

OPERATIONS MANUAL BANK POLICIES (BP)

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

CONSULTANTS

A. Introduction

1. The Asian Development Bank (ADB) and its borrowers may need the services of consultants to help prepare, implement, and operate projects, and to carry out ADB technical assistance (TA) activities (e.g., training, advisory services, regional studies, and workshops). These services may be financed by ADB from its own resources or from another source and administered by ADB.¹ ADB's policy on the use of consultants is governed by Article 14(ix) and (xi) of the Agreement Establishing the Asian Development Bank (the Charter) and is set out in the Guidelines on the Use of Consultants by the Asian Development Bank and Its Borrowers dated March 2013, as amended from time to time (the Guidelines).

B. Definition

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

- (i) "Borrower" includes a recipient of ADB-financed loans and/or grants and ADB-administered funds, and where the borrower (or grant recipient) does not directly execute the ADB-financed or ADB-administered project, also includes an executing and/or implementing agency for a project, as well as subborrowers to which the loan proceeds are onlent by the borrower;
- (ii) "Consultant" includes private and public legal entities and individuals as referred to in para. 1.3 of the Guidelines;
- (iii) "Consulting services" means the services, generally of an intellectual and advisory nature, referred to in para 1.7 of the Guidelines;
- (iv) "DMC" means a developing member country of ADB;
- (v) "National consultant" means a consultant from the borrower's country that is established or incorporated and has a registered office in the borrower's country, or who is a citizen of the borrower's country;
- (vi) "Procurement plan" means a plan prepared by a borrower, in consultation with ADB, for procurement of goods and works, and recruitment of consulting services under ADB-financed loans and/or grants or ADB-administered funds, as further described in para. 1.27 of the Guidelines.

¹ Staff consultants financed by ADB's administrative budget are not covered by this OM section. For procurement policies relating to goods, works, and non-consulting services, see OM section J3 (Procurement).

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C. The Policy

3. ADB's policy requires that
 - (i) consulting services financed from the proceeds of loans or grants from ADB's Special Funds resources must be provided by the consultant from developed member countries that have contributed to such resources or developing member countries, except in any case in which the Board of Directors determines otherwise.²
 - (ii) consulting services financed from the proceeds of loans or grants from ADB's ordinary capital resources or ADB-administered funds be provided by consultants from ADB member countries, except in any case in which the Board of Directors determines otherwise;³
 - (iii) the proceeds of ADB-financed loans or grants and ADB-administered funds be used only for the purposes for which such loans, grants, and funds were granted, with due considerations of economy and efficiency;⁴
 - (iv) the highest standard of ethics be observed during the selection process and in the execution of contracts; and
 - (v) competitive selection be the standard mode of consultant recruitment, based on quality and cost, except in cases of single-source selection.

D. Scope of the Policy

1. The Role of ADB and Borrower

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

² One example is the blanket waiver of member country procurement restrictions in cases of cofinancing for ADF-financed operations, as set out in the following Board paper: ADB. 2013. *Blanket Waiver of Member Country Procurement Eligibility Restrictions in Cases of Cofinancing for Operations Financed from Asian Development Fund Resources*. Manila (Doc. R29-13). See OM section D2 for further details on the scope of the blanket waiver.

³ One example is the blanket waiver of member country procurement restrictions referred to in footnote 2. See OM section D2 for further details on the scope of the blanket waiver.

⁴ See OM section D10 (Private Sector Operations) and OM section E1 (Cofinancing).

⁵ To increase country ownership and improve sustainability of TA project benefits, ADB may, in particular circumstances, delegate responsibility to a borrower to recruit and supervise TA consultants. See OM section D12 (Technical Assistance) and the policies described therein.

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2. Principles of the Use of Consultants

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

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

7. High-quality consulting services are best achieved through a competitive selection and engagement process based on quality cost. Appropriate selection methods and contracting arrangements⁶ shall be used, with due regard for economy and efficiency. Past consultant performance should be linked to future business opportunities.

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

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

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

⁶ The Guidelines provide for a flexible range of selection methods for use in the engagement of consulting firms: quality-and cost-based selection, which is ADB's preferred selection method; quality-based selection; fixed-budget selection; least-cost selection; consultant-qualification selection; and single-source selection, as well as various types of contracting methods, depending on particular circumstances, which include time-based, retainer and/or contingency fee, indefinite delivery, lump sum, and performance-based contracts.

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

12. In accordance with ADB's Anticorruption Policy (1998, as amended to date), the highest standard of ethics must be observed by borrowers, beneficiaries, as well as consultants under contracts financed by ADB loans and grants, and ADB-administered funds. Corrupt, fraudulent, collusive, or coercive practices, and conflict of interest⁷ are strictly prohibited and will be dealt with as set out in the Guidelines.

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

Basis: This OM section is based on:

ADB.2013. Doc. R29-13. *Blanket Waiver of Member Country Procurement Eligibility Restrictions in Cases of Cofinancing for Operations Financed from Asian Development Fund Resources*. 25 February. Manila

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

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

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

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

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

For inquiries: Questions may be directed to the Director General, Operations Services and Financial Management Department.

6 August 2013

Prepared by the Operations Services and Financial
Management Department
and issued by the Strategy and Policy Department
with the approval of the President.

This supersedes OM Section J2/BP
issued on 1 April 2006.

⁷ Definitions of corrupt, fraudulent, collusive, or coercive practices, and conflict of interest are provided in section 1.23 of the Guidelines.

**OPERATIONS MANUAL
OPERATIONAL PROCEDURES (OP)**

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

CONSULTANTS

The operational procedures for this *Operations Manual* (OM) section are in the Guidelines on the Use of Consultants by the Asian Development Bank and Its Borrowers (March 2013, as amended from time to time) and Project Administration Instructions, Chapter 2, as well as the documents cited therein.

Basis: This OM section is based on OM section J2/BP and the documents cited therein.

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

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