



AFRICAN DEVELOPMENT BANK
AFRICAN DEVELOPMENT FUND

METHODOLOGY FOR IMPLEMENTATION OF THE PROCUREMENT POLICY OF THE AFRICAN DEVELOPMENT BANK

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PREFACE

The Methodology for Implementation of the Procurement Policy for African Development Bank Group Funded Operations (the “Methodology”) forms part of the Bank’s Procurement Framework comprising (i) Procurement Policy for Bank Group-Funded Operations (Procurement Policy) approved by the Boards on 14 October 2015; (ii) this Methodology; (iii) the Operations Procurement Manual for the African Development Bank (OPM); and (iv) the Procurement Toolkit for the African Development Bank (Toolkit). The documents comprising the Procurement Framework establish the Bank’s strategy to enhance its focus on development effectiveness while fully executing its fiduciary obligations. The Procurement Policy is the overarching document and if there is a conflict between it and any other documents of the Procurement Framework, the Procurement Policy prevails. Further, in the event of any inconsistency between the documents, the hierarchy flows downwards from the Procurement Policy, through the Methodology and the OPM to the Toolkit.

The purpose of the Methodology is to provide guidance for Bank and Borrower staff on applying: i) the concepts and principles that govern the Procurement Policy; and ii) the approach for implementation of the Policy for the African Development Bank Group (hereinafter call the “Bank”) funded projects. The Methodology applies to all Bank financed projects and compliance is mandatory unless the Boards of Directors have granted a waiver. Where the Methodology refers to other documents (e.g. the OPM or the Toolkit) to provide more detailed information or explanation, it is for the purpose of greater clarity and proper interpretation without affecting the hierarchy of these documents.

For any questions or clarifications on this Methodology, Borrower staff should consult with the Bank Task Manager for the Project.

ABBREVIATIONS AND ACRONYMS

| | |
|-------|---|
| ADB | African Development Bank |
| ADF | African Development Fund |
| BPAR | Bank Procurement Assessment Report |
| BDS | Bid Data Sheet |
| CD | Capacity Development |
| COI | Conflict of Interest |
| CPAR | Country Procurement Assessment Report |
| BPS | Borrower Procurement System |
| CQS | Consultant Qualification Selection |
| CSP | Country Strategy Paper |
| DAC | Development Action Committee of OECD |
| DP | Direct Procurement |
| EA | Executing Agency |
| EAPA | Executing Agency Procurement Assessment |
| ESRP | Environmental and Socially Responsible Procurement |
| FBS | Fixed Budget Selection |
| FIDIC | International Federation of Engineers |
| F&C | Fraud and Corruption, including collusive, coercive and obstructive practices |
| FfP | Fit for Purpose |
| GCC | General Conditions of Contract |
| GOE | Government Owned Enterprise |
| GPN | General Procurement Notice |
| HOP | Heads of Procurement of the MDBs |
| IACD | Integrity and Anti-Corruption Department |
| IPR | Independent Procurement Review |
| ITB | Instruction to Bidders |
| LCB | Limited Competitive Bidding |
| LIB | Limited International Bidding |
| MAPS | Methodology for Assessment of National Procurement Systems |
| MAR | Main Assessment Report |
| MDBs | Multilateral Development Banks |
| MICs | Middle Income Countries |
| NPM | National Procurement Methods |
| NPP | National Procurement Procedures |
| OCB | Open Competitive Bidding |
| OECD | Organization for Economic Cooperation and Development |
| PCR | Project Completion Report |
| PDAP | Procurement Development Action Plan |
| PEFA | Public Expenditure & Financial Accountability |
| PMP | Procurement Methods & Procedures |
| PP | Procurement Plan |
| PPF | Project Preparation Facility |
| PPP | Public Private Partnership |
| PPRA | Project Procurement Risk Assessment |
| PPRR | Project Procurement Risk Rating |
| PPR | Project Procurement Reports |
| QBS | Quality Based Selection |
| QCBS | Quality and Cost Based Selection |
| REOI | Request for Expressions of Interest |

| | |
|-------|--|
| RFP | Request for Proposals |
| RFQ | Request for Quotations |
| RMCs | Regional Member States |
| SD | Solicitation Document |
| SOE | State Owned Enterprises |
| TA | Technical Assistance |
| TOR | Terms of Reference |
| UN | United Nations |
| UNCAC | United Nations Convention Against Corruption |
| UNDB | United Nations Development Business |
| VfM | Value for Money |

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I. INTRODUCTION – PRINCIPLES, CONSIDERATIONS AND APPROACH

1.1 Vision and Objectives

- 1.1.1 The vision of the Bank's Procurement Framework is to support Bank financed operations and enhance procurement systems of the Regional Member Countries in order for them to obtain optimal value for money based on mutually supporting and reinforcing principles of Economy, Efficiency, Effectiveness and Equity. This is achieved using processes and procedures that are competitive, fair and transparent ¹.
- 1.1.2 The Bank's Procurement Framework includes the: (i) Procurement Policy for Bank Group-Funded Operations (Policy) approved by the Boards on 14 October 2015; (ii) this Methodology approved by the Boards on 14 October 2015; (iii) the Operations Procurement Manual for the African Development Bank (OPM); and (iv) the Procurement Toolkit for the African Development Bank (Toolkit) in this order of precedence. The Policy is largely principles based, and therefore, the framework provides considerable latitude for Borrower and Bank staff to exercise professional judgment in procurement decisions. The purpose of the Methodology is to further define the principles, concepts and considerations contained in the Policy and to provide detailed guidance to Borrower and Bank staff to ensure a consistent exercise of judgment. The OPM builds on the Methodology and describes in greater depth how the principles and considerations enshrined in the Policy are applied in specific procurement activities. It highlights procurement governance elements and includes the details of the strategy for achievement of Value for Money (VfM) through Fit for Purpose (FfP) procurement. It provides transactional-level detail on the various methods and modalities for procurement of goods and works, and the acquisition of consulting services, and guidance on their choice and use. The Toolkit contains directional guidance in the form of standardized documents, sample documents, guidance notes, formats, templates and case studies to support the execution of the Policy.

1.2 Organization of the Methodology

- 1.2.1 The Methodology is organized into four sections consisting of:
- Section I – An Introduction that sets the vision and objectives of the Policy and provides a comprehensive discussion of the principles and considerations;
 - Section II – A description of the assessments required at the country, sector and project execution levels to provide the information needed to implement the Bank's risk-based management approach to procurement;
 - Section III – A detailed discussion on implementation of the Policy in Bank financed operations in order to achieve optimal VfM using FfP procurement; and
 - Section IV – Monitoring and Evaluation procedures required to: (i) determine that the Bank financed operations are achieving VfM; (ii) the RMCs are realizing their development goals and objectives; and (iii) the Bank is maintaining its fiduciary oversight effectively.

¹ See paragraph 2.1 "Procurement Policy for Bank Group-Funded Operations"

1.3 Value for Money

- 1.3.1 The procurement transactions, financed in full or in part by the Bank and executed by its Borrowers should achieve optimal VfM. In the context of public expenditure management, this means obtaining maximum benefits from each unit of resource spent with the purpose of achieving the country's development objectives through prudent management of expenditures. While the assessment of factors contributing to VfM may require judgment, it is necessary for ensuring the credibility of the procurement system that the process be fair, transparent and ensures sufficient predictability of results. VfM is achieved by striking the right balance between the four guiding principles of Economy, Efficiency, Effectiveness and Equity, as stated in the Bank's vision.

1.4 Procurement Principles

- 1.4.1 Each of the above four procurement principles is explained below:

a) **Economy:** Economy is a measure of optimum pricing of procured goods, works or services of the quality required to deliver targeted outputs under a procurement process that expends the minimum quantum of resources. It is the careful or sparing use of such resources in order to typically obtain the lowest bid on contracts for agreed-upon goods, materials, equipment works or services. The focus on economy entails generally doing more (or sometimes less) with fewer resources. The concept applies to all the stages of the procurement cycle from planning to contract closure. It is most often considered in the context of cost-savings over the short-term but can also refer to money-saving efficiencies over the longer term although immediate short-term costs may not be the lowest. The pursuit of achieving economy may mandate differentiated considerations covering different kinds of items or services being procured and may, in some cases, require optimization of the following:

- Initial purchase price of the item;
- Costs relating to the usage of the item during its economic life (including operations, maintenance, insurance, storage, disposal and residual value);
- Cost of the transaction to the Procuring Entity;
- Cost of the transaction to bidders;
- Costs or benefits of the externalities (social and environmental factors etc.); and
- Costs of the conditions of contract that address specific risks.

As acquisition of consulting services typically has considerable downstream implications, the concept of Economy, while being applied to advisory or intellectual services, typically requires giving higher consideration to quality over price.

b) **Efficiency:** Efficiency is the appropriate process management of a given quantum of resources to obtain an agreed level of output under a procurement process that ensures optimal VfM. It includes the time-sensitivity and cost-effectiveness of a given procurement process. It is achieved, in part, by optimizing procurement process time often leading to reduction of transaction and overhead costs and can be improved by employing capable procurement staff and the presence of appropriate organizational arrangements. Proper and timely planning, appropriate contract packaging, efficient internal business processes, use of information technology, and framework contracts contribute to improvement of

Efficiency. In short, efficiency aims to realize the most responsive outcome with the least amount of wasted effort or expense.

- c) **Effectiveness:** Effectiveness is the achievement of specific results or outcomes under a procurement process that measures realization of the Borrower's procurement and development objectives that may be based on economic, social, environmental or other legislative or policy considerations of the country. Effectiveness is a critical driver in realizing VfM. In short, effectiveness is accomplishing desired project-related objectives through a procurement process.
- d) **Equity:** Equity represents achieving procurement related outcomes that are credible and fair through processes that are impartial and transparent. It requires that procurement be carried out with accountability and responsibility by observing the highest standards of ethics, openness and integrity. It requires procedural and substantive fairness that ensures equality of opportunity that minimizes (if not eliminates) unjust disparities in outcomes.

1.5 Supporting Considerations

1.5.1 Other supporting considerations important to achieve targeted outcomes are discussed below:

- a) **Competition:** Competition in procurement encourages qualified and eligible firms to participate in a given process and is often necessary to achieve VfM. While the Bank prefers Open Competitive Bidding (OCB) (with as wide a participation of eligible bidders as possible), other considerations such as market conditions, complexity of procurement, quality concerns and urgency may warrant the use of less competitive processes.
- b) **Fairness:** Fairness relates to a range of factors that include, access to information, non-discriminatory specifications, disclosure of evaluation criteria and balanced terms and conditions of contract. The concept of fairness also includes perception of bidders with regards to handling of complaints and resolution of disputes under the contract. Fairness is important to attaining the level of competition that will support achieving optimal VfM.
- c) **Transparency:** Transparency in public procurement requires within the limits of efficiency and confidentiality that: (i) all key information concerning the procurement process is available to all stakeholders consistent with efficiency and confidentiality; (ii) a full written record of all stages of the procurement process is maintained and is available for review; and (iii) procurement award decisions are based on criteria declared in the solicitation documents and disclosed at the end of the process. Transparency has two important dimensions:
 - **Predictability:** Predictability relates to uniformity, certainty, expectedness and obviousness in the outcome of the procurement decisions under broadly similar conditions. It promotes responsible decision making, transparency and accountability and ensures credibility of the Procurement Framework. Predictability in the procurement process makes it self-policing and enables bidders to challenge Borrower's decisions that are contrary to the pre-disclosed criteria.

- **Clarity:** Clarity is precision, lucidity and consistency in setting out the procurement requirements. This requires express articulation of procurement documents in commonly understood terms. Clarity is required at all stages of the procurement cycle and covers, preparation of a strategy or plan, designs, specifications, TORs, evaluation criteria, bidding and contract conditions, and decision making through selection, contract execution to completion.

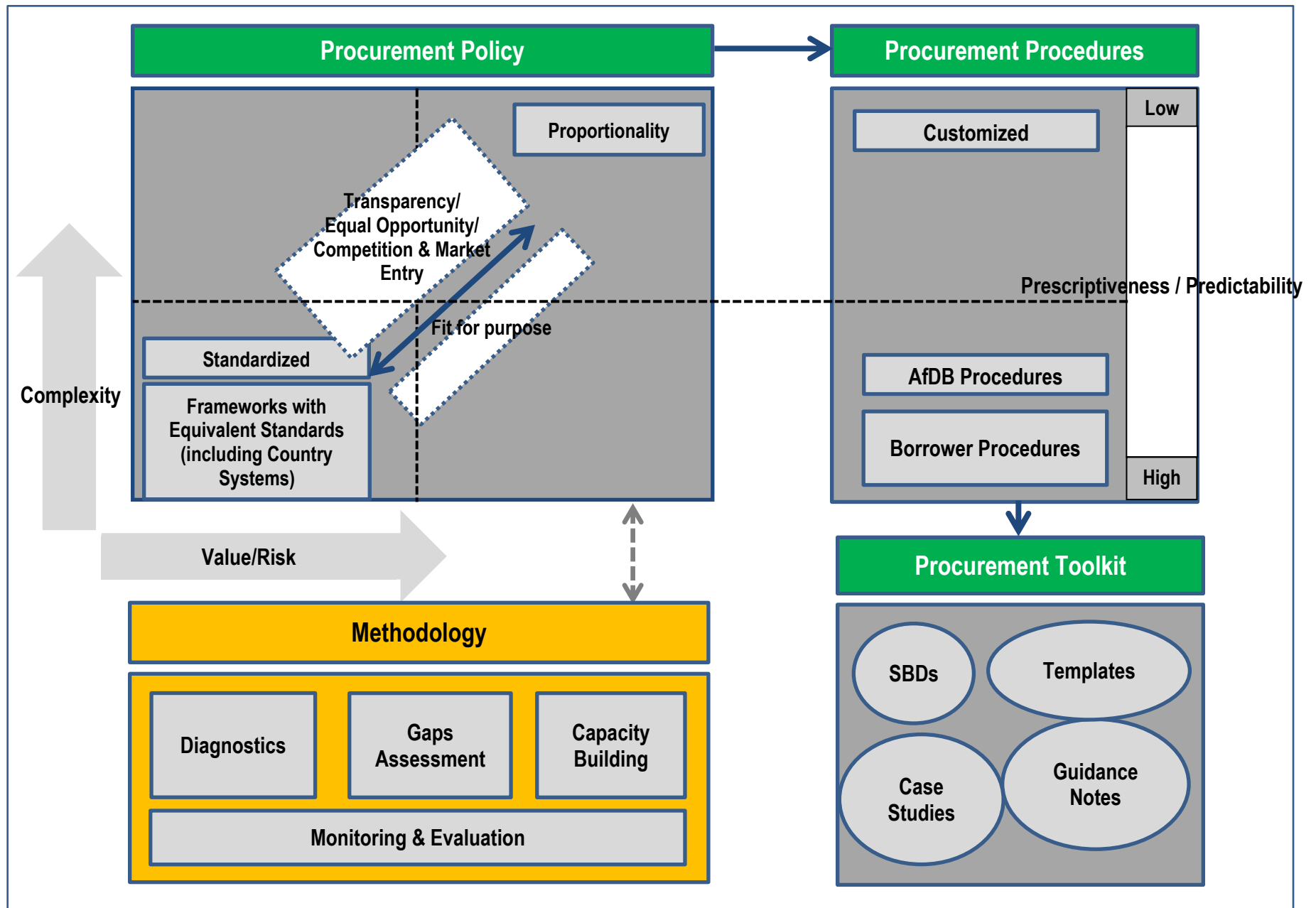
1.6 Fit for Purpose – A Dynamic and Flexible Approach

- 1.6.1 Fit for Purpose (FfP) in the context of “Public Procurement” is broad-based and encompasses all stages and phases of the procurement cycle. It applies predominantly to the procurement methods and procedures, the procurement framework applied and to the nature and extent of Bank oversight. The Bank considers that a risk-based FfP and dynamic procurement approach is most appropriate for achieving optimal VfM outcomes.
- 1.6.2 The application of FfP fully takes into account the procurement principles and supporting considerations recognizing that each procurement intervention is designed to fulfill its unique objectives under the project. There is also a need to examine and evaluate appropriate trade-offs between particular procurement policy imperatives to arrive at the optimal procurement solution in a particular context. It is this ability to ensure proportionality through responsive adjustment of differing Policy priorities that results in a dynamic and responsive approach to handling procurement at an operational level.
- 1.6.3 **Proportionality:** Proportionality refers to the contextual calibration of the procurement principles to ensure the achievement of optimal VfM. Proportionality requires that the measures proposed to achieve procurement objectives be appropriate and not go beyond what is necessary. It reflects the flexibility and contextual responsiveness of the approach and the method selected for procurement. The approach for proper application of proportionality requires: (i) consideration of the probability and impact of fiduciary and other risks involved; and (ii) framing of procurement-related actions and measures for risk mitigation and capacity building consistent with sound project performance and development effectiveness. This important consideration is relevant to each procurement activity throughout the procurement cycle such as: preparation of needs assessments; specifications; setting evaluation criteria; contract conditions; inspection, controls and oversight. It also includes determination of the Bank’s review requirements based on risk assessments.
- 1.6.4 The practical application of FfP is contextual. A specific transactional procurement with low complexity and low value will typically entail lower fiduciary risk for the Borrower and the Bank. In such cases, the Procurement Framework permits use of a standardized or streamlined approach, which may follow the Borrower Procurement System (BPS). At the other extreme, if a specific procurement is highly complex and of high value, the risk to the Borrower and the Bank is higher. In such a case, the Bank’s procurement policy allows a tailor-made or customized approach that will reduce risk and maximize VfM for the Borrower. This dynamic approach is depicted in **figure 1**.

Example 1: For smaller value procurement, it may not be cost-effective to require international advertising or the use of standardized international bidding documents (BDs) both in terms of cost and time as this may result in a more protracted process where costs would outweigh the benefits of amplified procedural detail. In other cases, a particular government Procuring Entity (PE) might be best served by aggregation of demand and use of, for example, framework contracts.

- 1.6.5 Application of risk-based FfP decision making extends through the entire procurement cycle. FfP takes into account the outcomes of all relevant assessments conducted at the country, sector, project and executing agency levels as appropriate for the specific project or program and the particular transaction. An important factor that may need to be considered is the importance for sustainability to be mainstreamed in procurement, if it is an important consideration of a country's development objective.
- 1.6.6 **Sustainability:** Sustainability requirements in procurement often help achieve the targeted development outcome of Borrowers. The Bank recognizes that many of its Borrowers have developed policies to promote sustainability with a view to improve the lives and well-being of their citizens, or to protect the environment. Such borrowing countries often use public procurement to achieve these objectives. These include for example, consideration of Environmental and Socially Responsible Procurement (ESRP), preference margins, local content, set asides, offsets, provisions in labor laws to encourage fair-wages and gender sensitive policies. Benefits in such cases are not limited to the procurement entity or the end users, but may go beyond to communities and the public at large. Sustainability may involve innovative procurement approaches and use of specific products or providers. The Bank while considering requests from borrowers for inclusion of sustainability requirements ensures that such requests: (i) are consistent with its own policies; and (ii) they do not adversely impact the procurement principles.
- 1.6.7 The following section discusses the assessment process which is critical to the Bank's risk-based management approach and provides guidance on how assessments can be used for informed decision making to achieve VfM in the implementation of Bank financed operations.

Figure 1



II. ASSESSMENTS

The Procurement Policy requires the Bank to collect and analyze key information at the country, sector, project and transactional levels that will: (i) form the basis for the interaction between the Bank and the Borrower for procurement under Bank funded operations; (ii) identify gaps in laws, regulations, practices, organization and capacity against internationally recognized and accepted benchmarks; (iii) support the development of an action plan to address issues noted at each assessment level; and (iv) enable a decision to be made on whether borrower procurement systems may be used for specific identified transactions in order to achieve VfM. Monitoring of implementation of country, sector and project action plans will continue to inform decision-making at the project level. The first section below looks at country level assessments including the sector assessment as applicable. The second section examines assessment at the Executing Agency (EA) and project levels while the final section discusses capacity development needed at different levels for continued effective engagement with the country.

2.1 Methodology for Country Level Assessment

2.1.1 The Bank Procurement Assessment Report (BPAR) of a Borrower Procurement System (BPS) forms the foundation of the Bank's risk-based approach to engagement with its RMCs. The assessment is done, in collaboration with other donors under the leadership of the country to determine if the country's system is based on principles and standards comparable to those in the Bank's framework, and is delivering against the key objective of providing optimum VfM. The assessment methodology followed by the Bank determines the degree to which a BPS can be relied upon for implementing Bank financed operations, which remains the first choice as the applicable framework for Bank financed transactions. The country level assessments include a detailed review based on available documents and an analysis of processes and performance of: (i) the institutional, legal and regulatory procurement framework; (ii) the capacity of the overall system, institutions and staff to discharge the procurement function and properly implement the rules and procedures; (iii) the capacity of the various industries to respond to bids and meet qualification requirements; and (iv) the control environment that enforces the proper application of laws, regulations and procedures. The assessment also examines country policies that impact on procurement decisions including those on sustainable procurement, trade, anti-trust, labor laws and others related to achieving socio-economic objectives.

2.1.2 The Assessment follows the following stages:

- (i) **Gathering of existing information on the country.** In many cases, there are a variety of reports that are available containing important information about the state of the procurement system in the country. These include, but are not limited to: CPAR²,

² **Country Procurement Assessment Report.** The CPAR is prepared in partnership with the borrower country. It essentially identifies and describes the existing procurement practices in the country in terms of existing laws, regulations, documents, institutions, highlights the efficiency of their operations, and examines the control environment for procurement including complaints and dispute mechanisms and auditing procedures. It compares this with acceptable international best practices. It thus identifies any existing gaps to which attention may need to be paid in order to mitigate them. It is also useful in determining if national procurement procedures are suitable to be used for Bank financed projects and it provides a sound basis for decisions on the level of intensity and approach for supervision in Bank operations.

MAPS³, PEFA⁴ and MAR⁵. In most cases, information on the performance of the Executing Agencies (EAs) (including in handling procurement) on previous Bank financed projects is also available. Such information can also be obtained from other multilateral and bilateral agencies active in the country. In general, if the available information is not recent (i.e. more than three years old) or if the country has undergone recent changes that affect procurement and other governance systems, a new assessment or an update may be needed. In addition, the Bank may require sub-national (or entity level) information in order to support a project directly with a sub-national state or locality. It may be necessary to collect additional information through interviews and surveys with important stakeholders. Key counterparts in the Country may also be contacted to discuss and verify the information collected.

(ii) Completing the Assessment Tool. The Bank has developed an assessment tool that is based on the OECD-DAC's⁶ Methodology for Assessing Procurement Systems (MAPS). This tool contains sub-indicators that represent attributes that a well-performing public procurement system should possess. The assessment includes the organization of government institutions, their role and responsibilities and the checks and balances that are built into internal and external decision making as these are key elements of the overall control and oversight environment in a country. The gathered information is carefully analyzed by a multi-disciplinary team (that may include staff with legal, procurement, private sector and other relevant skills). If there are inconsistencies, it is important to discuss these with country counterparts to determine if more information is available to clarify a situation or if there has been a mis-interpretation of the available information. A judgment on acceptability or otherwise should be based on a number of factors including the country's policies on socio-economic and environmental issues and the impact of these on the procurement principles of the Bank. This analysis helps determine the overall fiduciary risk to Bank operations. Risk mitigation measures are sometimes needed at the project level based on the country level assessment.

(iii) Preparing the Bank Procurement Assessment Report (BPAR). The above exercise results in the preparation of the Bank Procurement Assessment Report (BPAR). The BPAR is used to inform on the state, performance and risk associated with the borrower's procurement system. The Report analyzes the existing information using the above-mentioned assessment tool, identifies gaps in the existing information and recommends additional diagnostics needed to address special requirements such as sub-national lending. The BPAR includes recommended actions that will form the basis for discussions with the country to develop a Country Procurement Development Action Plan (PDAP). The PDAP helps chart a road-map to ensure that the public procurement system in the country contributes to delivering the country's development

³ **Methodology for Assessing Procurement Systems (MAPS)** was developed under the auspices of the joint World Bank/OECD Development Assistance Committee (DAC) Procurement Round Table initiative. It provides a common tool which developing countries and donors can use to assess the quality and effectiveness of a country's procurement systems. The original MAPS included qualitative baseline indicators (BLIs) which were widely used in the context of the first generation of reforms to assess whether or not the basic and fundamental components of the procurement systems were present. These indicators measured legal and regulatory reforms with supporting tools and documents, the establishment of institutions (such as a procurement normative and regulatory authority and training of officials), and initiatives to ensure transparency and access to information.

⁴ Public Expenditure & Financial Accountability

⁵ Main Assessment Report

⁶ The Organization for Economic Co-operation and Development (OECD) Development Assistance Committee (DAC)

aspirations. The PDAP is discussed with the country and, once agreed, is monitored to evaluate implementation progress and determine the impact on project level procurement decisions. It is also linked to the Bank's Country Strategy Paper (CSP) so that the Bank's engagement with the country reflects the Bank's commitment to work for the development of a procurement system that reflects internationally recognized best practices. The PDAP is further discussed in section 2.5.4 below.

2.1.3 Cooperation between donors on Borrower Procurement Framework Assessment

The Borrower Procurement Framework Assessment is critical to direct funds by donors. It is important, therefore, that donors harmonize their efforts for cooperation on borrower procurement assessments in order to; (i) reduce assessment fatigue for our RMCs; (ii) reduce the costs and time of assessments; and (iii) have a comparable standard set of data and information on the recipient countries. As this work advances the results will be incorporated into the Bank's BPAR.

2.2 Sector Level Assessment

- 2.2.1 Sector-level assessments are normally included as a sub-component of the above-described country-level assessments. These, at the country-level serve, as part of their broad scope, to identify the specific procurement regulations, rules and procedures that are applicable to the sector that is of interest to the Bank. Sector-specific procurement risks and capacity gaps are also identified among the more general ones while assessing overall capacity and risks at the country level. In terms of the methodology for assessments, priority sectors are identified from the Bank's Country Strategy Paper (CSP) and they are given due attention during BPAR preparation.
- 2.2.2 The various steps of the Methodology at various stages of the procurement cycle also focus on the sector level as follows: (i) National Procurement Methods (NPM) and National Procurement Procedures (NPP) that are typically used in the sector; (ii) operating procedures for pre-bidding, bidding and post-bidding stages for the various categories of procurement; (iii) socio-economic objectives used at the sector level, and tentatively applicable preferences/diversity provisions in NPMs & NPPs; (iv) specific regulations that may be mandatory in regards to Bank-specific bidding and contract provisions (such as JVs; second-hand goods; taxation, currency, language) to ensure there are no discrepancies; (v) bid evaluation criteria used in the sector, in particular regarding ESRP provisions if applicable under the project; (vi) existing bidding documents (standard, national or others) used in the sector; and (vii) procurement management arrangements.
- 2.2.3 The analysis at the sector level also serves to check if there are any specific restrictions at the sector level in regards to eligibility, F&C provisions, access to information (relating to advertising, bidding opportunities, contract awards etc.), or standard administrative procedures regarding registration of bidders or barriers to bidding.
- 2.2.4 The assessment is also informed by existing project-level assessments and completion reports in the specific sector on the experience of the EAs in projects financed by the Bank (or other donors, if such information is available) and identify issues relating to their capacity, compliance, management, and performance. They usually provide important qualitative and quantitative information including on risk, capacity and market that helps determine the most optimal best FfP Procurement Methods and Procedures (PMP) for a potential project. The Sector-level assessments also identify capacity-building measures,

action plans, and risk mitigation measures that may be included for financing under a project.

- 2.2.5 An important component of assessments at the sector level is market analysis. This is usually conducted to identify firms that may be interested in procurement opportunities offered by the projects. This also includes some assessment of the technical and financial capacity of the identified firms, key trends such as pricing and factors that affect competition, and assess risks for each procurement category likely to be considered under a project.

2.3 Project Level and Executing Agency Assessments

- 2.3.1 The intent of the EA and project level risk assessment is to develop an overall risk classification to guide FfP decision making in the preparation of the procurement arrangements for the contemplated project. In addition to the national and (where appropriate) sub-national assessments covered by the BPAR, (and described in section 2.1.2 above), the procurement regulations, policies and practices of the EA are assessed. The process involves conducting a Project Procurement Risk Assessment (PPRA) that incorporates the project risk, EA's capacity and performance and results in the Project Procurement Risk Rating (PPRR). The risks associated with project are based on complexity and other factors related to procurement. These include: (i) technical complexity, that is, if a new and untested technology is being proposed to be used in a project; (ii) the geographic extent of the implementation; (iii) packaging complexity relating to the way the various goods, works and consulting services are divided into contracts for the purpose of procurement; (iv) the number of EAs to be used; and (v) the level of political stability and the procurement environment in the region of operations. The risks associated with the EA are assessed in terms of its capacity to manage the project risks described above as well as its demonstrated ability to manage such risks, typically as evidenced through its handling of other similar projects. Existing Project Procurement Reports (PPR) and Independent Procurement Reviews (IPR) will inform this assessment. The Executing Agency Procurement Assessment (EAPA) comprises a review of the capacity and track record of the EA over time, particularly with reference to Bank or donor funded projects and is undertaken where there is sufficient available data on past agency performance, preferably under Bank or other Multilateral Development Banks (MDBs) financed projects. The EAPA is divided into three areas:

- (i) **Agency capacity** considers existence and availability of resources; availability, standardization and efficiency of processes and systems; clarity and adequacy of accountability and oversight mechanisms; extent to which behavior, culture and norms facilitate implementation; adequacy of transparency and controls; and existence of adequate integrity and anti-corruption systems.
- (ii) **Agency compliance** considers compliance-related performance indicators for the agency's record of compliance with its own legal procurement obligations and also reviews agency practices against the standards set out under the Bank's Procurement Policy Framework.
- (iii) **Agency operational track record** considers operational results obtained by the agency for key dimensions of procurement performance in the context of Economy, Efficiency, Effectiveness and Equity. This may include, for example, a comparison of

prices obtained by the agency to those by other public sector agencies for substantially similar goods, works and/or services.

2.3.2 Project Procurement Risk Rating (PPRR)

The procurement risk associated with a project, established along the above three dimensions results in the establishment of a PPRR that is developed, monitored, and adjusted over the course of the project cycle. The PPRR is a main input to the procurement plan, to determine project packaging, procurement methods, oversight, and the applicable framework. The objective of the above exercise is to measure risk by looking at two critical dimensions, severity of impact and likelihood of occurrence as they affect Project Development Outcomes (PDOs). The PPRR is a dynamic instrument and may require reassessment during project implementation. Changes to procurement circumstances, as evidenced by achievements against agreed mitigating measures will trigger re-evaluation of the PPRR.

Background Review for EA Risk Assessment

- Current BPARs findings are reviewed to determine whether such findings continue to be relevant and, where necessary, are updated. The focus is on findings that affect project-level procurement risk;
- The relevant procurement policies regulations and practices are reviewed as they apply to the EA. These will derive from country-level policies and regulations as described in the BPARs, but will also include regulations and practices of the EA, and possibly the sector;
- Prior EAPAs and project PPRRs in related executing agencies and sectors are reviewed, particularly to assess if contemplated mitigation measures have been satisfactorily implemented;
- Procurement Plans and Agency Capacity Assessment reports for EAs are reviewed in identified Bank priority sectors to assess their procurement performance under Bank-financed projects and, to the extent information is available, under other donor-funded projects. This should include checking post review and prior review transactional history to determine if there are any recurring issues raised by Bank staff with respect to EA performance;
- Integrity related reports (including those issued by the Integrity and Anti-Corruption Department) and audits related to procurement under Bank financed projects are reviewed to identify possible integrity/corruption related risks in the country and sector;
- Misprocurement and loan cancellations, if any in the last three years, are assessed to ensure that underlying issues are addressed; and
- Other background information on the Bank's portfolio performance, with particular focus on any implementation issues raised relating to procurement and consulting services is reviewed. Particular focus is on compliance issues and bottlenecks. External sources can also be checked, e.g. TI Corruption Perception Index, etc.

2.4 Market Analysis and Assessments

2.4.1 The main objectives of a market analysis are to:

- Obtain knowledge of the characteristics of the market including its structure, capabilities of firms, price trends, and a detailed understanding of key developments and trends impacted by external and internal factors;

- Understand the factors that affect competition or entail risks and potential Fraud and Corruption issues; and
- Identify major players and stakeholders in the global, regional, national or sector markets.

At the level of the projects, market analysis provides an overview of the nature of procurement procedures is used and their impact on the market.

- 2.4.2 The market analysis is critical to the various assessments conducted when applying the methodology. It focuses on the particular sector of the project and evaluates the characteristics and structure of the national market and the likely impact due to developments and changes such as technology and new entrants. The results of the market analysis are an important input to procurement planning, the selection of the best FfP Procurement Methods and Procedures (PMPs), and the packaging and scheduling of the procurement of works, goods, and consulting services. The analysis is also an important factor while examining contract amendments. It can also be used to collect and analyze information on possible second-order objectives (e.g. innovation, environmental and social) as input into designing Solicitation Documents (SDs) and validating proposals/bids.
- 2.4.3 The analysis is also helpful in assessing whether there may be significant impact on markets due to Government practices favoring particular products, excluding certain categories of contractors, suppliers or service providers, or limiting eligibility or access to a selected group of bidders with resulting monopoly or oligopoly situations. Competition indicators (e.g. bidding and award patterns) that assess the extent of competition in the sector for each category of procurement, the ease to access markets for new entrants, the participation of foreign bidders, and difficulties faced by contractors and suppliers in the sector are also important results of the analysis.
- 2.4.4 The analysis relies on existing and readily available information (e.g. Bank sector knowledge, national registries and databases, stakeholders' information when available and disclosed) as well as the views of private sector entities and concerned industries. It also takes into account the knowledge held by procuring agencies and other purchasing organizations. Additional information may be obtained by soliciting potential bidders or through interviews with the industry, including representative associations, trade organizations, business support organizations and federations. Information can also be obtained by desk-based research using web-based search engines or company product/service catalogues when available.

2.5 Building Procurement Capacity

- 2.5.1 The Bank is committed to capacity development in its borrowing countries to increase reliance on acceptable procurement systems essential to sustained and effective development. This is also consistent with the Bank's fiduciary and development effectiveness mandate. Despite significant progress, however, many countries have not yet reached a level where their systems can assure achievement of development goals and objectives. As mentioned in section 2.1 above, the country level assessment process leads to the development of a PDAP. The PDAP addresses country procurement capacity development in a holistic way by: (i) supporting procurement systems to deliver credible outputs; (ii) assisting the private sector to participate effectively; and (iii) enabling civil society to play an effective oversight role.

2.5.2 Implementation of the PDAP

Successful implementation of the PDAP requires that: (i) it be realistic and tailored to the existing capacity in the country while reflecting the RMC's development strategy; (ii) it prioritizes actions according to a logical sequencing of activities and timing; and (iii) it emphasizes inclusion of information technology and e-procurement to better prepare the country for addressing future needs. Country counterparts with leadership responsibilities should be identified since there could be several implementing agencies. Support for financing the PDAP in RMCs is critical as in many cases, budget constraints limit resources for reforms. On occasion, however, a PDAP can be informed in significant part from work done at project (and sector) levels through preparation of the EAPA in the absence of a comprehensive and up-to-date BPAR.

2.5.3 Stakeholders Role in Procurement Capacity Development

Increased participation by local industry in meeting the needs of government for goods, works and acquisition of consulting services improves competition and quality and leads to better VfM for the country. The quality and performance of the procurement system within a country provides the basis for efficient service delivery to the citizens. While government remains the traditional counterpart for implementation of a PDAP, other stakeholders such as the private sector and civil society benefit from a better performing procurement system and therefore should be involved in supporting implementation. The private sector, apart from its active participation, is an important resource for identification of inefficiencies in the procurement system. Local industry often operating through a Chamber of Commerce, usually provides the Borrower with important feedback and recommendations for change. Civil society represents the interests of citizens in obtaining VfM and quality service delivery. In some countries, the civil society organizations exist to complement the work of government oversight organizations and the private sector.

2.5.4 Bank Support to Capacity Development

The PDAP identifies the actions agreed between the Borrower and the Bank and includes the details on what they will do to implement particular identified actions. Each action in the PDAP is accompanied by its own implementation plan including the role of the Borrower and the likely support that the Bank can provide. Such support typically includes (i) technical assistance and transfer of knowledge; (ii) training; and (iii) EA capacity development.

- (i) Technical Assistance, Transfer of Knowledge:** Financing technical assistance is a key contribution that needs to be strategically implemented and in many cases, direct technical assistance provided in the form of short or long-term on-site consulting service will maximize the benefit to achieving the desired outcome. Technical assistance is particularly effective in fragile countries that lack institutional and human capacity and can be critical in the success of Bank financed projects. In order to ensure effective transfer of knowledge, Borrowers should provide suitable Counterpart Staff of high quality to work alongside the TA. The Bank and the Borrower together determine the best implementation plan that takes into consideration the country's capacity to implement change and maintain the desired outcome.
- (ii) Training:** Generally, the full benefits of training will only be realized through the implementation of a broader training strategy that the country can use in the short term to build an initial cadre of staff with necessary skills and knowledge, and implement and maintain over the long term to provide a stream of trained staff who continue to support the procurement system. A Bank supported PDAP that includes institutional

capacity development should be clearly defined as a long term action, involving several steps and with intermediate milestones to be met before committing additional resources. Depending on the country, area of emphasis in the PDAP may include; (i) using regional and domestic training centers; (ii) twinning or partnering with internal and external institutions; (iii) partnering with local private sector organizations; and (iv) on-the-job training. Electronic means for dissemination of training should be considered for inclusion in the PDAP. Use of external training outside the region should be considered exceptionally and in the short term due to budgetary implications. In general, building procurement capacity is highly dependent on the civil service system in the country and the standards set for hiring employees and providing for career development, and these should be taken account of, while implementing the PDAP.

(iii) EA Capacity Development: Procurement capacity building (or improvement of procurement fiduciary management) is also undertaken at agency-level. The PPRA identifies potential agency level procurement-related fiduciary risks and the ways in which these can be mitigated, it also identifies agency capacity gaps to be rectified either prior to, or during, project implementation. These capacity building measures can include procurement training for staff of the executing agency, and in some cases, support for technical assistance. Through the PPRA, the Bank and the Borrower identify project-level capacity development needs and reflect these in the project documentation. Where the PPRA recommends capacity development actions, close monitoring of these initiatives is made part of any project supervision plan, and documented in an action plan for the EA. Progress against action plan targets may result in adjustment to the PPRR, including change in oversight arrangements.

2.5.5 Borrower and Bank Roles in Capacity Development

In addition to monitoring progress against action plan targets, at a practical level, it is critical for the Borrower and the Bank to agree on providing adequate funding and resources to ensure that the EA and, where relevant, the Borrower can undertake successful remedial action to close both project level and broader institutional, organizational and staff capacity gaps to ensure sustainable capacity improvements over time. At the project level, such funding is typically provided through a combination of loan funds and counter-part support. Where justified, there may be additional need for companion or supplementary loan or grant-funded technical assistance and these aspects should be reviewed and finalized during project preparation. Capacity building requires coordinated efforts both by the Borrower, to ensure requisite ownership and counterpart resource commitment, and within the Bank, particularly between those internal Bank divisions charged with responsibility for improved Borrower governance.

III. PROCUREMENT POLICY IMPLEMENTATION

3.1 Objectives

- 3.1.1 This Section provides guidance for Borrowers and Bank staff to implement the Policy at a project level by applying a risk-based FfP approach throughout the project cycle to achieve optimal VfM outcomes. Country development objectives are addressed through an incremental approach by setting procurement arrangements that enable an increased use of the BPS progressively as capacity increases and development goals and objectives are achieved. This approach provides a measured way to support the countries in developing their procurement systems with actions that are objectively analyzed and provide the right incentive for further reforms. This also allows success at a project and sector level in a country that can be replicated across the system. The monitoring of performance at various levels enables the Bank to carry out its fiduciary oversight responsibilities effectively.
- 3.1.2 The process to be followed requires FfP decisions to be taken by weighing, prioritizing and calibrating the core procurement principles constituting VfM, while considering the risk factors specific to the country, sector and the project. The measures proposed at every stage should be appropriate and not go beyond what is necessary⁷. This also requires that a right balance be struck between considerations of competition, fairness and transparency while ensuring that the other national objectives of sustainability and socio-economic development are also taken into account. The transactional costs and efficiencies will need to be considered at every stage to ensure decisions that optimize VfM.
- 3.1.3 Other factors to be considered include:
- (i) The selective and progressive reliance on BPS. The Methodology provides guidance to determine when, and on what basis, specific NPMs & NPPs can be made applicable and to which project components and activities;
 - (ii) The Bank's Strategy in engaging with countries with different capacities (for example, Middle Income Countries (MICs) with adequate institutional and market capacity on one end and states in fragile situations with limited or no capacity on the other). Assessments and analysis are conducted in a differentiated manner, including in regard to how the principles be weighted differently, the selection of specific compliance and performance indicators, and the elaboration and implementation of adapted risk mitigation measures and action plans; and
 - (iii) The project implementation strategy and the project procurement strategy (strategic procurement planning). The overall timing of procurement activities to develop a Procurement Plan (PP) that is aligned with the project implementation plan.

⁷ This will mean, for example, that the technical requirements be neither over nor under specified, open international competition not be required for small value transactions when adequate number of firms capable of providing acceptable bids at competitive rates exist in the country, or that prior-review not be mandated for transactions where the fiduciary risk is small.

- 3.1.4 The process steps have been elaborated with the above approach and summarized in a Matrix of Activities (included as **Annex 1**). This describes a sequential and systemic process, with key milestones (assessments, analysis, evaluations, and decisions) at each step. Steps may need to be revisited as needed, in particular at the project preparation and appraisal stages, as circumstances change. Guidance on the use of the matrix of activities is provided in the sections that follow.
- 3.1.5 **Using the Matrix of Activities:** The flow of activities (from left to right and from top to bottom) has been indicated in the matrix. The information needed to be gathered (including a description of the source and the tools to be used) is positioned above the process steps while the outputs resulting from the activity are mentioned directly below these process steps. There are two main categories:
- (i) **The Assessments and Analysis category**, including the various assessments (country and sector) and analysis (including market specifics) that provide the relevant information to assess the Project EA capacity and identify the relevant procurement risks, which are necessary to apply the FfP approach; and
 - (ii) **The Project category**, including objectives, components and activities, categories of procurement (works, goods, non-consulting services and consulting services), groups of similar types of transactions, as well as third parties specifics (co-financiers, UN agencies, others) to provide relevant information and cover other key considerations to inform the FfP-based decision-making process.
- 3.1.6 In addition, the matrix includes two sets of information that are important for its effective use. The first, indicated right below the process steps, Tools & References, indicates the type of tools (assessments, analysis) or information needed to be collected at each step. The relevant Sections of the Methodology or OPM where detailed information and guidance can be found are also indicated. The second details the responsibilities of various players including both the Bank and Borrower, and the specific tasks that both are responsible for, are summarized at the bottom of the matrix.
- 3.1.7 There are 18 process steps reflecting the process to follow. Each includes the description of tasks to be carried out, the main output and describes how to apply the FfP approach at that particular step. Relevant information is provided in each box. Guidance as to what is expected at each step is provided in the later sections.
- 3.1.8 The process steps together span the main stages of the project procurement cycle (identification, preparation and appraisal, and negotiations). Step 1 covers project identification, while steps 2 to 10 cover the preparation stage (with steps 7 to 12 being revisited at the appraisal stage). Steps 11 to 16 span the appraisal stage. Finally, step 18, the final one in terms of overall project preparation and FfP process, concerns project negotiations.
- 3.1.9 The main outcomes of the process are:
- (i) The selection of PMPs that are best fit for the specific project at stake among all those possible, i.e. NPMs, NPPs, Bank PMPs, or alternative PMPs from third parties (either Bank partners and/or co-financiers, UN agencies, or those subject to other international standards and/or reflecting best international practice); and

(ii) The definition of the project procurement arrangements, including the PP.

3.1.10 The process steps are as follows:

1. Consideration of procurement issues and preliminary procurement planning;
2. Indicative procurement planning and packaging, including a dedicated market analysis of the country/sector at stake;
3. Updating country and sector Assessments;
4. EA Capacity (compliance, management and performance) Assessments;
5. Procurement Risks Assessment at the EA level;
6. Consideration of BPS options;
7. Tentative Procurement Methods (PMs) of the Borrower, and/or Bank, and/or third parties (Bank partners and/or co-financiers, UN agencies, or subject to other international standards and/or reflecting best international practice) and draft PP;
8. Borrower-specific socio-economic objectives and related procurement provisions (e.g. ESRP);
9. Bank-specific bidding and contract provisions (joint ventures, second-hand goods, taxation, currency, language) and requirements;
10. Tentative Procurement Procedures (PPs) and evaluation criteria;
11. Packaging and selection of PMPs;
12. Types of Solicitations Documents (SDs) including contract forms applicable to the project;
13. Consideration of Advance Contracting and other Bank's Policy specific requirements (eligibility including UN charter, Conflicts of Interest (COIs), State or Government-owned Enterprises and Companies and civil servants; advance contracting and retroactive financing);
14. F&C provisions (Borrower and Bank) applicable to the project;
15. Procurement arrangements for project implementation;
16. Bank oversight and remedies;
17. Draft Procurement Annex & final PP for negotiations;
18. Final project procurement documentation/package (Procurement Annex, Financing Agreement & final PP); and

- 3.1.11 The details of the assessment methodology to be used and measures to support capacity development are described in Section II. Transactions that are considered too risky to be procured under the BPS are procured following the methods and processes described in the Procurement Framework and are subject to Bank's direct oversight. The process also permits specific transactions being procured under a third party's system (usually a co-financier whose procurement framework has been assessed by the Bank and found comparable to the Bank's in outcomes, or a specialized agency, like those of the UN who are mandated to follow their own systems while implementing projects), if it is determined that doing so will result in VfM for the Borrower.
- 3.1.12 The implementation strategy and process described in this section are carried out by both the Bank and Borrowers throughout the project procurement cycle in a sequential but systemic manner. The approach includes the application of the overall risk framework (VfM principles and FfP criteria to weigh risk factors) and entails a decision-making process with regard to project procurement that achieves the Policy's VfM objectives and contributes to the overall development objectives of the project. The Matrix of Activities presented in **Annex 1** describes a time-bound and risk-based process with sequential milestones at each of the main stages of the project procurement cycle (identification, preparation and appraisal, and negotiations). The process enables addressing both sector and project aspects, tailored to specific country conditions (e.g. MICs and states in fragile situations) as well as to fit certain specific kind of projects (e.g. Community Driven Development (CDD) projects) and is therefore, truly fit-for-purpose. While the approach mentioned will be broadly valid in all cases, some changes may be necessary to address specific project contexts.
- 3.1.13 The above aims at striking the right balance between flexibility on one hand, and consistency and rigor on the other without unduly burdening Bank staff and Borrowers with an overly complex, resource-onerous and time-intensive process. Additional specific guidance to Borrowers and Bank staff, regarding the day to day execution of the procurement process when preparing a new Bank financed project and when conducting country, sector, EA and project assessments, is provided in the OPM. The roles and responsibilities of various actors in the procurement process (both Borrower and Bank staff) are covered in the above mentioned Matrix. Further details on the review and clearance procedures are laid out in the Bank's internal Delegation of Authority Matrix.
- 3.1.14 The approach is inclusive and considers the views of various stakeholders through consultations with the Government, private entities and others concerned with or affecting the procurement process (e.g. the private sector through Chambers of Commerce as part of the market analysis). It also ensures proper disclosure of information (from generic information regarding project procurement in early project preparation stages, to procurement processes, advertising bidding opportunities and contract awards) in line with the Bank's Disclosure Policy. The process is primarily focused on Bank financed investment projects although it is applicable, with some modification to all projects covered by the Procurement Policy.
- 3.1.15 The risk-based FfP approach applies at all levels of the project cycle. It follows a dynamic and systemic sequence of stages. The steps and their interaction with the bank's project cycle are shown in **Figure 2**.

Figure 2: The Steps And Their Interaction With the Project Cycle

| Step | Description | Identification | Preparation | Appraisal | Negotiation |
|------|--|----------------|-------------|-----------|-------------|
| 1 | Preliminary Procurement Planning | | | | |
| 2 | Market Analysis and Tentative Procurement Packaging; | | | | |
| 3 | Updating Relevant Country/sector Information | | | | |
| 4 | Capacity of the Executing Agency (EA) | | | | |
| 5 | EA's Procurement Risks | | | | |
| 6 | Consideration of BPS Options; | | | | |
| 7 | Tentative Procurement Methods | | | | |
| 8 | Borrower-specific Objectives and Provisions | | | | |
| 9 | Bank-specific Provisions and Requirements | | | | |
| 10 | Tentative Procurement Procedures and Evaluation Criteria | | | | |
| 11 | Packaging and Choice of Procurement Methods | | | | |
| 12 | Types of Contracts and Bidding Documents (BDs) | | | | |
| 13 | Bank-specific Requirements | | | | |
| 14 | Applicable Fraud and Corruption (F&C) Provisions; | | | | |
| 15 | Procurement Arrangements for Project Implementation | | | | |
| 16 | Bank Oversight and Remedies | | | | |
| 17 | Draft Procurement Arrangements in the Project Appraisal Report and PP | | | | |
| 18 | Negotiation and Finalization of the Procurement Arrangements under the Project | | | | |

3.1.16 Finally, in order to demonstrate that the implementation complies with the provisions of the Financing Agreement, collecting and analyzing data by both the Borrower and the Bank is essential. To meet this requirement and to ensure easy access to information, the EA for each project should have in place means (for example, a fully functioning web-site that is regularly updated) to make available in a timely manner, to all relevant and interested stakeholders, pertinent information as mandated by the Procurement Framework and the Bank's disclosure of information policy. This includes information on procurement opportunities and contract awards.

3.2 Stages in the Dynamic Application of Risk-Based FfP in the Project Cycle

a) Country and Regional Programming – Preparation of the Bank Procurement Assessment Report (BPAR)

As the foundation for its dealings with a RMC or Region, the Bank undertakes Country and Regional Programming in order to define its strategy for intervention. It follows a

thorough analysis of the prevailing economic, social, political and environmental situation in the given RMC or Region and identifies areas suitable for Bank operations. The output from this exercise is the Bank's Country Strategy Paper (CSP). Associated with this activity, with regard to procurement, the Bank also undertakes a Borrower Procurement Assessment (see **Annex 2**, Attributes of An Acceptable Borrower's Procurement System). This is a detailed diagnostic analysis of: (i) the institutional, legal and regulatory procurement framework; (ii) the capacity of the overall system, institutions and staff to discharge the procurement function and properly implement the rules and procedures; (iii) the capacity of the various industries to respond to bids and meet qualification requirements; and (iv) the control environment that enforces the proper application of laws, regulations and procedures. The BPAR, the output of this phase, provides the tool for the Procurement Policy's risk-based engagement with Borrowers and is prepared, at this time, so that key elements are incorporated into the CSP. This process sets the background for the lending operations of the Bank in a country or region. The BPAR is described in Section 2 of this Methodology, and it is detailed in the OPM.

b) Project Identification

Step 1: Consideration of Procurement Issues – Preliminary Procurement Planning

The procurement issues addressed during project identification include: (i) cataloging of existing assessments and other knowledge repositories at the country and sector levels related to the project; (ii) preliminary determination of project content and components in line with the project concept and objectives; (iii) establishment of a preliminary procurement approach for the project that accounts for the overall project timetable; (iv) definition of a tentative list of activities to be financed under the project; and (v) identification of possible categories of procurement transactions (goods, works and consulting services). At this stage attention is paid to the degree of complexity and innovativeness of potential procurement transactions, their critical characteristics and priority such as the inter-relationships between the project components. It includes assessment of the existing design studies and the associated preliminary cost estimates. It identifies the needs for further design and preparation of the project for financing. The output from this activity is the procurement section in the Project Brief.

c) Project Preparation

Step 2: Market Analysis and Tentative Procurement Packaging

The essential procurement activities, which are undertaken during project preparation, start with the sector focused market analysis, which is aimed at identifying the characteristics and structure of the national market with the primary objective of defining indicative market values that are specific to the particular sector. This includes determining what contracts may better fit open international or national competitive bidding, or restrictive bidding or other methods. In order to ensure VfM, the analysis concentrates on: (i) cataloging competitive bidding and award patterns; (ii) what is procured in the sector and nationally, by which entity, in order to determine the necessary degree of competition for items to be procured; and (iii) the extent of participation of bidders (local and foreign). It also defines market/competition indicators, analyzes industry practices, and it focuses on the sector level because such practices are particularly sector specific. It relies on readily available information from sector entities, and includes interviews with the national chambers of commerce and other industry and professional associations. It also extracts

from Bank sector knowledge. In the application of the FfP approach the outcome of this market analysis will inform which processes and contracts are better fit for open international or national competitive bidding, or restrictive bidding, or other methods of procurement. It facilitates determination of which specific PMPs is best FfP. At this stage, the analysis results in planning procurement activities, regrouping them into broad indicative categories susceptible to follow similar PMPs and preparing the indicative packaging for the project.

Step 3: Updating Country and Sector Assessments

Execution of this procurement activity during project preparation involves reviewing and updating existing assessments at the country and sector levels, including reviewing and updating the available BPAR, as well as any project level assessments, and their related capacity development action plans. This includes identifying specific laws and regulations, national and sector conditions that are particularly applicable to the sector and the EA for the project or programme. It is aimed at linking the specifics of the project with the overarching elements of the BPS. In the sector context, the analysis during this update, focuses on sector specifics, inter alia, analyzing statistics of the timing of procurement processes (e.g. delays and late payments), and provides an indication of specific risk factors in the sector, bidding risks per sector and agency, and relevant indicators related to project specific complexities and risks (including F&C) and contract management. The details of the BPAR are given in Section 2.1.2 herein and in the OPM.

Step 4: EA Capacity, Compliance, Management and Performance Assessments

While assessing the capacity of Borrowers occurs at the country and sector level (BPAR), the assessment at the project level needs to consider the information included in the BPAR related to the applicable country/sector legal and institutional procurement framework. The detailed assessments at this stage, termed the Executing Agency Procurement Assessment (EAPA), concentrate on the specifics of the project. It defines the measures to address capacity and performance issues, identifies capacity, compliance, management and performance indicators. The EAPA requires examination of the EA's:

- Compliance with its legal/policy obligations such as time allocated for the advertisement of opportunities, bid preparation, extension of bid validity, and bid evaluation and award; reliance on less competitive methods; and respect of bid evaluation criteria.
- Management capacity, including coordination of contractors activities; guidance to personnel; response to contractors' technical, legal, or administrative inquiries; interpretation of contractual language and compliance with contract requirements; resolution of technical issues or ambiguities in bidding specifications; quality assurance such as interim and final inspections; review of certificates and invoices; resolution of contractual disputes; and bookkeeping capacity.
- Performance in carrying out procurement processes (bidding and contract management) in handling (i) complaints, (ii) contract payments, final cost of contracts (vis-à-vis cost estimates), contract schedules (vis-à-vis contract duration estimates), and contract amendments; and (iii) technical specifications.

Step 5: EA's Procurement Risk Assessment

The procurement risks associated with a project are based on specific indicators identified in the project and its environment (country, sector, EA) according to the type and category of procurement. They comprise:

- Risks associated with the regulatory framework: The strength and coverage of the policies and regulations that govern the EA's procurement, and the institutional arrangements to manage such policies and regulations, including those at the country, sector and project level. It relies on the update of existing country and sector assessments undertaken earlier (BPAR);
- Risks associated with project complexity: The risks associated with technical complexity, implementation environment, market risk, potential for cost overruns, and similar factors (EAPA); and
- EA capacity, compliance and performance risks: The capacity of the EA to manage various risks, to carry out procurement of varying levels of complexity, and its compliance to procurement regulations and policies as well as its performance, as demonstrated by its track record (EAPA).

The identification of procurement risks stems first from the risk assessments and indicators, including MAPS sub-indicators, which are also aimed at defining mitigation measures at the project level, they reflect issues such as lack of capacity, procurement complexity (technical and design, scope and implementation, packaging, and contract management and monitoring), degree of occurrence, and finally impact. The Methodology relies on a dynamic risk-based approach to assess, identify, monitor and mitigate procurement risks, and helps define project-level measures to manage and monitor risks and risk mitigation measures, and ultimately Bank oversight. Risks include: (i) procurement/fiduciary risks; (ii) capacity risks; (iii) risks of not meeting VfM principles; and (iv) compliance with agreed procurement methods and procedures. Fiduciary risks include those faced by the Borrower and the Bank. The Bank will also rely on audits and internal Bank reviews to exercise its fiduciary mandate, together with audits and reviews of the Borrower. The EA's procurement risk assessment (EAPA) methodology is described in Section 2 and the details are given in the OPM.

Step 6: Consideration of BPS Options

The assessment methodology followed by the Bank determines the degree to which a borrower's procurement system can be relied upon for implementing Bank financed operations, which remains the first choice as the applicable framework for Bank financed transactions. The BPAR assesses national procurement methods (NPMs) and procedures (NPPs) and based on this information, the procurement category(s) and the specific transactions under the project to which they will be applied, are determined. In general, the procurement regime or framework to be used under Bank financed operations may be (i) BPS; (ii) Bank; or (iii) third party systems.

Under BPS three options are considered for a given transaction under a project⁸:

- Full system for the whole project (i.e. use of NPMs and NPPs without conditions). This is not expected as it would require that no unacceptable provision affect the Bank's policy principles for the project;
- Full system for particular transactions in the project on the basis of a broad identification of procurement categories; or
- No application of BPS under the project.

High-risk and complex procurement processes and contracts, independent of value and of the results of the market analysis, are normally not subject to BPS but are procured through the Bank's or third party methods and procedures.

Step 7: Tentative Procurement Methods (PMs)

The objective of this step is to analyze the available procurement methods (under CPS, the Bank, or third party rules and procedures) that could be best FfP for the given project, and specifically determine the conditions of use of those various methods. First, NPMs are considered to the extent they do not violate core principles highlighted in the Bank's Procurement Framework and, any limitations can be avoided or mitigated. The determination is based on the work done in the previous stages comprising the market analysis, country, sector, EA and procurement risk assessments, and in particular the results of the market analysis and the assessments of capacity and risks. The identification of specific sector strengths is essential to support the use of NPMs as the best FfP procurement methods under the specific conditions of the country and given sector.

At this stage, the achievement of VfM is the overarching decision driver, while reducing transaction costs is also a consideration. The determination of applicable procurement methods appropriately balances the core principles of Economy, Efficiency, Effectiveness and Equity, and reflects the situation and circumstances specific to the project. It takes into account clarity, proportionality and predictability, after careful consideration of risks. When Bank methods are under consideration, the FfP approach means flexibility in their use so that they may be subject to amendments justified by the specific market and sector conditions.

This step results in establishment of the preliminary Procurement Plan (PP), and it begins preparation of the initial draft procurement arrangements for the Project Appraisal Report (PAR). The following is an indicative typology of methods to consider for procurement requirements with regard to complexity and value dimensions (the overall determination is to be made on the basis of the above-captioned stages and analysis, accounting in particular for identified risks):

- Low complexity and small value procurement (insignificant risks for the Borrower and the Bank, expected low transaction costs and simple timetable – emphasis is placed on Effectiveness, Economy and Efficiency): simpler methods, normally NPMs, with

⁸ No consideration is given to the partial reliance on borrower systems for the whole project, and even less for a few transactions, on the basis that such options would result in a hybrid system that is too complicated to assess and manage, and fraught with legal issues with regard to legal agreements, in areas such as complaints handling and attention to F&C.

minimal procedures (e.g. request for quotations (RFQ) with no advertising and no use of SDs but only RFQ documents;

- Small value procurement with a degree of complexity (low overall risks for the Borrower and the Bank – emphasis on Effectiveness, Economy, Efficiency and competition): simple methods (to keep transaction costs in line with the value) normally open competitive bidding (OCB) or Limited/Restricted Competitive Bidding (LCB) methods, preferably under NPMs, with specific requirements depending on complexity (e.g. no international advertising and no use of international SBDs);
- Low complexity and large value procurement (low risks but higher fiduciary risks for the Borrower and the Bank, expected low transaction costs, standardized procedures, and not too complex timetable – emphasis on competition, economy, efficiency effectiveness and equity): OCB methods, possibly NPMs (if consistent with the Bank policy principles) or Bank procurement methods, procedures and simplified documentation as appropriate; and
- High complexity and large value procurement (high overall risks, for the Borrower and the Bank, standard procedures insufficient, complex management of the process required - emphasis on competition, Economy, Efficiency, Effectiveness and Equity): Bank SBDs and contract forms with transaction-specific documentation, or customized methods and procedures.

Co-financing: When there is co-financing required, the first decision regards whether it is parallel or joint. In the latter case, the determination of which rules and procedures apply is the most important factor. Two options exist:

- Where the Bank may enter into a mutual reliance agreement with another MDB, either its policies or those of the Bank, prevail. Such agreement defines the terms and conditions of the Bank's involvement, while the Financing Agreement (FA) defines financing and related requirements such as eligibility; and
- Where third parties need to be involved in the procurement process because of lack of capacity and/or significant risks, the following provisions apply. When procurement services are outsourced, the Bank rules and procedures fully apply under all circumstances. When UN Organizations or Agencies manage part of the project and/or are suppliers of goods and related consulting services, or non-consulting services, for which they are unique providers (e.g. health-related), their rules and procedures apply based on standard contract agreements and forms negotiated with the Bank.

Third Party Procurement Methods: These may also be used not only under joint financing; and in all such cases, including when UN organizations are used or when new and innovative situations are envisaged (e.g. EU directives or else), the Bank reviews the specific method proposed and defines with the Borrower its application under the Bank Procurement Framework.

Step 8: Borrower-Specific Objectives and Provisions

The examination of borrower specific socio-economic objectives and related procurement provisions focuses on provisions embedded in national procurement laws and supporting

broad socio-economic objectives such as the development of local industry, mandatory local content, labor requirements, and preference allowances, support for environmentally sustainable procurement or environmentally and socially responsible procurement (ESRP). It is carried out, based on the BPAR and applicable relevant laws and regulations. It also takes into consideration any provisions of international conventions and treaties (such as the UNCAC convention with regard to F&C) that the country may be a signatory of. Once identified, such provisions, together with any related deviations from standard practice, are deemed acceptable if they are fit-for-purpose and are underwritten by well-defined procedures that are consistent with the overarching VfM policy principles and with the tentative procurement procedures and evaluation criteria set at step 9 below.

Step 9: Bank-Specific Provisions and Requirements

Bank-specific bidding and contract requirements are set within the limits of the Bank's procurement policy. They cover; (i) eligible expenditures, including taxes; (ii) exceptions for Government-owned Enterprises (GOEs) and civil servants; (iii) COI and sanctions requirements; and (iv) other specific requirements, such as joint ventures, taxation, currency, and language. These are taken into consideration by reviewing how they would apply within the context of the specific procurement regime; that is under: (i) BPS; (ii) Bank; or (iii) third party procurement methods that have been selected at step 7. This is the stage at which such provisions and requirements as they apply to each transaction proposed in the PP are examined to ensure compatibility with the Bank's Procurement Framework.

Step 10: Tentative Procurement Procedures and Evaluation Criteria

This stage entails revisiting the earlier determination of procurement methods and making decisions regarding the specific procurement procedures to be followed throughout the procurement process (pre-bidding; bidding; and post-bidding). Procedures may be defined to include the following;

- At the pre-bidding stage - From advertising to issuance of solicitation documents;
- At the bidding stage - From issuance of solicitation documents to bid closing including; (i) the choice of prequalification vs postqualification; (ii) one-stage vs two-stage procedures, (iii) short-listing and Requests for Expressions of Interest (REOI); and (iii) bid submission and bid closing procedures; and
- At the post-bidding stage - From bid opening to the evaluation of bids, evaluation of proposals, and contract award.

Procurement procedures also include decisions regarding standards to use, consideration of options such as new, used, leased or rented goods, and proprietary items. VfM is not limited to awards made according to factors other than lowest costs, and therefore, the analysis relies on the following elements:

- strategic procurement planning;
- transparent and, unless other approaches are adequately justified, open competitive processes;
- consideration of specific provisions analyzed at steps 8 and 9; and
- optimized balance between price and quality to generate desired development results on a sustainable basis consistent with clearly defined and predetermined criteria.

The determination of the tentative procurement procedures and evaluation criteria concludes the procurement activities undertaken during the project preparation phase of the project cycle. The output of this phase is the Draft Procurement Arrangements for the Project Pre-Appraisal Report.

d) Project Appraisal

Step 11: Packaging and Choice of Procurement Methods

The procurement activities undertaken during the project appraisal phase of the project cycle usually commences with more detailed consideration of the initial packaging and choice of procurement methods and procedures determined during project preparation (See **Annex 3**, Attributes of Open Competitive Bidding and Other Procedures). It involves revisiting the procurement methods and procedures defined in stages 7 and 10 and it is based on the same FfP approach following the analysis of the earlier stages. It starts with packaging, including the aggregation of demand, which informs the choice of particular procurement methods applicable to specific types of transactions. Packaging is largely the result of the market analysis, it is not driven by cost estimates of the activities to be packaged given that no database can provide real-time and appropriate information about a specific project. The quality of cost estimates is not critical in determining the choice of a procurement method. Steps 8, 9 and 10 inform the determination of applicable procurement methods, accounting for the applicable local framework, Bank-specific provisions and requirements, and options for procedures and evaluation criteria.

Application of the FfP requires examination and evaluation of appropriate trade-offs to address different priorities and arrive at an optimal procurement solution accounting for the needs of Borrowers, beneficiaries, bidders and third parties. It means:

- flexibility and contextual responsiveness which is a function of transactional complexity, value and risks;
- due consideration to VfM, balancing the four guiding principles of Economy, Efficiency, Effectiveness and Equity, giving priority to one over the other for the specific procurement purpose; and
- proportionality including taking into consideration the transaction costs of conducting procurement, as well as predictability and clarity.

In the case of Public Private Partnerships (PPP) operations, the same risk-based FfP approach should be followed and it should rely on the same broad assessments and analysis (or at the minimum follow their focus and objectives), including any aspects regarding the use of BPS and paying particular attention to states in fragile situations and MICs contexts. This step is concluded with preparation of the draft PP.

Step 12: Types of Solicitation Documents (SDs) and Forms of Contracts

Once the applicable procurement methods are decided, the particular SDs applicable to each one of them (or group of) need to be decided. The particular types of SDs will depend on the procurement regime or framework to be used, that is, BPS; Bank; or third party rules and procedures. A typology of SDs and contracts are included in the Toolkit and their

analysis further detailed in the OPM. A material review of project-specific SDs that the EA uses, or that are standard in the particular sector should be carried out at this step. To ensure that policy principles and all necessary provisions are covered, the review should focus on the specific conditions prevailing for the project, taking into consideration the market analysis and the specific provisions and requirements in terms of procedures and evaluation criteria as defined in steps 8 to 10.

Special attention should to be given to specific forms of contracts (e.g. framework contracts⁹). Attention should be given to the type of contract with particular emphasis to contract terms, including dispute resolution mechanisms, which, should take the Borrower's own procedures into consideration. The choice of lump-sum or adjustable contracts is made with the objective of mitigating risks and preventing inflated bid prices and is not directly linked to the cost estimate¹⁰.

Step 13: Consideration of Advance Contracting and Other Bank Policy Requirements

At this step consideration is given to the need for advance contracting and retroactive financing, and also the requirements for eligibility (including UN charter, Conflicts of Interest (COIs), State Owned Enterprises (SOEs) and civil servants) which were addressed in step 9, are further refined. In the first place, advance contracting can be a measure of great benefit to successful execution of a project and considerable time savings can be achieved, if for example, invitations to prequalify or bid, or even letters of intent, are issued before formal Board approval of the loan or grant, by the Bank. However, such activity is at the cost of the Borrower, who must be made aware of the disadvantages if the FA is not concluded.

The eligibility requirements for procurement under Bank financed projects are set out in Section 5 of the Policy and it clearly defines who are eligible bidders, what are eligible bids, the conditions for participation in Bank financing, and the applicable exceptions (see also step 7). These requirements are fully integrated in the Bank's SDs when Bank methods and procedures are being used. This review, therefore, ensures that such requirements are covered in the national SDs to be utilized under BPS or in the appropriate SDs, when third party methods and procedures are used. The analysis is mostly process-oriented and does not influence the choices made with regard to applicable methods and procedures.

Step 14: Applicable Fraud and Corruption (F&C) Provisions

The Bank's Integrity Framework¹¹ is applicable to all projects, regardless of whether procurement follows BPS, Bank, or third party methods and procedures. A specific

⁹ The use of framework contracts may not necessarily optimize the access of new market entrants for supply of the relevant products or services).

¹⁰ Potential cost overruns may result, at least in part from low contract prices (abnormally low bids), and not necessarily from the type of contract.

¹¹ The Bank's Integrity Framework comprises the Sanctions Procedures of the African Development Bank Group, the Bank's Whistleblowing and Complaints Policy, this Procurement Policy and any other applicable policies and procedures including their updates.

analysis is conducted with regard to the United Nations Convention Against Corruption (UNCAC) and its application in the Borrower's country.

Under BPS, any breach of country F&C provisions will be assessed by the relevant authority in the borrower's country as well as the Integrity and Anti-corruption Department of the Bank. In case of a difference of opinion or if the individual or firm would be sanctionable under the Bank Integrity Framework, the Bank will not declare misprocurement but may decide not to finance the process or contract at stake. Specific provisions in this regard will be included in the SDs to be used under BPS.

Step 15: Procurement Arrangements for Project Implementation

This step involves the recapitulation and fine-tuning of the specific project or programme requirements in terms of procurement management, Bank reviews, and supervision and monitoring. It covers all phases of the procurement process comprising advertising (including the GPN), prequalification where required, issuance of SDs/RFPs, bidding, bid /proposals evaluation including post qualification, and contract award. The activities undertaken during the various stages of procurement interventions are as follows:

- During the Pre-Bidding Stage: The PP is updated for this stage focusing on; (i) new unplanned activities in the context of the project implementation plan; (ii) final design and specifications or TORs; (iii) final cost estimates; (iv) time scheduling; (v) packaging; and (vi) finalization of the methods of procurement;
- During the Bidding Stage: The update centres on agreeing on the modalities for advertising (including SPNs for specific transactions), prequalification or short-listing and REOs, invitation, issuance of solicitation documentation and bid/proposals submission; and
- During the Post-Bidding Stage: The update should concentrate on bid/proposals opening procedures, evaluation of bids /proposals, bidders'/consultants' qualifications, contract award, and execution extending into the process of contract management and administration.

Step 16: Bank Oversight and Remedies

The Bank specific oversight mechanisms for the project or programme comprising monitoring of the Borrower's procurement processes, review and clearance procedures during the procurement process, audits and misprocurement remedies, are outlined at this stage.

The framework for the review of Borrowers' procurement methods, procedures, documents, bid evaluation and contract award recommendations, comprises prior and post reviews, and depends on whether BPS, Bank's international procedures, or other acceptable third party methods and procedures, are used. At this stage the preliminary PP is updated and fine-tuned, specifying clearly the extent to which these review procedures apply in respect of each transaction under the different categories of goods, works and consulting services to be financed, in whole or in part by the Bank. The extent of Bank reviews is based on an evaluation of the complexity and value of estimated contracts as well as the identified risks and is revised and updated periodically on the

basis of the results from the Bank oversight through application of the Procurement Assessment Tool¹².

In general all contracts to be executed through Bank and third party methods and procedures which will normally be of high-value and or high-risk procurement, will be subject to prior review while those under BPS will be subject to procurement audits in line with acceptable RMC's procedures and subject to the Bank's overall oversight. However, under constrained situations such as in states in fragile situations enclaves, Bank methods and procedures may be followed even for low value but relatively high risk transactions under the identified thresholds, which will be subject to prior review while the remaining others will be post-reviewed.

In the case of procurement under full use of borrower methods and procedures (BPS) the Bank delegates oversight to the country institutions based on the national procurement laws and regulations. Accordingly, the national oversight institutions such as the national regulatory body will carry out the procurement oversight, and the Bank will depend on the national Supreme Audit Institutions (SAI) and/or other auditors approved by it, to undertake procurement audits. Therefore, PARs will include the TORS and the costs for such procurement audits in the project costs, which must subsequently be reflected in the FA. In terms of remedies the following procedures apply:

- A breach of agreement, as assessed by the Bank, typically relying on an independent audit, may result in the Bank rescinding their acceptance on the basis of how national PMPs have been used. It means that the use of certain PMPs could be rescinded while the reliance on others would remain acceptable; and
- Bank supervision ensures that the borrower exercises due diligence with regard to F&C and the handling of complaints, and follows legal rules and exhausts all remedies. The Bank audit right is exercised according to its mandate, and implies the Bank may not finance contracts that have been misprocured.

Details of the Bank's oversight mechanisms and specific guidance on the selection of processes and contracts for prior and post review are given in the OPM and the related Forms are provided in the Toolkit.

Step 17: Draft Procurement Arrangements in the Project Appraisal Report and the Procurement Plan

The elaboration of the procurement arrangements in the Project Appraisal Report (PAR) is the last appraisal step to provide the necessary project procurement elements. This activity involves finalizing the PP and preparing the paragraphs for Inclusion in the PAR in accordance with the Bank's format¹³. The PP includes PMPs, indicative thresholds and ceilings as well as cumulative amounts for each category of expenditure by procurement method and it covers the whole project duration, however, tentative. The Borrower first prepares the detailed PP according to the conditions agreed with the Bank as outlined in the preceding sections. The PP constitutes part of the general implementation plan for the entire project. The Borrower is mandated to implement the approved PP and any updates and modifications subsequently approved by the Bank.

¹² Procurement Risk Assessment and Management (PROCRAAM)

¹³ Model paragraphs for Inclusion in PARs – Procurement of Goods, Works and Acquisition of Consulting Services – Annex B5

At the end of the project appraisal stage, the final PP, together with the Bank's procurement Supervision Plan (including the prior and post review levels) and the EA's capacity strengthening action plans, should form a coherent overall procurement strategy for the whole project.

The procurement arrangements or model paragraphs for Inclusion in the PAR should be prepared with the intention to serve the following main functions:

- Inform the Bank Board and Management of the proposed PP and strategy agreed with the Borrower for the utilization of the funds for procurement of goods, works and acquisition of the services of consultants to execute the project, and further to note the details including procurement packaging, choice of procedures, and any attached conditionalities;
- Provide information for Bank Management on the potential risks involved in implementing and scheduling the proposed procurement arrangements including project and capacity associated risks of the Borrower's EA, and to address measures that would minimize those risks to achieve VfM and ensure acceptable development outcomes;
- Provide a timetable for the physical implementation of the investment and to make an estimate of the project's cash flow and the Bank's loan disbursements; and
- Provide a basis against which subsequent supervision and monitoring of procurement matters can be measured.

At this stage the project components, estimated costs, methods and procedures for procurement must be finalized and be presented as a tabulation of all project-related procurement, including components or elements financed by the Bank and by other sources in the Paragraphs for Inclusion in the PAR. This covers the whole project or programme and highlights clearly the components to be procured through BPS; Bank; or third party methods and procedures. The list of project components and their elements should be an aggregation of similar items identifiable with the main categories of expenditure under the project. The list should cover all goods, works, and consulting services contracts required under the project or programme regardless of the source of funds. Such items as incremental salaries for operating staff, incremental working capital, refinancing of Project Preparation Facility (PPF) advances, interest during construction, front-end fee, etc., should be shown in a "Miscellaneous" category.

The procurement arrangements also include all agreed indicators to monitor project procurement management and track performance, as well as audit requirements. The model paragraph for Inclusion in PARs incorporating the FfP approach is included in the OPM.

The output from this step is the procurement arrangements for the specific project or programme clearly described in the PAR, with the key elements captured in the PP and the legal provisions incorporated in the FA.

e) Loan or Grant Negotiations and Board Approval

Step 18: Negotiations and Finalization of the Procurement Arrangements under the Project

Negotiations constitute the stage where the Bank and the Borrower, as partners, endeavour to reach agreement on the specific actions necessary to achieve the project or programme's objectives including the detailed schedule for implementation. It requires discussion and finalization of the PP, the paragraphs covering procurement of goods, works and acquisition of consulting services for inclusion in the PAR and the FA. These contain the main applicable legal and procurement provisions for the project. These provisions include the following:

- The Financing of Project or Programme Components: The Bank does not usually finance all the aspects of the project. In instances where there is a co-financier, a determination must be made about the procurement rules and policies to be followed. The policy allows the Bank to sign mutual reliance agreements with other donors, recognizing the essential equivalence of each other's procurement policy, in which case under joint financing, such other donor's procurement rules may be used. UN Organizations may also be used on Bank financed projects and programmes using their own rules, under specific circumstances. Otherwise, parallel financing arrangements are agreed upon. In such instances, the Bank only finances defined components of the procurement carried out according to the Bank procurement policy, while the other components are financed using the co-financiers' funds and in line with their procurement policies;
- Procurement Methods and Procedures: BPS, Bank or third party systems procurement methods and procedures may be used for the various items to be procured in order to implement the project. The modalities for determination of the procurement regime have been considered in the previous sections and are detailed in the PP. These comprise procurement methods (the details OCB, LCB, other) and the procedures (advertising, bidding, evaluation and contract award) and these are finalized for each project component during the negotiations;
- Detailed Elements, Cost Estimates Timelines: The detailed cost estimates for the various elements of the project, the relevant procurement cycle timelines for the various procurement methods and procedures selected and agreed upon, the approval levels and authorities, are finalized;
- Standard/Model Solicitation Documents: Under BPS, or Bank or third party methods and procedures, the Standard/Model Solicitation Documents to be used by the Borrower for procurement will be the Borrower's or the Bank's SDs or other recognized documents acceptable to the Bank, and these are discussed and agreed;
- Capacity Development Action Plan: The action plan for procurement organization and the details of any project based capacity building, the type of technical assistance and training to be procured, if any are required, and the method of procuring such assistance and training; and
- Procurement Monitoring: The monitoring arrangements and the reporting requirements expected of the Borrower are highlighted.

Once the details of these issues are agreed upon and incorporated into the PAR, they are converted into legal obligations on the Borrower's part, and are set out in the FA, by the Bank's Legal Department.

Bank rules prevail through the FA. In case of a conflict between the Bank procurement policy and the Borrower's national procurement laws and regulations, the former including by reference the Procurement Policy Framework, the PP, and, wherever applicable, the Project Implementation Manual takes precedence under the General Conditions applicable to Bank financed projects.

IV. MONITORING AND EVALUATION

4.1 Introduction

- 4.1.1 Procurement monitoring and evaluation provides feedback to the country and to the Bank engaged in activities at the country, sector and project operational level. Borrowers are required to prepare and maintain documents and records relating to the procurement process, from planning through contract management, for the purpose of effective monitoring and evaluation of the procurement cycle by the Borrower and to facilitate review by the Bank¹⁴. Information to be monitored for a project will be identified by the EAPA, drawing on various sources such as the BPAR. Where capacity development is associated with such actions that will further be documented in a PDAP and monitored throughout project implementation. Primary monitoring tools are the post procurement reviews (PPR), procurement audits, independent procurement reviews (IPR) and reviews associated with Bank procurement oversight and project monitoring.

4.2 Responsibilities of the Borrower and the Bank

- 4.2.1 The Borrower monitors procurement to ensure compliance with the applicable framework, efficient implementation and effective delivery of project development outcomes efficient implementation of the project on the other. The information to be monitored is agreed with the Borrower during project preparation and appraisal, documented in the EAPA and finalized during negotiations. Such information normally includes details of the contracts awarded under BPS and those under Bank and third party methods and procedures. The details also include procurement methods; advertisement; notifications of awards; timing of procurement actions; payments; contract amendments; handling of complaints; and contract disputes.
- 4.2.2 The Bank discharges its fiduciary oversight through various means including: (i) procurement audits for contracts under BPS; (ii) prior and post review of contracts under Bank's methods and procedures; and (iii) agreed reports for contracts under third party methods and procedures. In addition, the Bank may also undertake independent procurement reviews to monitor the compliance and performance of various actors involved in project implementation. The Bank may also conduct specialized reviews (including physical verification of performance as may be considered necessary during the implementation of the project). In high risk projects such as those having a complex design or many small and geographically dispersed components, specialized reviews may be agreed that are specifically designed to monitor and mitigate procurement risk.

4.3 Risk Identification, Monitoring and Mitigation

- 4.3.1 The procurement capacity development action plan as part of the BPAR and other assessments identifies actions to be taken to mitigate risks and these will be required to be monitored and the modalities to do so will be agreed with the Borrower.

¹⁴ See paragraph 12.1 "Monitoring and Evaluation" of "Procurement Policy for ADB Funded Operations"

4.4 Procurement Monitoring is a Dynamic Process

- 4.4.1 Procurement risk and associated mitigation measures are identified during project preparation. Such risk measures may need to be re-adjusted and agreed with the Borrower throughout the course of the project as circumstances change. The details of continuous monitoring are explained in the Bank's PROCAM explained in detail in the OPM. Outputs of reviews may lead to a review of the assessed procurement risk rating for the Project. This in turn may lead to adjustments to the risk mitigation measures. Any changes in this regard are agreed with the Borrower and documented through revisions to the Procurement Plan.

4.5 Monitoring Procurement Capacity Development

- 4.5.1 The Bank's BPAR Report typically outputs a PDAP that is implemented primarily at the country level, by Borrowers, in the form of procurement reforms, supported by the Bank and other donors and which forms an important element of any monitoring and evaluation framework. On occasion, as earlier noted, a PDAP can be informed in significant part from work done at project (and sector) levels through preparation of the EAPA in the absence of a comprehensive and up-to-date BPAR. The PDAP is made up of actions that are intended to address specific gaps noted during country (or, depending on circumstances, project) level diagnostic. Each activity should have a monitoring indicator that will help determine if the activity is addressing the gap. Such indicators are performance based and look to determine if an intended outcome is being achieved. Performance indicators measure change and not compliance. For example, if a country has a persistent problem with timely payment under contracts, the activity in the PDAP may include a systemic change such as introducing an IFMIS system to track and monitor payments. The outcome to be achieved, in this particular case, is timely payment (or at least an improvement).
- 4.5.2 At the project level, the EAPA which analyzes EA capacity, compliance and performance, also result in identification of gaps with regard to procurement capacity, and the development of mitigation measures which are incorporated into the project. The implementation of these capacity development measures, demands active monitoring. Secondly, implementation of the Bank's dynamic risk assessment tool, PROCAM, which incorporates PPRs and IPRs, during project implementation, leads to outputs which also feed into the development or updating of subsequent action plans. Thirdly, the country level PDAP may further have project or EA level recommendations to be considered at this level. Each capacity development activity should have a performance based monitoring indicator to measure when the closing of that particular gap has been achieved. The recommendations set out in all these action plans are regularly monitored, and progress in execution is evaluated against project-specific deliverables. Once the overall project action plan is adopted, monitoring its implementation is part of the regular project supervision for improving project implementation.

Annex 1: Matrix of Activities

Annex 2: Attributes of an Acceptable Borrower Procurement System

ANNEX 2: ATTRIBUTES OF AN ACCEPTABLE BORROWER'S PROCUREMENT SYSTEM

1. **Introduction:** Borrower's procurement systems acceptable to the Bank shall be founded on principles and best practices which are focused on achievement of value for money; open, effective and adequate competition; fair and equitable treatment; integrity and transparency; accountability and due process; and non-discrimination in line with the Bank's Procurement Policy. The four pillars of a sound public procurement system for a country which are derived from the OECD/DAC's Methodology for Assessment of Procurement Systems (MAPS)¹⁵, are highlighted in Box 1.

Box 1: Pillars Governing a Sound Public Procurement System

- I. **Public Procurement Legislative and Regulatory Framework (Pillar 1)**, covering Implementing Regulations and Documentation including Solicitation and Contract Documents, in line with agreed international standards;
- II. **Public Procurement Institutional Framework (Pillar 2)**, ensuring mainstreaming and integration of the procurement system into the Public Sector Governance System; separation of policy from transactions to avoid conflict of interest (Functional Regulatory Body); and institutional development capacity to undertake data collection, and analysis, training, staff development, performance measurement;
- III. **Efficient Procurement Operations and Practice (Pillar 3)**, involving capacity and competence of staff, records keeping; functionality of the Public Procurement Market ensuring competition and open access; and existence of Contract Administration and Dispute Resolution Mechanisms;
- IV. **Integrity of the system (Pillar 4)**, including effective Control and Audit Systems; Efficient Appeals Mechanisms; Access to Information; and Existence of Ethics and Anti-Corruption Measures

2. **Broad Attributes:** To be acceptable for use under Bank financed operations, Borrower's legal and regulatory procurement framework shall ensure:
- (a) best value (including maximizing economy and efficiency) through the procurement process;
 - (b) procurement be open to all potential suppliers or contractors or consultants irrespective of nationality. Any limitation to this principle should be based on provisions of the law of the Borrower's country and sound socio- economic principles;
 - (c) adequate competition in procurement;
 - (d) fair, equal and equitable treatment of all bidders;
 - (e) credible bid protest or complaint handling provisions;
 - (f) integrity and transparency in the procurement process; and
 - (g) promotion of sustainable procurement consistent with the provisions of the Borrower country's laws.
3. **Assessment Tool:** The Bank will use specific tools to assess a borrower's procurement system, including its regulatory and control systems, institutions, documentation and capacity for implementation both at central government level and at the project Executing /

¹⁵ Under the auspices of the joint World Bank / OECD Development Assistance Committee (DAC) Procurement Round Table initiative, developing countries and bilateral and multilateral donors worked together from 2003 – 2004 to develop a set of tools and standards that provide guidance for improvements in procurement systems and the results that they produce. This evolved over time to become, in 2008, the Methodology for Assessment of Procurement Systems (MAPS).

Implementation Agency (EA) level. In this regard, the Bank shall use the latest version of the OECD/DAC's MAPS, and or any other suitable methodologies, that may be suitably customized to assess Borrower's procurement system against the Bank's procurement policy objectives and principles.

4. Assessment Framework: With a view to establishing a consistent and accountable framework, which is also sufficiently flexible, within which to undertake this assessment, key attributes are defined that are central to a well performing procurement system and are necessary for a system to be deemed acceptable for use under Bank financed operations. The following sections describe such key attributes at the country and project EA level. The requirements for acceptability of Open Competitive Bidding (OCB) procedures as well as the key contents for acceptable bid/solicitation documents are given in Annex 3.

5. Attributes of Borrower procurement system: The key attributes of an acceptable borrower procurement system may be listed as follows:

- **Legal and Regulatory Framework:**

- The borrower has a comprehensive and transparent legal framework defined by clear rules that promote achieving the objectives of competition, economy and efficiency, effectiveness, equity, transparency, fairness and accountability.
- The legal framework and implementing rules and procedures are published and easily accessible to all through a publicly accessible resource.
- As a minimum, the procurement rules include the following:
 - Applicability of the rules to all procurement undertaken using public funds.
 - A description of acceptable methods of procurement that establishes open competition as the default method and defines conditions under which other acceptable methods may be applied.
 - Clear requirement to publish opportunities providing sufficient information for interested parties to participate and sufficient time, consistent with the requirement, for interested parties to prepare and submit their bids / proposals.
 - Clear eligibility requirements for participation based on the qualifications of interested participants and on the requirements of the specific procurement. Such provisions must be non-discriminatory but may take into consideration specific country obligations that are covered by the laws of the country as may be considered acceptable to the Bank. Registration requirements, if they exist in the country, must not create a barrier to participation and be simple in order to allow all interested participants to register in a timely manner.
 - Minimum content of bid or solicitation documents are specified in the rules.
 - The basis for an award decision is required to be clearly stated in the bid/solicitation documents including disclosing all evaluation and award criteria and how they will be applied.

- Submission, receipt and opening of bids and proposals rules are stated and ensure equity, transparency and fairness. Records of public opening are retained and made available for subsequent review and audit.
 - Contract award information is published (may be linked to a monetary threshold) and contract award information if below a threshold, is publicly available.
 - The rules provide for the right of participants in a procurement process to submit complaints which will be subject to review and resolution in a well-defined process based on factual information and a process that adheres to established timeframes so as to not unduly delay procurement.
- **Documentation:**
 - The regulatory body may provide model procurement documents that address the various methods of procurement as authorized under the procurement rules and cover the range of requirements for obtaining goods, works and services. Such model documents can be differentiated to provide simplified formats for use in small purchase and model documents suitable for more complex procurement including standards for solicitation of proposals. Standardized model documents provide for consistency across EAs and provide the basis for entering into a valid contract following the procurement process. Model documents include standard and mandatory clauses as may be required by country requirements.
 - The procurement rules clearly define required retention of documentation to enable reviews and appropriate implementation of controls through audit.
 - **Management and Control Framework:**
 - Public procurement systems may be based on centralized policy and oversight and implemented by decentralized implementation agencies. Such a system should have a clearly identified central policy and oversight agency that not only clarifies and advises with regard to policy and provides management oversight, but may also provide a range of services to include training, development of tools and documents to support implementation and collection of data for reporting on performance and to identify areas where additional management attention is required.
 - Borrower procurement systems based on a centralized model will still need to have a separation of policy and oversight from the purchasing function in order to avoid a conflict of interest.
 - The procurement framework must provide for a defined audit responsibility with an audit institution qualified to oversee internal and external audit. A well-functioning audit system will provide for timely audit, reporting of findings and follow up to ensure compliance. Audit staff must have the capacity to review the use of public funds through procurement and in accordance with the rules and procedures governing the process.
 - The procurement framework may define additional institutions that contribute to management and control. Such institutions may include an Ombudsman office,

Administrative Courts or specialized Review Boards such as independent boards established to address complaints. These institutions can contribute to the overall capacity of institutions to provide a well-functioning management and control environment.

- An independent judicial system that is able to issue and enforce legal rulings is a key attribute of an acceptable management and control system.
- A functioning civil service system exists that is able to define appropriate skills and capacities for civil servants, including specific skills and capacities for those handling specialized public financial management responsibilities like procurement. The civil service system should have a well-defined set of ethical standards for civil servants, especially for those that undertake fiduciary responsibilities.

6. Executing System: The attributes of a well performing EA system are the following:

- **Human Resources:**

- Qualified staff with clearly defined roles and responsibilities that are considered necessary to manage and implement the specific project.
- Clearly defined lines of authority with appropriate accountability.
- Qualified staff-personnel with the necessary skill and capacity to carry out assigned responsibilities.

- **Management and Control:**

- Clear position descriptions, roles and responsibilities including clearly defined authority.
- An internal control system that clearly defines process and procedures should be in place. Such a system should have built in checks and balances that are reasonable and can be implemented without causing undue delay.
- Delegation of authority should be established consistent with capacity of staff and to improve flow of work and decision making.
- Management and control system must define a records management system that will complement the internal control system and provide for reporting, external audit and reviews.

7. Bank Assessment of Borrowers' Systems. The Bank will conduct its assessments of the performance of Borrowers' procurement systems at the following three levels:

- Country-level assessments shall include a detailed review, based on available documents and an analysis of processes and performance, of: (i) the institutional, legal and regulatory procurement framework; (ii) the control environment that enforces the proper application of laws, regulations and procedures; (iii) the capacity of the overall system, institutions and staff to discharge the procurement function and properly

implement the rules and procedures; and (iv) the capacity of the various industries to respond to bids and meet qualification requirements.

- Sector-level assessments shall include a detailed review of: (i) the overall capacity of the sector, institutions and staff to discharge the procurement function; and (ii) the capacity of the industry to respond to bids and meet qualifications criteria.
- EA-level assessments shall include capacity in: (i) carrying out procurement processes (bidding and contract management) and handling complaints, (ii) managing contract payments, verifying final costs of contracts (vis-à-vis cost estimates), monitor contract schedules (vis-à-vis contract duration estimates), and assessing the validity of contract amendments; and (iii) preparing technical specifications.

Annex 3: Attributes of Open Competitive Bidding and Other Procedures

ANNEX 3: ATTRIBUTES OF OPEN COMPETITIVE BIDDING AND OTHER PROCEDURES

1. **Introduction:** Open Competitive Bidding (OCB) Procedures acceptable to the Bank should be founded on principles focused on achievement of value for money; open, effective and adequate competition; fair and equitable treatment of bidders; integrity and transparency; accountability and due process; and non-discrimination in line with the Bank's procurement policy. Procurement methods and procedures shall ensure compatibility and consistency with the objectives and principles of the Bank's procurement policy.
2. **Key Attributes for Acceptable Open Competitive Bidding:** Essential elements of open competitive bidding acceptable to the Bank include the following key generic factors:
 - **Eligibility**
 - Eligibility restrictions should be based only on economic criteria and it may include primary boycotts of a country;
 - **Registration**
 - Registration should be simple and not be a barrier to participation and should not discriminate;
 - Registration or pre-selection of bidders or offerors for other than administrative and fiscal purposes excluded;
 - **Publicity**
 - Publication of procurement opportunities on a freely accessible, widely consulted website and it should provide sufficient time to allow interested parties the opportunity to respond.
 - **Association between Firms**
 - Firms wishing to participate on their own should not be mandated to associate with other firms;
 - Mandatory requirements for associations with local firms not acceptable except under exceptional circumstances;
 - **Solicitation Documents**
 - Standard widely used, and internationally accepted solicitation and contract documents;
 - Specifications are generic (preferably functional) and no unfair advantage given to any bidder or offeror;
 - Fair, transparent, equitable, non-discriminatory qualifications criteria comprising technical experience, capacity and financial requirements, and the procedures for application clearly stated;
 - Fair, transparent, equitable, non-discriminatory bid and proposal evaluation criteria and procedures for application clearly stated;
 - Clear differentiation between bid and proposal evaluation criteria; and
 - Any preference margins clearly stated including how they will be applied.

- **Bidding Procedures**

- Sufficient time, consistent with the requirements of the specific procurement, should be provided between advertisement and submission;
- Adequate time for bid preparation and submission provided;
- Adequate provisions for bid security as required;
- Acceptable methods for submission of bids/proposals should be clearly defined;
- Clarifications shall be required only in writing;
- Immediate and public opening of all bids and financial proposals with signed attendance and records / minutes kept;
- All bids/proposals received in a timely manner should be opened and examined before they may be disqualified in accordance with the stated requirements in the solicitation document;
- Late bids or proposals rejected and returned unopened;
- The requirements for large joint ventures and associations shall include joint and several liability clearly and appropriately stated;
- Adequate provisions for extensions to bid and proposal validity;
- Proper provision for delivery of bids and proposals;
- provisions for bid prices and currency of payments for each type of contract should be consistent with the international best practices;
- Public/semi-public bids/proposals opening procedures; and
- Existence of preferences and/or restrictions on sources of labour and material and/or other restricted/favourable access to specific categories of bidders.

- **Evaluation Procedures and Contract Award**

- Procedures to define responsiveness (meeting functional and technical specifications or responding to TORs) of bidders and offerors;
- Assessment of qualifications based on objective criteria and the satisfactory past performance of bidders - Postqualification the preferred procedure;
- Prequalification is restricted to complex and innovating contracts (value should not be used as a proxy to determine whether one or the other is best fit for purpose);
- Merit point system to evaluate bids limited to specific circumstances - normally not to be used except under specific circumstances and clearly specified procedures;
- Award made to the qualified and responsive best-evaluated bidder (with the lowest evaluated responsive bid) and/or highest-ranked proposal, based on proper application of the stated criteria;
- Award in accordance with pre-disclosed criteria and without negotiations for goods and works. Negotiations only acceptable in specified circumstances such as modification of scope or risk allocation or to meet available funds. On the other hand, negotiations are normal for Consultancy Services;
- Confidentiality and independent evaluation of bids or proposals - Information on the process disclosed only after evaluation is completed. Confidential or proprietary information protected from disclosure;
- Price adjustment provisions applicable for volatile monetary situations and for contracts of longer duration; and
- Conditions for rebidding and requesting new requests for proposals clearly stated.

3. Minimum Content of Solicitation Documents: Well formulated solicitation documents are essential for a good procurement system. The Bank encourages the use of its own or internationally-accepted solicitation documents, or the acceptable documents of the Borrower. Checklists of the contents and applicable clauses for solicitation documents are

given in the harmonized Master Procurement Documents (MPDs) for Prequalification, Works, Goods, and Supply and Install the cross-harmonized clauses and the harmonized Standard Request for Proposals (SRFP) for Consulting Services. The Clauses in the Standard Solicitation Documents may be complemented by factors specific to each procurement category (goods, works and consulting services) and various procurement methods and procedures within each category. For example, open, or restricted competition, one-stage vs two-stage bidding, prequalification vs postqualification. At the minimum Borrowers' solicitation documents, that is bidding documents (BDs) for open competitive bidding for procurement of goods and works, and requests for proposals (RFPs) for the Shortlisting of Consultants, should essentially include three main parts with contents as follows:

- **Bidding Procedures**
 - Instructions to Bidders (ITB)¹⁶ or Instructions to Consultants (ITC)¹⁷.
 - Bid Data Sheet - provides necessary information and provisions specific to each bid or proposal.
 - Evaluation and Qualification criteria contains the criteria to be used to determine the best-evaluated bidder or highest-ranked proposal.
 - Bidding/Proposal Forms, standard bidding and proposal forms and letter of bid or offer.
 - Eligible Countries, List of Eligible Countries.
- **Purchaser's or Employer's Requirements**
 - Borrowers' Requirements, schedules of requirements and specifications or TORs.
- **Conditions of Contract and Contract Forms**
 - General Conditions of Contract, must include requirements with appropriate standard contract provisions covering at the minimum, Definitions, Contract Documents, Fraud and Corruption, Interpretation, Language, Joint Venture, Eligibility, Notices, Governing Law, Settlement of Disputes, Scope, Delivery and

¹⁶ ITB should include: 1) a General Section (Scope of Bid, Source of Funds, F&C, Eligible Bidders and Goods and Related Services); 2) Contents of BDs (Sections, Clarifications, Amendment); 3) Preparation of Bids (Cost, Language, Documents Comprising the Bid, Bid Submission Form and Price Schedules, Alternative Bids, Bid Prices and Discounts, Currencies of Bid, Documents Establishing the Eligibility of the Bidder, Documents Establishing the Eligibility of the Goods and Related Services, Documents Establishing the Qualifications of the Bidder, Period of Validity of Bids, Bid Security and/or Bid-Securing Declaration, Format and Signing of Bid); 4) Submission and Opening of Bids (Submission, Sealing and Marking of Bids, Deadline for Submission of Bids, Late Bids, Withdrawal, Substitution, and Modification of Bids, Bid Opening); 5) Evaluation and Comparison of Bids (Confidentiality, Clarification of Bids, Responsiveness of Bids, Non-conformities, Errors, and Omissions, Preliminary Examination of Bids, Examination of Terms and Conditions, Technical Evaluation, Conversion to Single Currency, Preferences, Evaluation of Bids, Comparison of Bids, Postqualification of the Bidder, Purchaser's Right to Accept Any Bid, and to Reject Any or All Bids); and 6) Award of Contract (Award Criteria, Purchaser's Right to Vary Quantities at Time of Award, Notification of Award, Signing of Contract, Performance Security).

¹⁷ ITC should include: A) General Provisions (Definitions, Introduction, Conflict of Interest, Unfair Competitive Advantage, Corrupt and Fraudulent Practices Eligibility); B) Preparation of Proposals (General Considerations, Cost of Preparation of Proposal, Language, Documents Comprising the Proposal, Only one proposal, Proposal Validity, Clarification and Amendment of RFP, Preparation of Proposals – Specific Considerations, Technical Proposals Format and Content, Financial Proposal); C) Submission, Opening and Evaluation (Submission, Sealing and Marking of Proposals, Confidentiality, Opening of Technical Proposals, Proposals Evaluation, Evaluation of Technical Proposals, Public Opening of Financial Proposals (for QCBS), Correction of Errors, Taxes, Conversion to Single Currency, Combined Quality and Cost Evaluation; and D) Negotiations and Award (Negotiations, Conclusions of Negotiations, Award of Contract.

Documents, Responsibilities, Contract Price, Terms of Payment (modes of payment, currency of payment in accordance with bid and proposal prices, interest for late payments), Taxes and Duties, Price Adjustment Formulae (if needed), Performance Security, Confidential Information, Subcontracting, Specifications and Standards, Liquidated Damages, Warranty, Limitation of Liability, Change in Laws and Regulations, Force Majeure, Contract Amendments, Extensions of Time, and Termination).

- Particular Conditions of Contract, specific provisions as may be applicable to each category of procurement in accordance with generally accepted practice in the particular situation. BDs for goods should, for example, cover Packing and Documents, Insurance, Transportation, Inspections and Tests, Patent Indemnity, Assignment, Export Restriction.
- Contract Forms.

4. *Specific Methods of Procurement for Goods and Works:* In this Policy the general methods of procurement for goods and works including non-consulting services are classified into four main generic groups; (i) Open Competitive Bidding (OCB); Limited /Restricted Bidding (LCB); (iii) Direct Procurement / Non-Competitive Bidding (DP); and (iv) Force Account Construction. OCB Methods include International Competitive Bidding (ICB) and National Competitive Bidding (NCB). On the other hand, Limited or Restricted Competitive Bidding (LCB) methods cover Limited International Bidding (LIB) and Shopping or Request for Quotations (RFQ) All of these are reflected in the existing Rules and may be referred to as traditional methods.

On the other hand, non-traditional methods of an innovative nature, that are sometimes contemplated under broad non-prescriptive provisions include competitive dialogue and other negotiation-based procedures, Design & Build (DB), Engineering Procurement and Construction (EPC), Concessions or PPP arrangements, Performance-based Procurement/ Output-based Procurement/ Performance-based Contracting, Output-based Aid, Procurement Auctions, Framework Agreements/ Indefinite Delivery Contracts, Preferred Supplier Pricing Program, Offset Principles and Leased Assets. Some of these procurement options are more procedures or contracts than procurement methods but they are mentioned here for completeness and the conditions for their use are considered in the OPM.

Direct Procurement/Non-Competitive Bidding (DP). Where a single firm is selected under exceptional circumstances, usually when there is no possible competition and hence the key procurement principles, in particular of economy and efficiency, would not be served by a competitive process. Under exceptional circumstances, the Bank may agree with the Borrower that Non-Competitive Bidding or Direct Procurement (DP) methods be used for procurement of goods and works. These methods can be used normally under the following conditions:

- (i) An existing contract for goods or works, awarded in accordance with procedures acceptable to the Bank, may be extended for additional goods or works of a similar nature. The Bank shall be satisfied in such cases that no advantage could be obtained by further competition and that the prices on the extended contract are reasonable. Provisions for such an extension, if considered likely in advance, shall be included in the original contract;

- (ii) Standardization of equipment or spare parts, to be compatible with existing equipment, may justify additional purchases from the original Supplier. For such purchases to be justified, the original equipment shall be suitable, the number of new items shall generally be less than the existing number, the price shall be reasonable, and the advantages of another make or source of equipment shall have been considered and rejected on grounds acceptable to the Bank;
- (iii) The required equipment is proprietary and obtainable only from one source;
- (iv) The Contractor responsible for a process design requires the purchase of critical items from a particular Supplier as a condition of a performance guarantee;
- (v) In exceptional cases, such as in response to disasters (either natural or man-made) and emergency situations declared by the Borrower and recognized by the Bank; and
- (vi) The amount of procurement is very small (thresholds will be established by the Bank).

Force Account: This is, construction by the use of the Borrower's own personnel and equipment¹⁸, may be the only practical method for constructing some kinds of works. The use of force account may be justified where:

- (i) quantities of work involved cannot be defined in advance;
- (ii) works are small and scattered or in remote locations for which qualified construction firms are unlikely to bid at reasonable prices;
- (iii) work is required to be carried out without disrupting ongoing operations;
- (iv) risks of unavoidable work interruption are better borne by the Borrower than by a Contractor; and
- (v) there are emergencies needing prompt attention.

5. Specific Methods for Selection of Consultants: Consultants' selection methods include Quality and Cost Based Selection (QCBS), Quality Based Selection, Selection under a Fixed Budget (FBS), Least Cost Selection (LCS), Selection Based on Consultants Qualifications (CQS), and Single Source Selection (SSS). In specific situations, use of pre-qualification for selection of consulting firms in conjunction with one or more of such selection methods, may be optimal such as in the context of application of framework contracts. While such methods may in particular instances differ significantly from those to procure goods and works, the principles and process are similar although specificities apply with regard to short listing (akin to a two-stage process), forms of contract, procedures, and award criteria.

Direct Recruitment or Single-Source Selection (SSS). It can normally be used under the following conditions:

- (i) For tasks that represent a natural continuation of previous work carried out by the consultant;

¹⁸ A government-owned construction unit that is not managerially and financially autonomous shall be considered a force account unit. "Force account" is otherwise known as "direct labor," "departmental forces," or "direct work".

- (ii) In emergency cases, such as in response to disasters and for consulting services required during the period of time immediately following the emergency;
- (iii) For very small assignments; or
- (iv) When only one consultant is qualified or has experience of exceptional worth for the assignment.

6. **Encouragement of Borrower's Industry:** Preferences, or other mechanisms to support local industries, favor the adoption of certain products, respond to social and environmental objectives, and ensure diversity and/or enhanced access to certain categories of firms and individuals, and/or restrictions on sources of labor and material, should be required by law and should be based on properly defined and acceptable procedures (subjective and non-quantifiable and measurable criteria are not acceptable).