported by implementing regulations, guides, manuals, etc., that are up-to-date and tailored to the agency's operational requirement and state clearly when, how, and by whom procurement is to be undertaken?		
1.4 Are there secondary objectives, such as domestic preferences, promotion of small and medium-sized enterprises, and/or international agreements that impede the realization of the policy's primary goals and principles?		
2. Institutional Framework and Management Capacity	[Average of 2.1–2.6]	
2.1 Is the procurement cycle tied to the annual or multiyear budget and planning cycle?		
2.2 Does the system foster efficiency through the use of adequate planning?		

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Table continued

Indicators	Score	Narrative and/or Verification or Clarification Required
2.3 Are mandates, roles, and responsibilities for the procurement function clearly defined and based on relevant qualifications that generate objective, independent, and technically sound procurement decisions?		
2.4 Does the procurement function have the physical infrastructure, human resources, information technology, and administrative capacity needed to carry out procurement efficiently?		
2.5 Is information on procurement activities readily available, complete, and reliable?		
2.6 Is there an independent normative or regulatory body that guides and oversees the agency's procurement policy and function?		
3. Procurement Operations and Market Practices	[Average of 3.1–3.4]	
3.1 Is the private sector competitive, well organized, and able to access the agency's business?		
3.2 Do procurement strategies and approaches to the market account for market realities, supply constraints, external risks, and other factors?		
3.3 Are procurement transactions generally competitive, responsive, timely, and efficient?		
3.4 Is there an effective and credible mechanism to receive, handle, and respond to questions, complaints, and protests?		
4. Integrity, Accountability, and Transparency	[Average of 4.1–4.5]	
4.1 Is there a formal internal control and external audit framework for the agency that covers procurement?		
4.2 Is information on the agency's procurement activity easy to find, free, comprehensive, and relevant?		

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Indicators	Score	Narrative and/or Verification or Clarification Required
4.3 Do civil society organizations and local communities participate in public consultations, monitoring, and oversight of procurement activities?		
4.4 Does the agency have up-to-date ethical and anticorruption measures in place that are enforced?		
4.5 Do parties have effective recourse to a second level of binding appeal on decisions taken regarding complaints and dispute resolution?		

ADB = Asian Development Bank.

Source: Asian Development Bank.

Appendix 2: Agency Procurement Assessment—Scoring Guide

Indicators	Agency Questions	Scoring Guide
1. Legislative, Policy, and Regulatory Framework		
1.1 Does the national public procurement law (including supporting regulations, standard bidding documents, model contracts, and operational manuals or guides) apply to the agency?	<p>Is the sector or agency exempted by legislation from being subject to the national procurement law?</p> <p>Even if subject to such legislation, does the agency tend to follow it?</p> <p>Does the agency use the centrally issued procurement manuals and guidance?</p> <p>Have centrally issued documents been tailored to the agency's requirements?</p> <p>In the absence of centrally issued documents, does the agency have its own standard bidding documents and guidance?</p>	<p>3 – <i>The agency has its own regulations, processes, and bidding documents superior to those in the national public procurement system.</i></p> <p>2 – <i>The agency is subject to the national procurement law and tends to follow it. Generally, uses the national procurement processes, guidelines, and bidding documents.</i></p> <p>1 – <i>The agency is subject to the national law, but tends not to follow it. Frequent deviations.</i></p> <p>0 – <i>The agency is exempt from or does not follow the national procurement system, and does not have its own regulations, processes, guidelines, and bidding documents that compensate for this.</i></p>
1.2 Is there a sector- or agency-specific legal framework, and does it embody and demonstrate ADB's core procurement principles?	<p>Is there nondiscriminatory, transparent tendering?</p> <p>Are there acceptable provisions for participation of state-owned enterprises?</p> <p>Does functional specification of user needs drive the bidding process?</p> <p>Are value for money, life cycle costs, sustainability considerations covered?</p> <p>Are innovative processes, including e-procurement, allowed?</p> <p>Does the system strive for fit for purpose and proportionality?</p>	<p>3 – <i>Generally, procurement follows the core principles. Sustainability is a factor. There is no restriction on the nationality or origin of goods. There is no domestic or other targeted preference. Acceptable provisions for participation of state-owned enterprises. There is opportunity for innovation. Thresholds defining the use of one method over another are clear and reasonable. Five or more bidders on average.</i></p> <p>2 – <i>Basic outline of the system corresponds to core public procurement principles, but does not incorporate value for money, life cycle costs, sustainability, and innovation. No restriction on nationality, or domestic preference, but not necessarily enforced. Contradicted by other regulations. Three bidders on average.</i></p>

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Indicators	Agency Questions	Scoring Guide
	Are monetary thresholds established for the use of different procurement methods?	<p>1 – Limited adherence to core principles (e.g., efficiency and economy), with minimal supporting provisions regarding transparency, openness, and value for money. Some restrictions on bidders. Two or less bidders per contract on average.</p> <p>0 – Limited coherence and alignment with core principles, particularly regarding openness and value for money. Limited competition, with less than two bidders per contract. High rates of void bids.</p>
1.3 Is the agency procurement system supported by implementing regulations, guides, manuals, etc., that are up-to-date and tailored to the agency's operational requirement and state clearly when, how, and by whom procurement is to be undertaken?	<p>Does the agency have an e-procurement system incorporated in national procurement laws?</p> <p>Are there up-to-date manuals, guides, and bidding procedures that are clear and comprehensive?</p> <p>Do they reflect user needs and requirements?</p> <p>Do such materials cover contract management and performance?</p>	<p>3 – Supporting materials are up-to-date, comprehensive, and cover the full procurement cycle. They are accessible, commonly used and relied upon by agency staff, bidders, and civil society. E-procurement is widely used. Guidelines define who can take procurement decisions and when, including levels of delegation; these are appropriate and are adhered to.</p> <p>2 – Supporting materials exist, are generally used, and comprehensive. They are available online, but they may be out of date and may not be relied upon for accuracy. E-procurement exists, but is limited in scope. There is some ambiguity of who is authorized to make procurement decisions and under what circumstances.</p> <p>1 – Supporting materials exist, but are not reliable, up-to-date, or comprehensive. They cover only part of the procurement cycle (e.g., do not cover contract management). Materials are available only in paper form with limited accessibility. They are only used occasionally, with lack of compliance and improvisation to fill gaps. Delegation is not clear and/or partial. Decision-making tends to be centralized.</p> <p>0 – Supporting materials are outdated, not comprehensive, cannot be relied upon, and have limited accessibility. These tend not to be followed, with parties improvising case by case, without codification. Lines of authority and delegation of decision are not followed. Decisions tend to be centralized at high levels.</p>

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Indicators	Agency Questions	Scoring Guide
1.4 Are there secondary objectives, such as domestic preferences, promotion of small and medium-sized enterprises, and/or international agreements that impede the realization of the policy's primary goals and principles?	<p>Has the country signed on to international agreements such as the World Trade Organization's Agreement on Government Procurement, and/or regional trade agreements that govern public procurement?</p> <p>Is the agency's procurement policy consistent with these agreements?</p> <p>Is there a national policy that establishes preferential access by particular groups to public procurement?</p> <p>Does this framework cover sustainability and environmental impacts?</p> <p>Is the agency's procurement subject to such preferences?</p> <p>Does the agency have its own goals and preferences in particular areas, such as sustainability?</p> <p>Are the criteria for any such preferences clearly stated and objective?</p> <p>Are they understood by the agency, should they apply?</p> <p>Can the agency opt out of such preferences, based on a business case, in terms of relevance and value for money?</p> <p>Are preferences justified on the basis of costs and benefits, and subject to appropriate impact assessment?</p> <p>To what extent is the agency's procurement affected by any such preferences?</p> <p>Does the agency have a system in place to control, track, report, and assess the impact of any such preferences, including the incidence of fraud?</p>	<p>3 – <i>The agency is fully compliant with international or regional agreements. National framework for preferences is consistent with sound procurement principles, clearly targeted, not abused or prone to widespread fraud, and subject to periodic cost-benefit and impact assessment. The agency tracks and monitors preferences and measures the affect value for money. It engages with policy makers on impacts. Such preferences are minimal (i.e., less than 5% of the value of procurement). Even if there is no framework, the agency makes its best efforts to reach out to all potential bidders and encourages their participation. It has its own policy on sustainability that focuses on technical specifications and life cycle costs.</i></p> <p>2 – <i>The agency is fully compliant with relevant international or regional agreements. There is a national framework that provides preferences to particular groups, but it is not justified on the basis of cost-benefit and has weak controls against fraud. The impact of such preferences tends to be minimal (i.e., less than 5% of the value of procurement) and they do not involve strategically important procurement. The agency tracks and monitors compliance. The agency is at the early stages of developing its own policy toward sustainability.</i></p> <p>1 – <i>It is not clear that the agency is compliant with international or regional agreements as these are not tracked. There is a low level of understanding on the part of the agency as to its obligations. A national framework for preferences exists but is subject to widespread fraud, criteria are not clear, and impacts are not tracked or justified on the basis of cost-benefit. The impact on the agency can be material (i.e., greater than 5% of the value of procurement) and involve strategically important procurement. The agency does not consider sustainability.</i></p>

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Indicators	Agency Questions	Scoring Guide
	Does the agency engage and contribute to the national dialogue on the merits of such preferences?	0 – The agency is not in compliance with any international or regional agreements. There is a low level of understanding of such agreements. The agency routinely awards contracts on the basis of preferences even though the national framework is weak. It does not track such contracts and their impacts.
2. Institutional Framework and Management Capacity		
2.1 Is the procurement cycle tied to the annual or multiyear budget and planning cycle?	<p>Are procurement plans prepared as part of the agency budget planning process?</p> <p>Does the agency require that the availability of funds is a precondition of initiating a procurement transaction?</p> <p>Are budget estimates based on contractual commitments and realistic cost estimates?</p> <p>Are budgets periodically updated and revised depending on physical progress and milestones?</p> <p>Are contractual payments made on a timely basis?</p> <p>Are payments made on the basis of certification of successful delivery and acceptance of goods, works, and services?</p>	<p>3 – Procurement plans are prepared as part of the annual or multiyear budget process. Availability of funds is confirmed before bidding. Budgets and expenditure forecasts are based on updated cost estimates and physical milestones. The system tracks contractual commitments, including contingent liabilities. Payments are made on time, based on delivery or reception. Final payment and settlement of retention monies is made on the basis of certification of contractual compliance.</p> <p>2 – Procurement plans are prepared independently of the annual or multiyear budget process, but are reconciled with budget-expenditure forecasts. The financial management system does not monitor contractual commitments. Payments may be held up because of budgetary limits.</p> <p>1 – Procurement plans are prepared, but are not linked to annual or multiyear budgets or expenditure forecasts. Payments are frequently held up because of budgetary limits. There is little link between delivery or reception and payment. No follow-up on final contractual terms and obligations.</p> <p>0 – Annual procurement plans are not prepared. Payment delays are frequent and hold up physical progress. Payments are made without verification of delivery, reception, or fulfillment of contractual obligations.</p>

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Indicators	Agency Questions	Scoring Guide
2.2 Does the system foster efficiency through the use of adequate planning?	<p>Does the agency have established procedures and processes to support procurement planning?</p> <p>Do these processes include needs analysis, market research, and risk assessments?</p> <p>Are high-risk procurements identified?</p> <p>Are there processes to validate cost estimates?</p> <p>Does the system generate appropriate decisions on bundling, packaging, and the choice of procurement method?</p> <p>Are procurement plans prepared for the majority of the value of procurement? For high-risk procurements?</p> <p>Does the planning system identify implementation risks and contract management requirements?</p> <p>Are roles and responsibilities clearly defined for the whole procurement cycle, through to contract management?</p>	<p>3 – The agency carries out comprehensive procurement planning for the majority of its procurement by value (i.e., 80%) and excludes only routine, low-value purchases. Plans are published and available to the public. High-risk procurements are identified (along with those with low and medium risks) and receive additional management attention. The planning process covers the full procurement cycle through to contract management.</p> <p>2 – The agency carries out comprehensive procurement planning for more than 50% of its procurement by value, focusing on high-risk procurements only. The rest are subject to more limited planning that depends on historical bidding results to gauge market interest and focuses on establishing timelines, logistics, and decision points. Even if limited, these plans are published.</p> <p>1 – The agency carries out comprehensive procurement planning only if required by an external financing agency and supplemented with technical support. Those plans are published. The agency does not carry out comprehensive planning for its own procurement and limits any planning to timelines, logistics, and decision points. These plans are not published. Planning does not cover implementation and contract management.</p> <p>0 – The agency does only rudimentary procurement planning (e.g., lists of pending procurement), no plans are routinely published, and the agency does not have the internal systems or capacity to carry out comprehensive planning even with technical support.</p>
2.3 Are mandates, roles, and responsibilities for the procurement function clearly defined and based on relevant qualifications that generate objective,	<p>Are there written, up-to-date job descriptions?</p> <p>Do these define responsibilities for the complete procurement cycle, including contract management?</p> <p>Do they establish the minimum requirements for candidates?</p>	<p>3 – The procurement function is organized and staffed along professional lines. There are written, up-to-date job descriptions. Recruitment is merit based. The profession is recognized in the agency's human resource system. There are individual staff performance, evaluation, and training plans. The agency adheres to an</p>

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Indicators	Agency Questions	Scoring Guide
independent, and technically sound procurement decisions?	<p>Are these recognized and established in the agency's human resource management system?</p> <p>Is recruitment of professional staff competitive? Is it merit-based?</p> <p>Are staff provided with opportunities for training and professional upgrading?</p> <p>Is there a system of certification or accreditation for procurement professionals?</p> <p>Do procurement decisions correspond to the qualifications, and roles and responsibilities, of the concerned officials?</p> <p>Is there a clear delegation of authority to define which officials at what level can make particular procurement decisions?</p> <p>Is management and procurement decision-making decentralized? Are lines of authority clear?</p> <p>Is the management cadre composed of experienced procurement professionals? What is their tenure?</p> <p>Is there a dedicated unit for e-procurement and information technology?</p> <p>Is there adequate input during the procurement cycle from users, civil society organizations and technical experts, especially in defining specifications, evaluating bids, and monitoring performance that facilitates independent and objective decision-making?</p>	<p><i>internationally recognized professional certification in the absence of a domestic program. Decisions correspond to stated roles and responsibilities with clear lines of delegation. Senior procurement management is comprised of seasoned, qualified professionals who have authority to make procurement decisions. E-procurement is handled by a dedicated specialized unit. The composition of the evaluation committee includes appropriate technical expertise. Users are involved in both specification and evaluation.</i></p> <p><i>2 – The procurement function is organized and staffed along professional lines. However, job descriptions are outdated and do not correspond to the needs of day-to-day operations. Certain skill sets are lacking (e.g., e-procurement). Recruitment is competitive and merit-based, but the agency has difficulty in recruiting highly qualified staff because of salary limits. Decisions are taken in accordance with stated roles and responsibilities. Senior procurement management is professionally qualified, but their decisions may be overridden by higher level authorities.</i></p> <p><i>1 – The organizational structure for procurement is rudimentary and tends to be outdated, with little opportunity for professional development and growth. Decisions are hierarchical, with limited delegation, and tend to be taken at a high level, even for relatively minor, low-risk, and low-value transactions. Recruitment follows basic civil service or agency rules, with little ability to attract meritorious candidates. Little specialization. Management lacks technical expertise and experience.</i></p> <p><i>0 – The organization structure is rudimentary and tends to be outdated; there is no specialization, with little opportunity for professional development and growth. Management cadre is appointed without due consideration to professional qualifications, competencies,</i></p>

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Table continued

Indicators	Agency Questions	Scoring Guide
		<i>and experience. Decisions are hierarchical, taken at a high level, and tend to reflect noneconomic considerations. Recruitment follows basic civil service or agency rules, with little ability to attract meritorious candidates.</i>
2.4 Does the procurement function have the physical infrastructure, human resources, information technology, and administrative capacity needed to carry out procurement efficiently?	<p>Is there adequate document storage, safekeeping, and retention per established norms?</p> <p>What is the level of specialized procurement staffing? Is it adequate?</p> <p>Is there adequate administrative, computing, data management, and other support?</p> <p>Is there a system for collecting and disseminating procurement information? Is it timely, accessible, and user friendly?</p>	<p>3 – <i>The agency has the full complement of staff, physical facilities, storage, computing, communications, and other administrative support systems to handle procurement efficiently and effectively. It produces and disseminates routine management and other reports on its procurement activities. There are few skills gaps. Only minor upgrades are needed for the project. These can be easily accommodated in the agency's business or staffing plan.</i></p> <p>2 – <i>The agency has the baseline needed for its regular operations, but its capacity needs to be expanded and upgraded to handle the demands of the project. These upgrades have been identified and plans prepared for implementation in a timely manner.</i></p> <p>1 – <i>The agency does not have the capacity to deal with its ongoing procurement let alone the procurement implicit in a new project. Major upgrades would be required. Currently, there is willingness, but the agency does not have a plan to address its shortcoming and needs external support to formulate such a plan.</i></p> <p>0 – <i>The agency does not have the capacity to deal with its ongoing procurement, let alone the procurement implicit in a new operation. Extensive upgrading of physical facilities, staffing, management, and basic systems would be necessary. At the same time, the legislative and regulatory environment is not conducive. No plan exists, with little prospect of securing resources.</i></p>
2.5 Is information on procurement activities readily available, complete, and reliable?	<p>Does the agency generate timely, reliable, and accurate information on procurement?</p> <p>Is it made readily accessible, free of charge?</p>	<p>3 – <i>The agency produces regular public reports on its procurement activities. These reports are available online, at no cost, and cover all procurement with the exception of minor items. The reports are comprehensive, including progress during implementation.</i></p>

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Indicators	Agency Questions	Scoring Guide
	Is the information subject to public disclosure, with reasonable exemptions for confidentiality?	<p>More information is available based on specific requests for access. There are limited exemptions for reasons of confidentiality. Civil society, donors, and the business community regularly use this information.</p> <p>2 – The agency produces regular reports on its procurement activities, although they may tend to be limited to contract award. They are accessible to the public at no cost, but are subject to delays. No further information is available even upon request.</p> <p>1 – The agency produces annual reports on its overall operations with cursory coverage of procurement, providing the basic information on contract award and value. More detailed information is not available.</p> <p>0 – The agency does not produce an annual report on its operations that is publicly available. No procurement information is available to the public. Only government bodies receive reports.</p>
2.6 Is there an independent normative or regulatory body that guides and oversees the agency's procurement policy and function?	<p>Does the agency fall under the remit of a national sector oversight or regulatory body?</p> <p>Does that body produce periodic reports on the agency's procurement activities?</p> <p>If so, are these reports publicly available, free of charge?</p> <p>Does the body have the right to issue instructions or guidance to the agency for improvements to its procurement policy?</p>	<p>3 – There is a regulatory body, with remit over the agency, which produces periodic reports on the procurement carried out by the agency. It also can issue recommendations on improvements. Its reports are available at no cost. It can also undertake special investigations and reviews.</p> <p>2 – No specific regulatory body exists, but the central government oversight bodies on public expenditure have the remit to examine how the agency procures at their discretion. This includes the supreme audit agency. Beyond regular audits of financial aspects, these bodies carry out specific procurement audits periodically, but not necessarily on a regular basis, and such reports are made available to the public.</p> <p>1 – No regulatory body exists, but it may be possible for the legislative, executive, or judicial branches of government to intervene on an exceptional basis. The remit would be targeted to a particular issue or concern. Reports may or may not be public.</p>

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Indicators	Agency Questions	Scoring Guide
		0 – There is no regulatory body with oversight. However, the executive branch and/or judicial system may intervene if called upon. Such interventions may not be efficient or effective.
3. Procurement Operations and Market Practices		
3.1 Is the private sector competitive, well organized, and able to access the agency's business?	<p>Is competitive bidding a common feature for the agency?</p> <p>Is there a core of suppliers in the sector that regularly submits responsive bids?</p> <p>What proportion of the agency's procurement is undertaken through open competitive bidding?</p> <p>Are noncompetitive methods abused?</p> <p>Does the agency make sufficient effort to attract bids, such as adequate advertising, bidding periods, and online access?</p> <p>Are there excessive regulations or supply constraints, such as inputs, labor, and delivery, that limit competitiveness (e.g., barriers to entry, registration)?</p>	<p>3 – Competitive bidding is prevalent (>80% by value). Little evidence that noncompetitive methods are abused (<10% by value). At least five bidders on average per contract. Agency makes sufficient effort to attract bids. Bidding facilitated by e-procurement and online access. Generally competitive markets with easy access to foreign suppliers.</p> <p>2 – Competitive bidding is generally evident (>50% by value) and noncompetitive methods not abused (<20%) by value. Core suppliers regularly submit bids, but are often nonresponsive. At least three bidders on average per contract. Agency generally makes sufficient effort to attract bids; if not, deviations justified. Generally competitive markets, with specific areas that may be closed and/or with limited competition.</p> <p>1 – Competitive bidding is not prevalent (<50% by value) and use of noncompetitive methods is substantial (>20%). Suppliers tend to be one-off and often nonresponsive. At least two bidders on average per contract. Agency often does not make sufficient effort to attract bids. Competition varies, and some sectors may be more closed than others. Possible high restrictions to inputs, entry, or competition.</p> <p>0 – Competition is weaker than average in the country. Suppliers tend to be one-off and nonresponsive. Substantial use of noncompetitive methods (>20% by value). Less than two bidders on average per contract. Agency rarely makes sufficient effort to attract bids. Limited competitiveness in key sectors within domestic markets and few foreign suppliers.</p>

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Indicators	Agency Questions	Scoring Guide
3.2 Do procurement strategies and approaches to the market account for market realities, supply constraints, external risks, and other factors?	<p>Does the agency prepare procurement strategies based on market research?</p> <p>Are there thresholds established that define when different methods are to be used, especially for when to open competition to international bidders?</p> <p>Are cost estimates adjusted to meet inflation and other factors?</p> <p>Is there due diligence undertaken to determine eligibility?</p> <p>Is performance on past contracts tracked and used as inputs for future bidding?</p>	<p>3 – Procurement is based on market research and knowledge; methods and approaches are adjusted to market conditions and supply factors. Appropriate due diligence is undertaken to determine eligibility, including past performance, debarment, etc. Procurement transactions are routinely screened for risks, with mitigation actions adopted.</p> <p>2 – Formal procurement strategies are not prepared for most procurements, but the agency carries out research and due diligence for particularly high-risk, strategically important transactions.</p> <p>1 – Procurement tends to be undertaken transaction-by-transaction, without background research and systematic risk assessment. Due diligence is limited to prequalification and/or is informal and not part of a formal system.</p> <p>0 – Procurement is carried out transaction-by-transaction without the benefit of market research, due diligence, and limited prequalification.</p>
3.3 Are procurement transactions generally competitive, responsive, timely, and efficient?	<p>What percentages of contracts are awarded for values equal to or less than the original cost estimates?</p> <p>What percentage of contract variations amount to a cumulative impact of more than 10% of the original contract prices?</p> <p>Are like contracts packaged appropriately to attract bidders and increase efficiency?</p> <p>What is the worst-case length of time from invitation to award?</p>	<p>3 – More than 75% of contract awards sampled.</p> <p>2 – 50% to 75% of contract awards sampled.</p> <p>1 – 20% to 50% of contract awards sampled.</p> <p>0 – Less than 20% of contract awards sampled.</p> <p>3 – Less than 10% of contracts sampled.</p> <p>2 – 10% to 20% of contracts sampled.</p> <p>1 – 20% to 50 % of contracts sampled.</p> <p>0 – More than 50% of contracts sampled.</p> <p>See the agency procurement assessment checklist in Appendix 3 for evidence of splitting contracts, time taken to award, etc., plus compilation of data and analysis</p>

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Indicators	Agency Questions	Scoring Guide
		<i>of contracts by type, value, method, elapsed time, contract variations in price, time to completion, contract changes, percentage of unresponsive bids, and bids that had to be retendered.</i>
3.4 Is there an effective and credible mechanism to receive, handle, and respond to questions, complaints, and protests?	<p>Do contracts include adequate provision for dispute resolution?</p> <p>Are there specific agency procedures to receive and handle observations, complaints, and protests?</p> <p>Are they processed in the time limit provided in the law or agency-specific regulations?</p> <p>Is there recourse to a second-tier review that has capacity for enforcement under the law?</p> <p>How often do bidders submit complaints?</p>	<p>3 – The complaint review system has precise and reasonable conditions, and time frames for decisions with clear enforcement authority and recourse to a second tier. These reviews are based on available information. More than 90% of complaints are processed within stipulated times and the decisions are made public.</p> <p>2 – There are terms and time frames for the resolution of complaints, but authority for enforcement is unclear. More than 75% of complaints are processed within stipulated times.</p> <p>1 – Terms and conditions are vague. The time to resolve complaints is tracked by the agency.</p> <p>0 – There is no effective or functioning complaints mechanism.</p>
4. Integrity, Accountability, and Transparency		
4.1 Is there a formal internal control and external audit framework for the agency that covers procurement?	<p>Does the agency have an independent internal audit function?</p> <p>Are there adequate internal control mechanisms for the procurement function?</p> <p>Is the agency subject to regular performance, financial, or value for money audits by an external body?</p> <p>Are agency accounts generated in a timely manner after the close of the fiscal year and available for audit?</p> <p>Are audit findings and recommendations acted upon by management in a timely manner?</p> <p>Are audit findings made public?</p>	<p>3 – The agency has an effective internal control framework, including an independent internal audit function. Annual financial audits are undertaken, with the results available no later than 6 months after the close of the fiscal year. They are made public. Recommendations are tracked, and no significant audit finding is outstanding for over 6 months.</p> <p>2 – The agency has effective segregation of duties, an internal audit function exists, but its capacity is weak or it is not sufficiently independent. The results of financial audits are typically delayed beyond 6 months.</p> <p>1 – The agency has effective segregation of duties and is subject to annual audit. There is no internal audit function and/or audit findings are not addressed in a timely manner, nor are they made public.</p>

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Indicators	Agency Questions	Scoring Guide
		<p>0 – The internal control system is weak, with no internal audit. There is limited external audit, substantial delays in generating accounts for audit with commensurate delays in audit results. They are not made public. Findings are not disposed of in a timely manner.</p>
4.2 Is information on the agency's procurement activity easy to find, free, comprehensive, and relevant?	<p>What percentage of bids are published in a medium that is easily and freely accessible?</p> <p>Can bidders easily and freely access bid information?</p> <p>Are contract awards routinely announced in a medium that is easily and freely accessible?</p>	<p>3 – At least 80% of bids and awards by value are published and are readily accessible at all times in an e-procurement system or online site. Bidders have easy and free access. There are limited exclusions for reasons of confidentiality.</p> <p>2 – At least 60% of bids and awards by value are published, and available online in a timely manner.</p> <p>1 – At least 20% of bids and awards by value are published. Statistics are eventually available online, but there are delays in publication and the data are not verified for accuracy.</p> <p>0 – Less than 20% of bids and awards by value are published. Procurement statistics are not available online, not timely, nor accurate.</p>
4.3 Do civil society organizations and local communities participate in public consultations, monitoring, and oversight of procurement activities?	<p>Are third party observers invited to attend public biddings and the opening of tenders?</p> <p>Do third parties, including civil society organizations, researchers, user groups, public policy advocates, etc., have free and complete access to e-procurement and/or online information?</p> <p>Are there consultations with civil society organizations, local user groups, and independent experts on the project, specifications, detailed design, and procurement plan?</p> <p>Are such organizations involved or consulted during implementation, on project progress, implementation, and milestones?</p>	<p>3 – Third parties are regularly invited to attend public procurement openings. In addition, civil society organizations, user groups, researchers, technical experts, and public policy advocates are regularly invited to contribute to project design and specifications. Such groups are often invited to participate as observers in procurement, especially at the specification and evaluation stage, and during project implementation. Consultations are a regular feature of project implementation. Third parties have full access to complaints mechanisms, hotlines, etc., and other features of the project's accountability framework.</p> <p>2 – Third parties are invited to specific public openings, and they are occasionally called upon to provide inputs or comments on particular project features and procurements. They are not</p>

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Indicators	Agency Questions	Scoring Guide
		<p>generally involved directly in establishing specifications or bid evaluation. They are often observers during implementation monitoring. Third parties have full access to project accountability mechanisms.</p> <p>1 – There is no formal process for third-party involvement and limited access by third parties to the project in general and procurement in particular. Consultations take place only if there is a formal complaint and/or in reaction of an incident.</p> <p>0 – There is no formal process for third-party involvement and limited access by third parties to the project in general and procurement in particular. There is no mechanism for third parties to raise their concerns with the agency.</p>
4.4 Does the agency have up-to-date ethical and anticorruption measures in place that are enforced?	<p>Does the agency carry out due diligence? Are there specific procedures to verify a bidder's existence, track record, financial capacity, and capacity to complete the job?</p> <p>Are there procedures to rate performance and to debar bidders?</p> <p>Is there a hotline for users, third parties, and others, to report fraud, unethical behavior, misappropriation of funds, and lack of performance by contractors, officials, or other parties?</p> <p>Is there any provision to protect whistleblowers and confidentiality?</p> <p>Does the agency have its own in-house integrity policy, code of conduct, and anticorruption measures?</p> <p>Do these cover conflict of interest, financial disclosure, a cooling-off period, and acceptance of gifts or favors?</p>	<p>3 – The agency has robust and comprehensive policies and procedures to address integrity violations and unethical behavior, to protect the integrity of its procurement function, superior to those adopted nationally. It does its due diligence. It has a hotline to receive confidential complaints and protects whistleblowers, which is complemented with steps to ensure the integrity of its internal procedures, including codes of conduct, provisions to address conflict of interest, and financial disclosure. There is evidence that the agency works well with those who undertake investigations into allegations. The agency takes internal administrative measures to address complaints and violations that do not warrant criminal proceedings. Procurement staff receive training in anticorruption and ethics.</p> <p>2 – The agency carries out due diligence on bidders and has a stated integrity, anti-fraud, and anticorruption policy, which is in line with the policies and procedures mandated nationally and applicable to the sector. The policy is backed by specific measures, such as a hotline,</p>

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Indicators	Agency Questions	Scoring Guide
	Does the agency have a standing agreement on how and when to refer specific allegations of integrity violations to the relevant fiscal, judicial, or police authorities?	<p><i>whistleblower protection, and prohibition against conflict of interest. However, there is no body of evidence that such measures are actually enforced or put into practice with the desired effect. Some, but not all, procurement staff are trained in anticorruption.</i></p> <p><i>1 – The agency does limited due diligence on bidders and has a limited policy on fighting integrity violations. There is a specific code of conduct, but no hotline and no protection for whistleblowers. There is no administrative mechanism for dealing with complaints and for violations of the code of conduct. Procurement staff are not specifically trained in these matters.</i></p> <p><i>0 – The agency does limited due diligence on bidders. There is no specific agency policy or program to address integrity violations and unethical behavior. The only measures are those required at the national level. There is limited evidence that these measures have been adopted or internalized within the agency or that it collaborates with appropriate investigative bodies.</i></p>
4.5 Do parties have effective recourse to a second level of binding appeal on decisions taken regarding complaints and dispute resolution?	<p>Can decisions by the first level of review of complaints be appealed to a second, independent body appointed by law?</p> <p>Does that second level of appeal have the power to enforce or cause to have enforced its decisions?</p> <p>Does the law ensure timely review at this level?</p> <p>Does this body have the capacity to make such rulings on the basis of the information available?</p>	<p><i>3 – Such an independent, specialized body exists. It is established by law with a clear mandate and procedures. It is not involved in any capacity in the procurement processes leading up to contract award. Its rulings are rendered in a timely manner (i.e., 80% of appeals resolved in the defined time frame). Its rulings are made public, along with information on procedures for submissions. There is a body of evidence that the decisions are enforced, that participants trust the system, and the process does not unduly delay the procurement process.</i></p> <p><i>2 – There is opportunity for independent review via the judicial system. These bodies are generally trusted, but they are not specialized in procurement and do not necessarily have the technical expertise needed. Decisions may take considerable</i></p>

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Indicators	Agency Questions	Scoring Guide
		<p><i>time, but can be enforced. This route can be costly. Decisions are eventually published, including the reasons for the decision.</i></p> <p><i>1 – There is opportunity for a second-level review by the judicial system. However, that system is not equipped to handle procurement, can be costly to the participants, and incur considerable delays. There is no limit on the time frame. Its rulings are rarely enforced and reasons for the decisions are not published.</i></p> <p><i>0 – The legal framework is not clear as to whether the first level of review can be appealed, which body has jurisdiction, and what procedures to follow. There may be limited recourse to the judicial system. Even then, that route is not trusted and is costly and time-consuming. Decisions tend not to be enforced.</i></p>

ADB = Asian Development Bank, e-procurement = electronic procurement.

Source: Asian Development Bank.

Appendix 3: Agency Procurement Assessment—Checklist

Question	Response	Risk
A. Organizational and Staff Capacity		
A.1 Does the agency have a procurement committee that is independent from the head of the agency?		
A.2 Does the agency have a procurement department or unit, including a permanent office that performs the function of secretariat to the procurement committee?		
A.3a If yes, what type of procurement does it undertake?		
A.3b Is the unit centralized or decentralized? If decentralized, how many locations? Who runs those units?		
A.3c Who else in the agency is authorized to undertake procurement activities? What kind of procurement?		
A.4 How many years of experience does the head of the department or unit have in a direct procurement role? What is the experience of those heading decentralized units, if any?		
A.5 How many staff in the department are: full-time, part-time, seconded? How many in the central unit? How many decentralized?		
A.6 Do procurement staff have a high level of English language proficiency (verbal and written)?		
A.7 Are the number and qualifications of the staff sufficient to undertake the additional procurement that will be required under the proposed project?		
A.8 Does the unit have adequate facilities, such as personal computers, internet connection, photocopy facilities, printers, etc., to undertake the planned procurement?		
A.9 Does the agency have, or have ready access to, a procurement training program?		
A.10 At what level does the procurement department report (to the head of the agency, deputy head, etc.)?		
A.11a Do the procurement positions in the agency have job descriptions that outline specific roles, minimum technical requirements, and career routes?		

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Question	Response	Risk
A.11b	Is recruitment for these positions done competitively? Based on merit?	
A.11c	Is procurement integrated into the agency's human resource function? Does it cover recruitment, compensation, performance reviews, promotions, etc.?	
A.12	Is there a procurement process manual for goods, works, and nonconsulting services?	
A.13	If there is a manual, is it up-to-date and does it cover foreign-assisted projects?	
A.14	Is there a procurement process manual for consulting services?	
A.15	If there is a manual, is it up-to-date and does it cover foreign-assisted projects?	
A.16	Are there standard procurement documents, contracts, templates, etc.?	
A.17	Does the agency use an e-procurement system?	
A.18	Does the procurement function have access to, or is it supported by, adequate nonprocurement technical skills (e.g., engineers, architects) and legal advice? Are these skills available in-house?	
A.19	Will procurement activities under the proposed project be undertaken by a specific group or separate project management unit? If so, is it adequately staffed and equipped to handle the additional procurement? Repeat questions A.1 to A.17.	
B. Information Management		
B.1a	Is there a referencing system for procurement files?	
B.1b	Does that system determine what documents should be kept confidential and maintain confidentiality?	
B.2	Are there adequate resources allocated to record-keeping infrastructure, which includes the record-keeping system, space, equipment, and personnel to administer the procurement record-keeping functions within the agency?	
B.3	Does the agency adhere to a document retention policy (i.e., for what period are records kept)?	
B.4	Are copies of bids or proposals retained with the evaluation?	
B.5	Are copies of the original advertisements retained with the precontract papers?	
B.6	Is there a single contract file with a copy of the contract and all subsequent contractual correspondence?	

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Question	Response	Risk
B.7	Are copies of invoices included with the contract papers?	
B.8	Is the agency's record-keeping function supported by information technology?	
B.9	Does the system provide and maintain adequate records for internal controls and external audit, inspections, investigations, and other purposes?	
C. Procurement Planning and Strategies		
C.1	Is there a systematic process to identify procurement requirements (for a period of 1 year or more)?	
C.2	If yes, is that process linked to the agency's budget and planning cycle?	
C.3	Does the procurement planning process include the identification of procurement risks? Does it reflect knowledge of the marketplace as well as research and study of the supply markets?	
C.4	Does the procurement plan or strategy indicate what method to use and why? Are there thresholds (type of procurement, value, risk) to determine when to use one method over another?	
C.5a	Is open competition the default method?	
C.5b	What are the exceptions? When are they authorized and by whom?	
C.6a	Who drafts the procurement specifications and identifies requirements? At what stage is this done (e.g., detailed designs available)?	
C.6b	How reliable are the cost estimates? Who prepares them? On what basis?	
C.6c	Are inputs provided by users and/or relevant technical experts?	
C.7	Who approves the procurement specifications and cost estimates?	
D. Procurement Practices		
Goods, Works, and Nonconsulting Services		
D.1	Who drafts the bidding documents?	
D.2	Is there a minimum period for the preparation of bids and, if yes, how long? Are there variations?	
D.3	Are all queries from bidders replied to in writing?	
D.4	Does the bidding document state the date and time of bid opening?	

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Question	Response	Risk
D.5 Are records of the sale of bidding documents immediately available?		
D.6 Are bids opened in public?		
D.7 Can late bids be accepted?		
D.8 Can bids (except late bids) be rejected at bid opening?		
D.9 Are minutes of the bid opening taken?		
D.10 Are bidders provided a copy of the minutes?		
D.11 Are minutes provided free of charge?		
D.12 Who undertakes the evaluation of bids (individuals, a permanent committee, or an ad hoc committee)?		
D.13a What are the qualifications of the evaluators with respect to the procurement and the goods, works, and/or nonconsulting services under evaluation?		
D.13b Are users or civil society organizations involved? As observers? Participants?		
D.14 Is the decision of the evaluators final or is the evaluation subject to additional approvals? If yes, by whom?		
D.15 Using the three worst-case examples in the last year, after how long from the issuance of the invitation for bids can the contract be awarded?		
D.16 Are there processes in place for the collection and clearance of cargo through ports of entry?		
D.17 Are there established procedures for receiving goods? Does this include quality assurance?		
D.18 Are there established procedures for the acceptance of works or nonconsulting services? Who signs off? How are deficiencies handled?		
D.19 Are all goods or works that are received recorded as assets or inventory in a register?		
D.20 Is the agency or department familiar with letters of credit and with performance guarantees or bonds?		
D.21 Does the procurement department register and track warranty and latent defects liability periods?		
Consulting Services		
D.22 Do terms of reference for consulting services follow a standard format, such as background, tasks, inputs, objectives, and outputs?		
D.23 Who identifies the need for consulting services requirements? For individuals or firms?		

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Table continued

Question	Response	Risk
D.24	Who drafts terms of reference?	
D.25	Who prepares the RFPs?	
D.24	Are assignments and invitations for EOIs advertised?	
D.26	Is a consultants' selection committee formed with appropriate individuals, and what is its composition (if any)?	
D.27a	What criteria are used to evaluate EOIs?	
D.27b	Historically, what is the most common method used (quality- and cost-based selection, quality-based selection, etc.) to select consultants?	
D.28	Do firms have to pay for the RFP document?	
D.29	Does the proposed evaluation criteria follow a predetermined structure and is it detailed in the RFP?	
D.30	Are pre-proposal visits and meetings arranged?	
D.31	Are minutes prepared and circulated after the pre-proposal meetings?	
D.32	To whom are the minutes distributed?	
D.33	Are all queries from consultants answered or addressed in writing?	
D.34	Are the technical and financial proposals required to be in separate envelopes and to remain sealed until the technical evaluation, if completed?	
D.35	Are proposal securities required?	
D.36	Are technical proposals opened in public?	
D.37	Are minutes of the technical opening distributed?	
D.38	To whom are they distributed?	
D.39	Who determines the final technical ranking and how?	
D.40	Are the technical scores sent to all firms?	
D.41	Are the financial proposals opened in public?	
D.42	Are minutes of the financial opening distributed?	
D.43	How is the financial evaluation completed?	
D.44	Are face-to-face negotiations held?	
D.45	How long after financial evaluation is negotiation held with the selected firm?	
D.46	What is the usual basis for negotiation?	
D.47	Are minutes of the negotiation taken and signed?	

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Question	Response	Risk
D.48	How long after negotiation is the contract signed, on average?	
D.49	Is there an evaluation system for measuring the outputs of consultants?	
Payments		
D.50	Are advance payments made?	
D.51	What is the standard period for payment included in contracts?	
D.52	On average, how long is it between receiving a firm's invoice and making payment?	
D.53	When late payment is made, are the beneficiaries paid interest?	
D.54	Before payment is made, who verifies that the goods, works, and services are satisfactory and respond to contractual terms?	
E. Effectiveness		
E.1	Is contractual performance systematically monitored and reported? Who undertakes inspection and quality assurance?	
E.2	Does the agency monitor and track its contractual payment obligations?	
E.3	Is a complaints resolution mechanism described in agency procurement documents?	
E.4	Is there a formal, nonjudicial mechanism for dealing with complaints?	
E.5	Are procurement decisions and disputes supported by available information, written narratives, such as minutes of evaluation, negotiation, and notices of default or withheld payment?	
E.6	Are disputes tracked and their resolution monitored? What share of complaints is dealt with within the prescribed time frame?	
E.7	Is there recourse to a second-tier mechanism that is binding?	
F. Accountability Measures		
F.1a	Is there a standard statement of ethics or code of conduct, and are those involved in procurement required to formally commit to it? Does this cover gifts?	
F.1b	Are there provisions to protect whistleblowers? Is there a confidential hotline? Are certain officials required to make full financial disclosure?	

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Question	Response	Risk
F.1c	Are officials required to report any allegations of integrity violations or unethical behavior? Is the agency required to follow up? Is there a protocol with a national investigation body for how referrals are to be done and the level of collaboration expected by the agency?	
F.1d	In the absence of criminality, does the agency have recourse to administrative measures to deal with unethical behavior?	
F.2	Are those involved with procurement required to declare any potential conflict of interest and remove themselves from the procurement process? Is there a cooling off period for officials?	
F.3	Is the commencement of procurement dependent on external approvals (formal or de facto) outside the budgeting process?	
F.4	Who approves procurement transactions and do they have procurement experience and qualifications?	
F.5	Which of the following actions require approvals outside the procurement unit or the evaluation committee, and who grants the approval?	
	(a) Bidding document, invitation to prequalify, or RFP	
	(b) Advertisement of an invitation for bids, prequalification, or call for EOIs	
	(c) Evaluation reports	
	(d) Notice of award	
	(e) Invitation to consultants to negotiate	
	(f) Contracts	
F.6	Is the same official responsible for (i) authorizing procurement transactions, procurement, invitations, documents, evaluations, and contracts; (ii) authorizing payments; (iii) recording procurement transactions and events; and (iv) custody of assets?	
F.7	Is there a written auditable trail of procurement decisions attributable to individuals and committees?	

EOI = expression of interest, RFP = request for proposals.

Source: Asian Development Bank.

Alternative Procurement Arrangements

Guidance Note on Procurement

This guidance note aims to assist borrowers and project cofinanciers to understand and implement alternative procurement arrangements (APAs) for projects financed in whole or in part by an ADB loan or grant, or by ADB-administered funds. It is now possible—subject to ADB’s determination of APA—to use the procurement arrangements of an accredited agency of the borrower or those of another development partner involved in the project. The note discusses how key procurement activities should apply under an APA, including procurement and market risk assessment, procurement planning, and procurement review. The use of APAs may alleviate burden on borrower agencies and reduce procurement delays.

About the Asian Development Bank

ADB’s vision is an Asia and Pacific region free of poverty. Its mission is to help its developing member countries reduce poverty and improve the quality of life of their people. Despite the region’s many successes, it remains home to a large share of the world’s poor. ADB is committed to reducing poverty through inclusive economic growth, environmentally sustainable growth, and regional integration.

Based in Manila, ADB is owned by 67 members, including 48 from the region. Its main instruments for helping its developing member countries are policy dialogue, loans, equity investments, guarantees, grants, and technical assistance.

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