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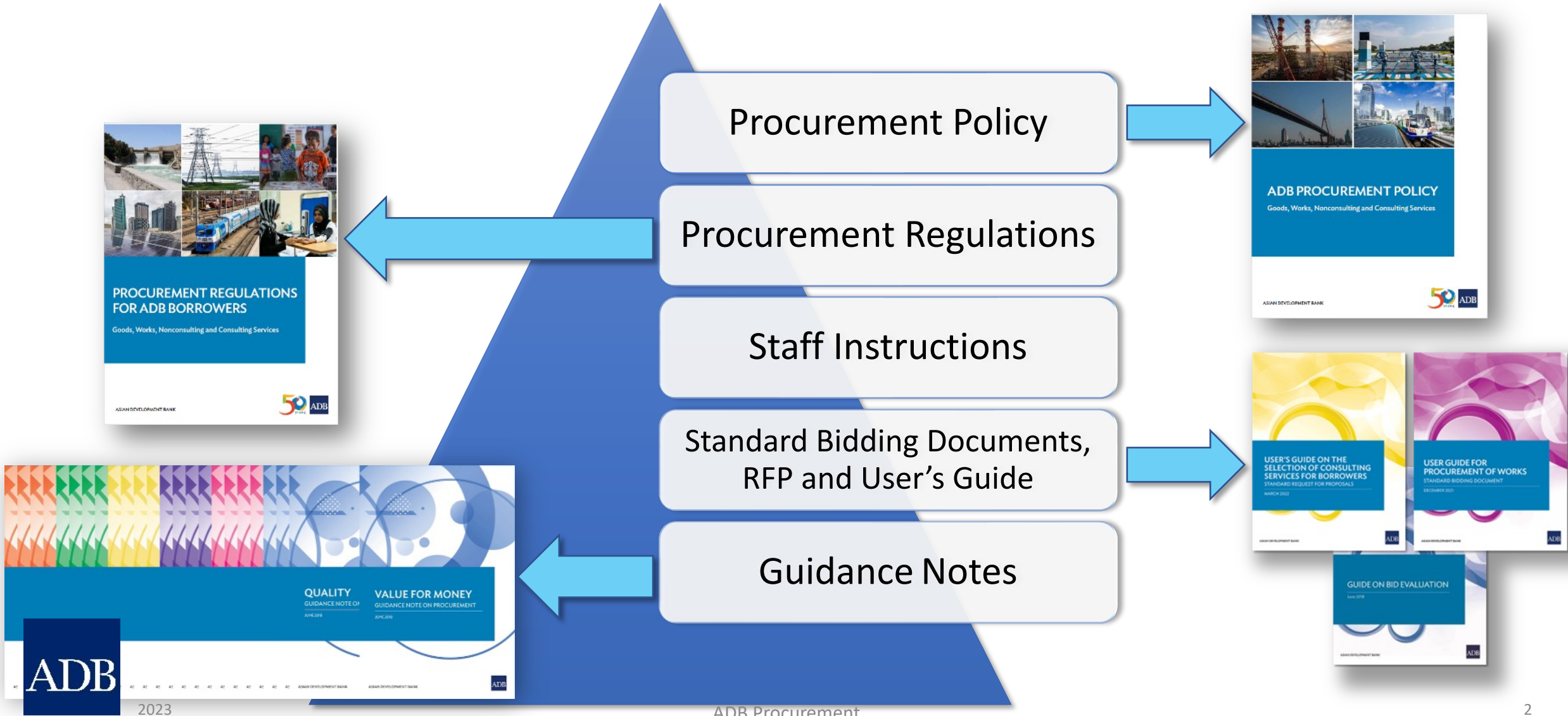


# **ADB Procurement Policy and Regulations 2017**

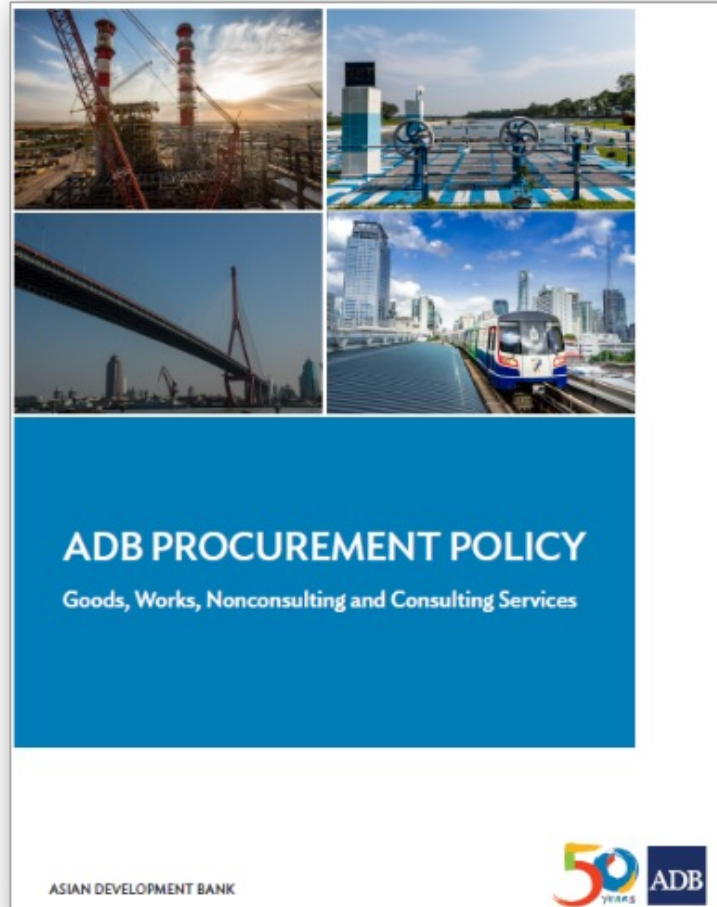
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Lahore, March 2024

# ADB Procurement Framework



# ADB Procurement Policy



- It was approved by the ADB Board of Directors, who represent all member countries of ADB.
- It contains core principles which govern procurement financed in whole or in part by ADB financing.
- It is referred to in the financing agreement.
- It stipulates that the responsibility for the implementation of the project, and therefore for the procurement, award, and administration of contracts under the project, rests with the borrower.

# Roles of Key Stakeholders in ADB Procurement



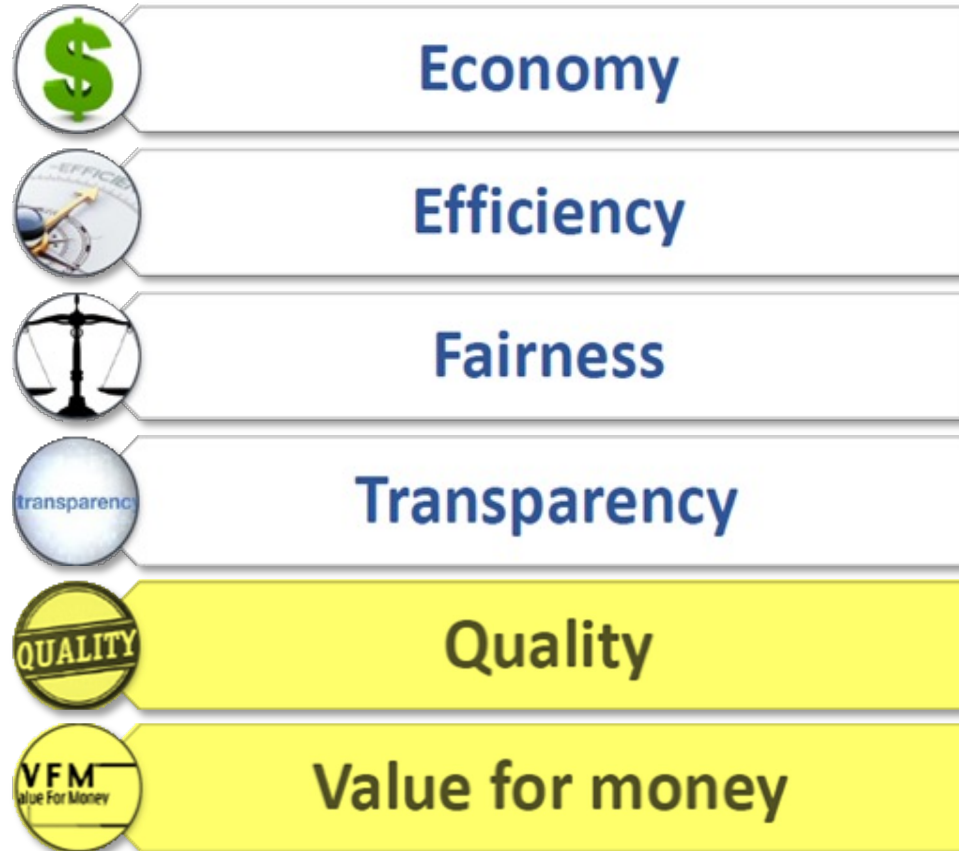
Borrower carries out procurement, awards and manages contract  
ADB provides supports and has an oversight role

# ADB Procurement Policy

- I. Purpose
- II. General Considerations
- III. Core Procurement Principles\*
- IV. Fitness for Purpose
- V. Eligibility\*
- VI. Development of Domestic Industry
- VII. Integrity\*
- VIII. Conflict of Interest\*
- IX. Accountability
- X. Noncompliance
- XI. Complaints
- XII. Alternative Procurement Arrangements
- XIII. E-procurement\*
- XIV. Procurement Plan
- XV. Procurement for Nonsovereign Operations

# Core Procurement Principles (III)

*Prescriptive → Principle based*



Can be achieved through application of Sustainable Public Procurement

## Eligibility (V)

- To be eligible to participate in procurement for contracts financed by ADB, the bidder, and all parties constituting the Bidder...
  - ✓ shall have the nationality of an eligible country;
  - ✓ shall not have a conflict of interest;
  - ✓ shall not be under temporary suspension or debarment by ADB
  - ✓ and shall not be excluded by an act of compliance with the decision of the UN Security Councils
- The materials, equipment, and services to be supplied under the Contract shall have their origin in eligible source countries

## Eligibility (V)

- Any conditions for participation shall be limited to those that are essential to ensure the bidder's capability to fulfill the contract in question
- ADB does not permit a borrower to deny the participation of a bidder for reasons unrelated to its capability and resources to successfully perform the contract, nor does it permit a borrower to disqualify any bidder for such reasons.

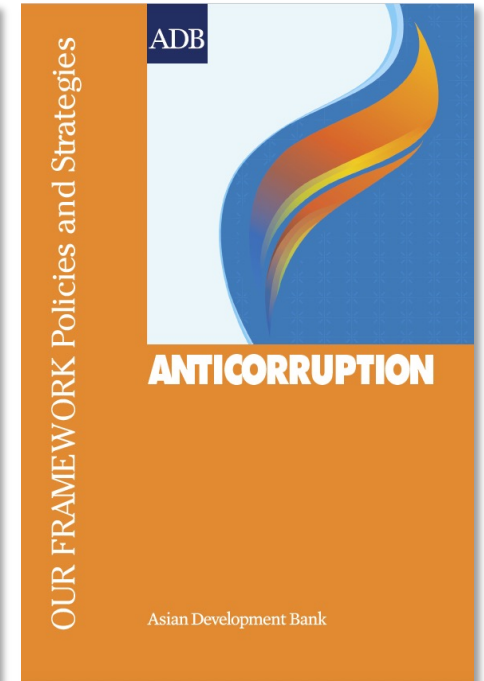
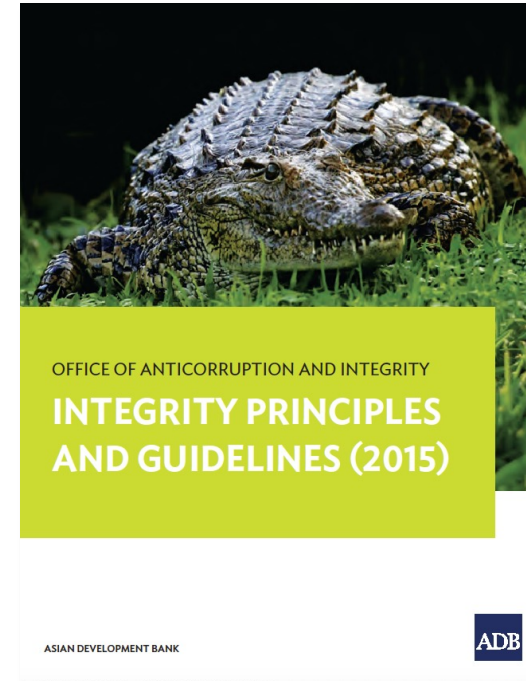


## Eligibility (V)

- Government-owned enterprises in the Borrower's country may participate as a bidder only if specifically agreed by ADB. Such agreement will only be provided if the bidder can establish that they
  - ❖ can operate as a commercial entity;
  - ❖ are legally and financially autonomous;
  - ❖ are not dependent agency of the borrower
- Government officials and civil servants in the borrower's country may only be hired if they
  - ❖ are not being hired by the agency they were working for immediately before going on leave;
  - ❖ their employment would not create a conflict of interest.

# Integrity (VII)

- ADB's Anticorruption Policy and Integrity Principles and Guidelines
- Highest ethics
- Specific definitions for corrupt, coercive, fraudulent, collusive, obstructive practices, and abuse
- Applies to executing and implementing agencies, contractors, consultants, suppliers, ADB staff, and anyone connected to an ADB financed, administered, or supported activity.
- **ADB reserves the right to inspect and audit**



# Respectful Working Environment

- Environment free of unethical or inappropriate behaviors
- Bullying, discrimination, misconduct and harassment, including sexual harassment
- Training provided by contractor and consultant to their staffs is required and to be verified by Employer



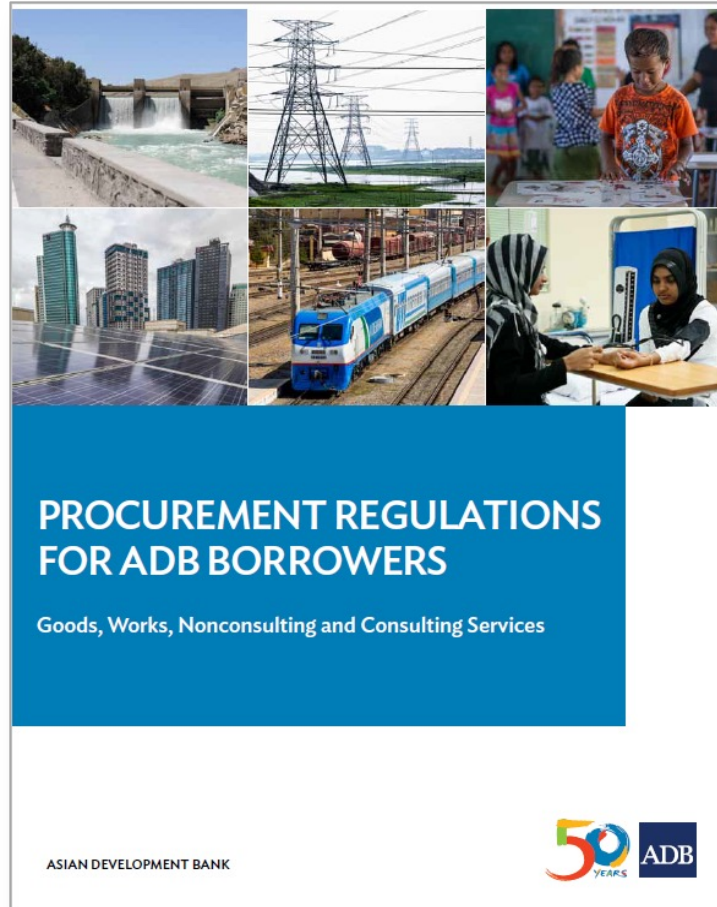
## Conflict of Interest (VIII)\*

- Interests that could cause undue influence on decision making process
- If cannot be appropriately mitigated → *may* lead to rejection of the bid
- Bidders or consultants may be considered to have a Conflict of Interest if they have conflicting activities, assignments, relationships, ownerships, i.e.:
  - ❖ Participated as a consultant for design/technical specification /project management /supervision of bid package
  - ❖ Have common controlling shareholders (sister concern)
  - ❖ Have same legal representatives for their bids
  - ❖ Submit more than one bid in the bidding process
  - ❖ Have relationship with each other, directly or through common third parties, that puts them in a position to have access of information about another bidder or influence the decision of the purchaser.

# E-Procurement

- ADB encourages borrowers to use e-procurement for communication with bidders, advertisement, issuance of bidding document and its amendments, submission of bids, disclosure of contract awards.
- The use of e-procurement in ADB-financed projects shall be endorsed by ADB who will verify that the system is accessible and secure, ensure integrity and confidentiality, and have sufficient audit trail feature.

# ADB Procurement Regulations



- It was issued by the ADB President.
- It provides details of the ADB Procurement Policy and Procedures.
- It follows international practices in procurement.
- It is harmonized with those of other Multilateral Development Banks.

# ADB Procurement Regulations – Structure

## I. Introduction

- ❖ Purpose
- ❖ General Considerations
- ❖ Fitness for Purpose
- ❖ Alternative Procurement Arrangements
- ❖ Applicability of These Regulations
- ❖ Procurement of Contracts Not Financed by the Asian Development Bank
- ❖ Eligibility
- ❖ Conflict of Interest
- ❖ Unfair Competitive Advantage
- ❖ Advance Contracting and Retroactive Financing
- ❖ Asian Development Bank Review
- ❖ Noncompliance, Complaints
- ❖ Integrity
- ❖ E-procurement
- ❖ Procurement Plan
- ❖ Procurement for Non sovereign Operations

# ADB Procurement Regulations – Structure

## II. Procurement Methods and Arrangements

- ❖ Open Competitive Bidding
- ❖ Limited Competitive Bidding
- ❖ Framework Agreements
- ❖ Request for Quotations
- ❖ Electronic Reverse Auction
- ❖ Direct Contracting
- ❖ Force Account

### *Particular Types of Procurement Arrangements*

- A. Selection of Consultants
- B. Selection of Individual Consultants
- C. Procurement from Specialized Agencies
- D. Procurement in Fragile and Conflict-Affected Situations
- E. Procurement Agent
- F. Support to Governments for Public–Private Partnerships
- G. Procurement of High-Level Technology
- H. Performance-Based Procurement
- I. Community Participation in Procurement
- J. Procurement under Loans Guaranteed by the Asian Development Bank



# ADB Procurement Regulations – Structure

Appendix 1: Value for Money

Appendix 2: Procurement Planning

Appendix 3: Open Competitive Bidding Procedure

Appendix 4: Consulting Services Selection using Open Competitive Bidding

Appendix 5: Evaluation Criteria and Methodology

Appendix 6: ADB Review of Procurement Decisions

Appendix 7: Bidding-Related Complaints

Appendix 8: Contract Management

Appendix 9: Roles and Responsibilities in ADB-Financed Projects

# Standard Bidding Documents (SBDs)



- It includes instructions, templates, forms for bidding and contract.
- It provides consistency and legal certainty, and incorporates international, time-tested practices.
- Its use is required, and specific ways for customization are provided.
- There are 8 Users' Guides (UGs) and 7 Standard Bidding Documents (SBDs) for Procurement of Goods, Works and Non-Consulting Services.
- There is 1 UG and 1 Request for Proposal (RFP) document for Selection of Consultant.
- Other SBDs may be used under certain conditions.

# Guidance Notes

- It is used to operationalize ADB Procurement policy and Regulations.
- It is grouped based on themes.

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## GUIDANCE NOTES

Preparation and Planning	Procurement Methods	Bidding Procedures	New Principles and Practices	Complaints, Compliance, and Eligibility	Specialized Areas
<ul style="list-style-type: none"> <li>• Procurement Risk Framework</li> <li>• Strategic Procurement Planningz</li> <li>• Procurement Review</li> <li>• Alternative Procurement Arrangements</li> </ul>	<ul style="list-style-type: none"> <li>• Open Competitive Bidding</li> <li>• Consulting Services Administered by ADB Borrowers</li> <li>• Non-consulting Services Administered by ADB Borrowers</li> <li>• Framework Agreements</li> </ul>	<ul style="list-style-type: none"> <li>• Price Adjustment</li> <li>• Prequalification</li> <li>• Subcontracting</li> <li>• Domestic Preference</li> </ul>	<ul style="list-style-type: none"> <li>• Value for Money</li> <li>• Quality</li> <li>• Contract Management</li> <li>• Abnormally Low Bids</li> </ul>	<ul style="list-style-type: none"> <li>• Bidding-Related Complaints</li> <li>• Noncompliance in Procurement</li> <li>• Standstill Period</li> <li>• State-Owned Enterprises</li> </ul>	<ul style="list-style-type: none"> <li>• Fragile, Conflict-Affected, and Emergency Situations</li> <li>• E-Procurement</li> <li>• Public-Private Partnerships</li> <li>• High-Level Technology</li> <li>• Sustainable Public Procurement</li> <li>• Use of Merit Point Criteria for Bid Evaluation</li> </ul>



# Procurement Non-compliance

- It refers to potential or actual situations where the borrower, or other parties involved in the procurement process, fails to adhere to the applicable provisions of the ADB Procurement Policy and Regulations, whether through their actions or inactions.
- Remedial Actions
  - ❖ Does not fund that particular transaction.
  - ❖ Suspends project implementation or initiate remedial action with specific assurances.
  - ❖ Cancel the portion of the loan relating to that specific transaction.
- Examples:
  - ❖ Procurement is not carried out as per the approved Procurement Plan.
  - ❖ A bid document subject to prior review is issued without such a review.
  - ❖ Decisions are made that do not align with ADB's no-objection.
  - ❖ Incomplete or misleading information is provided for a prior review process.
  - ❖ Failure to take action on a contractual breach.

# Procurement

Goods, Works, Non-Consulting and Consulting Services

## Operations Procurement

The Procurement, Portfolio and Financial Management Department (PPFD) provides fiduciary oversight of procurement of goods, works, non-consulting and consulting services. PPFD supports ADB staff and borrowers on procurement planning and implementation, contract management, and related risk assessment and mitigation. PPFD also leads procurement and consulting services innovation and capacity building initiatives.



# ADB Business Center

All you need to work with us—in one place.

## Working with ADB

[www.adb.org/business/main](http://www.adb.org/business/main)

- Information for...
- Consultants
- Contractors and suppliers
- Governments
- Executing and implementing agencies**
- Development institutions
- Private sector partners

### How-Tos

- Does my executing/implementing agency have the staff and capability to work with ADB? →
- What is ADB technical assistance (TA)? →
- What principles guide ADB's procurement? →
- How does ADB safeguard the integrity of its activities? →
- What are ADB's main financial products for the public sector? →
- Where can I get data on ADB projects and countries? →







# Online Training on ADB Procurement



## FINANCE

### New Procurement Framework

The new Procurement Policy and Procurement Regulations were approved in April 2017. The Procurement Policy, Regulations and other supporting documents form the NPF within ADB, governing the procurement of goods, works and services by borrowers, Executing Agencies (EAs) and Implementing Agencies (IAs) conducting procurement on ADB-funded projects...

-  Module 1: Overview of NPF
-  Module 2: Strategic Procurement Planning
-  Module 3: Risk Management
-  Module 4: Analysis
-  Module 5: Procurement Strategy Development
-  Module 6: Bidding Procedures
-  Module 7: Consulting Services
-  Module 8: Bid Evaluation
-  Module 9: Contract Management
-  Module 10: Fragile, Conflict Affected and Emergency Situations



## Question

Which procurement rules are used in a project which is jointly financed by the Government of Pakistan and ADB?

Select the best answer:

- a. The GOP's Public Procurement Regulatory Authority (PPRA) Rules and Regulations
- b. ADB Procurement Policy and Regulations
- c. Both (a) and (b)
- d. ADB Procurement Policy and Regulations for contract that is financed by ADB



## Question

Which of the following are key principles forming the basis for any procurement under ADB finance?

Select the best answer:

- a. Fairness
- b. Transparency
- c. Economy and Efficiency
- d. Development of local industries
- e. All of the above
- f. Only (a), (b) and (c)

## Question

Which document governs the transactional relationship between the Borrower and the bidders?

Select the best answer:

- a. Procurement Regulations
- b. Financing Agreement
- c. Bidding Document
- d. Project Administration Manual (PAM)
- e. Only (a) and (c)
- f. Only (a) and (d)

## Question

Can a government-owned enterprise participate in an ADB financed project?

Select the best answer:

- a. Yes, only if they are profitable
- b. No, due to potential Conflict of Interest
- c. Yes, only if they meet eligibility requirement
- d. No, if they are black-listed by the government

## Question

Can borrowers use their own e-procurement system in an ADB financed Project?

Select the best answer:

- a. Yes, since it is already being used by the borrower
- b. Yes, since it promotes economy and transparency
- c. Yes, if it has been assessed and endorsed by ADB
- d. No, since the Borrower must use ADB e-procurement
- e. Both (a) and (b)
- f. Both (b) and (c)

## Question

Bidding documents other than ADB's Standard Bidding Document may be used provided..

Select the best answer:

- a. They are widely used in the country or sector
- b. They are required for use by local procurement authorities
- c. They do not vary from ADB's Standard Bidding Documents
- d. They are consistent with ADB's procurement regulations

## Question

A local and a foreign state-owned enterprise (SOE) were the only technically responsive bidders in a tender. Balance sheets of the local SOE, which is the lowest bidder, showed that it received cash transfers from the local government to keep it afloat. How should this bid be treated?

Select the best answer:

- a. Reject all bids as all ineligible and arrange for a rebidding.
- b. Accept the bid and award the contract.
- c. Adjust the lowest bid with the subsidies it received.
- d. Reject the lowest bid.