



Technical Assistance Report

Project Number: 49286-001
Regional—Policy and Advisory Technical Assistance (R-PATA)
December 2015

Conducting Procurement Risk Assessment for Improved Procurement Outcomes

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Asian Development Bank

ABBREVIATIONS

ADB	–	Asian Development Bank
CPS	–	country partnership strategy
DMC	–	developing member country
ICB	–	international competitive bidding
NCB	–	national competitive bidding
OSFMD	–	Operations Services and Financial Management Department
TA	–	technical assistance

NOTE

In this report, "\$" refers to US dollars.

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POLICY AND ADVISORY TECHNICAL ASSISTANCE AT A GLANCE

1. Basic Data		Project Number: 49286-001	
Project Name	Conducting Procurement Risk Assessment for Improved Procurement Outcomes	Department /Division	OSFMD/OSP1
Country	REG	Executing Agency	Asian Development Bank
2. Sector		ADB Financing (\$ million)	
✓ Multisector	ADB's corporate management, policy and strategy development		1.50
		Total	1.50
3. Strategic Agenda		Climate Change Information	
Inclusive economic growth (IEG)	Pillar 1: Economic opportunities, including jobs, created and expanded	Climate Change impact on the Project	Low
4. Drivers of Change		Gender Equity and Mainstreaming	
Governance and capacity development (GCD)	Client relations, network, and partnership development to partnership driver of change	No gender elements (NGE)	✓
	Institutional development		
	Institutional systems and political economy		
	Organizational development		
Knowledge solutions (KNS)	Knowledge sharing activities		
	Pilot-testing innovation and learning		
5. Poverty Targeting		Location Impact	
Project directly targets poverty	No	Regional	High
6. TA Category:	B		
7. Safeguard Categorization	Not Applicable		
8. Financing			
Modality and Sources		Amount (\$ million)	
ADB		1.50	
Policy and advisory technical assistance: Technical Assistance Special Fund		1.50	
Cofinancing		0.00	
None		0.00	
Counterpart		0.00	
None		0.00	
Total		1.50	
9. Effective Development Cooperation			
Use of country procurement systems	No		
Use of country public financial management systems	No		

I. INTRODUCTION

1. The 2013 procurement governance review of the Asian Development Bank (ADB) affirmed the critical need for country procurement risk assessments in order to identify implementation risks and mitigation measures. It specifically noted that every country partnership strategy (CPS) should be supported by a country-specific procurement risk assessment to identify major risks that could affect project implementation and therefore development effectiveness.¹ The review found that ADB CPSs and country operations business plans rarely have updated country procurement risk assessments with time-bound action plans and resource allocations to minimize procurement-related risks.

2. In July 2014, the President approved the Midterm Review of Strategy 2020 Action Plan.² As part of the Midterm Review, the President also approved the 10-point action plan for procurement and associated reforms. Action 1 of the plan requires that country and sector procurement risk assessment be conducted as part of the CPS process, to set updated bidding thresholds and determine the level of procurement oversight.

3. Assessments of the institutional capacity of procurement-related agencies in ADB's developing member countries (DMCs) are an important input in determining the extent to which country systems for procurement could be adopted in ADB projects. However, ADB has not yet adopted a systematic approach using a clear methodology to assess national and sector-level procurement risk, and to establish benchmarks to enable measurement of changes in DMC procurement capability.

4. The proposed procurement risk assessment methodology, which was developed as part of the 10-point action plan, allows procurement risk to be identified, enables determination of whether a DMC's country systems are suitable for procurement, and revises procurement review thresholds and the prior review requirement. The design and monitoring framework for this technical assistance (TA) is in Appendix 1.³

II. ISSUES

5. Experience from ADB-financed projects across DMCs shows that procurement is time consuming and often delays project implementation.⁴ ADB carries out assessments of the procurement capacity of procuring entities during project processing to identify risk areas and adopt suitable risk mitigation measures during project implementation. Risk mitigation is essential to ensure ADB financing is spent as intended and to safeguard ADB's reputation. However, these risk mitigation measures—which include providing procurement consultants under the project management or supervision contracts to develop the executing agency's capacity—do not aim to develop the long-term capacity of the procuring entity. This is evident from delays experienced in many projects that have project management support built into the project design. The underlying causes of weak procurement and implementation capacity, whether they are inherent in the procuring entity or in the environment where the procuring entity operates, are not clearly understood, and therefore not addressed.

6. The quality of procurement systems varies significantly across DMCs, and across sectors and agencies within each DMC. ADB has provided resources and TA in support of

¹ ADB. 2013. *Procurement Governance Review*. Manila.

² ADB. 2014. *Midterm Review of Strategy 2020 Action Plan*. Manila.

³ The TA first appeared in the business opportunities section of ADB's website on 5 November 2015.

⁴ ADB. 2011. *Annual Portfolio Performance Review 2011*. Manila.

various government procurement reform programs, with the aim of improving project implementation management capacity of executing agencies of ADB-funded projects. Several DMCs have implemented first-generation public procurement reforms through the enactment of procurement laws and the establishment of relevant national institutions. However, the achievement of national-level policy and institutional reforms does not automatically result in more effective procurement by line agencies. In addition, broader governance weaknesses result in inefficient use of funds and delays in project implementation. This is evident from the procurement capacity assessments that ADB selectively conducts for project loans, which generally reveal procurement capacity constraints, regardless of whether the executing and implementing agencies have experience with ADB-financed projects. Hence, it is important to identify strengths, risks, and bottlenecks that hamper the flow of national-level reforms down to the executing and implementing agencies, so that implementation-level procurement practices are effective and contribute to achievement of development outcomes.

7. ADB's current procurement supervision practices call for either prior or post approval of ADB-financed contracts. The quality of this review, particularly for contracts of lower value, rarely results in ADB not granting formal approval of an executing agency procurement decision. This consumes valuable project time. It is expected that the proposed changes to ADB's procurement supervision practices under the 10-point action plan, of which this action 1 is a part of, would considerably reduce the number of transactions subject to ADB review, by letting countries take greater ownership and accountability. It would also, as appropriate, pave the way for adopting more risk-based approaches and simplify the type of review without compromising procurement principles, and thereby reduce staff work load and time taken for approval of transactions. Such measures will help ADB more effectively manage the increase in its lending resulting from the merger of the Ordinary Capital Resources and Asian Development Fund.

8. The proposed TA will directly support the preparations of CPSs through more systematic and current sector-specific procurement risk assessments. It will highlight procurement-related risk and institutional capacity gaps that can hamper the delivery of development results.

III. THE POLICY AND ADVISORY TECHNICAL ASSISTANCE

A. Impact and Outcome

9. The impact of the proposed TA is a more effective and efficient procurement system in ADB DMCs.

10. The outcome is an appropriate level of delegation of procurement activities to ADB DMCs.

B. Methodology and Key Activities

11. The assessment commences with the selection of procuring entities in various sectors in a DMC, in close cooperation with ADB regional departments. Assessments in a specific DMC will be synchronized with the formulation of that DMC's CPS. Using the diagnostic guide developed by the Operations Services and Financial Management Department (OSFMD), an initial desk review of procurement laws, regulations, and processes in the DMC will be conducted. The desk review will also take into account any information available to ADB and country-specific procurement experience. Subsequently, a field review of procurement processes as they are practiced by key agencies in ADB's primary sectors of operation will be conducted. The review will be based on interviews, questionnaires, and a sample of selected

project-level procurement transactions. Based on the findings, sector procurement risks will be identified, leading to a determination of the thresholds for international and national competitive bidding, including prior and post review limits. Risk mitigation measures will also be proposed. A summary will be prepared for each sector and included in the CPS. The thresholds and review limits will determine the level of delegation with regards to procurement. There is a caveat that only limited procurement data may be available in some sectors, to make a reasonable procurement risk assessment. Special assumptions may be needed in such cases.

12. The results will be used to set thresholds and review limits. A summary of the sector risks and thresholds will be incorporated in ADB CPSs. A comprehensive procurement risk assessment at the agency or project level that builds on the initial findings will be undertaken for selected projects, including DMC programs. The assessment will indicate whether or not the national procurement procedures and institutions, and the capacity and performance of the executing and implementing agencies adequately meet the procurement principles of competition, economy and efficiency, transparency, and fairness and equal opportunity. The lessons from the TA will assist ADB in preparing a comprehensive and practical procurement risk assessment methodology for the use of country procurement systems. The findings of the TA can also be used to develop the capacity of DMCs to monitor and evaluate procurement procedures, performance, and outcomes, and determine if these are in line with action plans to mitigate procurement-related risks and strengthen capacity.

C. Cost and Financing

13. The TA is estimated to cost \$1,500,000, which will be financed on a grant basis by ADB's Technical Assistance Special Fund (TASF-other sources). The detailed cost estimates and financing plan are in Appendix 2.

D. Implementation Arrangements

14. ADB will be the executing agency. OSFMD will be responsible for all TA activities. The TA will be implemented from January 2016 to December 2018. The TA will be implemented in ADB DMCs in a phased manner, and synchronized with the CPS preparation process. OSFMD will work closely with the relevant regional departments, including the ADB governance thematic group.

15. From the experience gained in previous pilot procurement risk assessment studies conducted by OSFMD, the TA will require international consultants (an estimated 40 person-months) and national consultants (an estimated 100 person-months) with skills in procurement management, change management, and capacity development. Individual terms of reference (TOR) are in Appendix 3. ADB will recruit all consultants individually in accordance with its Guidelines on the Use of Consultants (2013, as amended from time to time). Individual consultant selection is considered appropriate given that experience specific to a DMC is required. In parallel, OSFMD will explore if a suitable firm can undertake this risk assessment, on a retainer basis in future, with an appropriately drafted TOR.

16. OSFMD will coordinate with ADB regional departments in implementing the TA, including by participating in meetings with various sector procurement agencies, assisting with gathering procurement-related data, and providing logistical support.

IV. THE PRESIDENT'S DECISION

17. The President, acting under the authority delegated by the Board, has approved the provision of technical assistance not exceeding the equivalent of \$1,500,000 on a grant basis for Conducting Procurement Risk Assessment for Improved Procurement Outcomes, and hereby reports this action to the Board.

DESIGN AND MONITORING FRAMEWORK

<p>Impact the Project is Aligned with^a</p> <p>The impact of the proposed TA is a more effective and efficient procurement system in ADB DMCs.</p>

Results Chain	Performance Indicators with Targets and Baselines	Data Sources and Reporting Mechanisms	Risks
<p>Outcome</p> <p>The outcome is an appropriate level of delegation of procurement activities to ADB DMCs.</p>	<p>The sector thresholds for international and national competitive bidding are determined, including prior and post review limits.</p>	<p>ADB procurement risk assessment reports for each DMC</p>	<p>Sector agency procurement capacity is reduced after conducting the risk assessment.</p>
<p>Outputs</p> <p>The sector procurement risks in each DMC are identified including mitigation measures.</p> <p>The procurement thresholds for international and national competitive bidding determined, including prior and post review limits.</p>	<p>Final DMC procurement risk reports providing sector and/or agency and national risk assessments approved by OSFMD.</p> <p>Final DMC procurement risk reports providing justification for revised thresholds and prior and post review limits.</p>	<p>Executing and implementing agency procurement data and contract monitoring records; ADB procurement data</p>	<p>Limited procurement data available at the sector agencies.</p>

<p>Key Activities with Milestones</p> <p>1.1 Select procuring entities in close cooperation with national public procurement agencies, regional departments, and resident missions, synchronizing with the development of the CPS for the DMC (January 2016 to May 2017).</p> <p>1.2 Recruit international and national consultants (January 2016 to May 2017).</p> <p>1.3 Conduct initial desk review of procurement laws, regulations, and processes. The desk review will include ADB information and country-specific procurement experience (March 2016 to July 2017).</p> <p>1.4 Conduct field review of procurement processes as they are practiced by key sector agencies in ADB's primary sectors of operation. The review is based on interviews, questionnaires, and a sample of selected procurement transactions at project level (April 2016 to August 2017).</p> <p>1.5 Draft procurement risk assessment report based on the guidelines established (May 2016 to November 2017).</p> <p>1.6 Propose risk mitigation and/or management strategies to address identified risks, on the basis of the risk assessment (June 2016 to October 2017).</p> <p>1.7 Draft summary sector risk assessment for the DMC's CPS preparation which includes, procurement thresholds for international and national competitive bidding determined, including prior and post review limits (October 2016 to March 2018).</p> <p>1.8 Obtain OSFMD management approval of the procurement risk assessment report (March 2018).</p>
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Inputs
ADB: \$1,500,000
Assumptions for Partner Financing: Not applicable

ADB = Asian Development Bank, CPS = country partnership strategy, DMC = developing member country, OSFMD = Operations Services and Financial Management Department, TA = technical assistance.

^a ADB, OSFMD. 2015. Procurement Reform 10-Point Action Plan. Memorandum. 25 February (internal)

Source: Asian Development Bank.

COST ESTIMATES AND FINANCING PLAN
(\$'000)

Item	Amount
Asian Development Bank^a	
1. Consultants	
a. Remuneration and per diem	
i. International consultants	900.0
ii. National consultants	300.0
b. International and local travel	100.0
c. Reports and communications	50.0
2. Contingencies	150.0
Total	1,500.0

^a Financed by the Asian Development Bank's Technical Assistance Special Fund (TASF-other sources).
Source: Asian Development Bank estimates.

OUTLINE TERMS OF REFERENCE FOR CONSULTANTS

1. The country and sector or agency procurement risk assessment is intended to (i) identify risks in national or sector systems and/or practices that could result in sub-optimal use of national and/or Asian Development Bank (ADB) resources, either through leakage or inefficiency; (ii) assess the severity of the risks; and (iii) develop a practical risk management plan to address (at a minimum) high or significant procurement risks at the country and sector level.

2. Country and sector or agency procurement risk assessment will be conducted using the assessment tool developed for the purpose.

A. Procurement Specialists (International)

3. **Scope.** The international procurement specialists will work closely with the national procurement specialists (to be recruited through a separate contract) and ADB's procurement staff to conduct (i) country procurement risk assessments in specified countries; and (ii) procurement risk assessment in the various sectors relevant to the ADB portfolio (including energy, transport, public finance, agriculture, health, natural resources, rural development, and urban sectors). Executing agencies in each sector will be identified in close consultation with resident missions and regional departments. These assessments will be conducted as part of the preparation of ADB country partnership strategies (CPSs).

4. **Detailed tasks and expected output.** Each assessment will be conducted in two stages, first as a desk review and then through field work for in-depth sector and agency risk assessments.

5. The initial desk review will cover procurement laws, regulations, and processes, and will (i) provide the basis for developing the national competitive bidding (NCB) annex, or specify modifications required to enable national procurement laws, regulations, and processes to be used for ADB procurement; and (ii) establish the procurement environment within which the various sectors and the agencies involved operate. Where available, country assessments (whether from ADB or other multilateral development institutions) will be validated or updated, primarily through consultation with government counterparts, development partners, and other relevant stakeholders using the assessment tools developed by ADB.

6. The desk review will be followed by an in-depth field survey and review to assess sector or agency procurement performance; the field surveys will be conducted primarily by the national procurement specialists, although the international procurement specialists will participate in selected field surveys. Field interviews of government counterparts, development partners, and relevant stakeholders will be conducted, supported by an assessment of a sample of specific procurement transactions.

7. The specialists will undertake the following:

- (i) at the sector or agency level, assess strengths and weaknesses in procurement systems and practices from the perspective of the legal and regulatory framework, the institutional framework and management capacity, the procurement operations and market practices, and integrity and transparency of the public procurement systems;
- (ii) identify and evaluate procurement risks at the sector or agency level, taking into account any ongoing risk assessment initiatives of resident missions;

- (iii) assess e-procurement progress in the country, benefits achieved, and future road map and performance constraints, if any;
 - (iv) propose risk mitigation and management strategies and/or activities in line with all of the above;
 - (v) on the basis of the risk level assessments, propose sector-specific procurement supervision thresholds, where applicable; and
 - (vi) on the basis of the assessment of market practices in response to sector or agency procurement operations, propose procurement method thresholds, i.e., the types and sizes of contracts for which ADB international competitive bidding procedures shall be applied.
8. The specialists shall produce the following outputs:
- (i) for the in-depth sector and/or agency assessments:
 - (a) develop the program for field review and consultations with government counterparts, development partners, and relevant stakeholders;
 - (b) prepare a procurement assessment plan for a sample of specific procurement transactions of identified sector agencies;
 - (c) prepare a narrative description of the sector or agency procurement systems, including identification of strengths and weaknesses;
 - (ii) on the basis of the procurement risk assessments undertaken:
 - (a) identify and assess sector and/or agency risks, on the basis of degree of impact and likelihood of occurrence;¹
 - (b) propose risk mitigation and/or management strategies to address identified risks, on the basis of the risk assessment;²
 - (c) determine sector or agency procurement risk rating;
 - (d) propose or confirm existing sector or agency procurement method thresholds, whether international competitive bidding (ICB), NCB or shopping;
 - (e) propose sector or agency procurement supervision thresholds in terms of prior review limits;
 - (f) propose changes, if necessary, to the NCB annex;
 - (g) summarize findings in the country and sector or agency procurement risk assessment report (sample summaries will be provided by ADB); and
 - (h) prepare inputs to the country partnership strategy (including mitigation measures).
9. **Qualifications.** The international procurement specialists should have the following minimum qualifications:
- (i) a graduate degree in a major relevant discipline (e.g., procurement, engineering, law, management or business);
 - (ii) at least 10 years of experience in procurement practices, with background in the implementation of development projects, preferably including experience in the area of procurement reviews or audits, sector or agency procurement assessments, and national procurement reform programs; and

¹ Use the following scale: High risk: likely to occur, high impact if it occurs; Substantial risk: unlikely to occur, high impact if it occurs; Moderate risk: likely to occur, low impact if it occurs; and Low risk: unlikely to occur, low impact if it occurs.

² High risk: risk mitigation recommended; Substantial risk: risk mitigation and/or monitoring recommended; Moderate risk: risk monitoring recommended; Low risk: risk documentation and/or identification recommended.

- (iii) significant knowledge and familiarity with the procurement procedures of international financing institutions; procurement-related experience in the country where the assessment will be carried out is strongly preferred.

10. **Duration of the assignment.** Each consultant for a particular DMC will provide 2 person-months of inputs over a period of 4 to 5 months.

11. **Key deliverables.** The consultant will summarize their sector or agency risk assessment findings in the country and sector or agency procurement risk assessment report, and provide inputs to the CPS report, including the risk mitigation and management strategies and/or activities.

B. Procurement Specialists (National)

12. **Scope of work.** Two national procurement specialists will work closely with an international procurement specialist to conduct (i) country procurement risk assessments in the specified countries, and (ii) procurement risk assessment in the specified sectors. Executing agencies under each sector will be identified in close consultation with regional departments and resident missions. These assessments will be conducted as part of CPS preparation.

13. The risk assessment report will recommend country and, where applicable, sector-specific procurement supervision thresholds, and will also confirm or recommend modification of the procurement method or ICB threshold on the basis of contractor and/or supplier market assessments.

14. **Detailed tasks and/or expected output.** Each assessment will be conducted in two stages, first as a desk review and then through field work for in-depth sector and agency risk assessments.

15. The initial desk review will involve mainly the international procurement specialist working with ADB staff, and will cover procurement laws, regulations and processes (para. 5). The desk review will be followed by the in-depth field survey and review to assess sector or agency procurement performance. These will be the main tasks of the national procurement specialist. Field interviews of government counterparts, development partners, and relevant stakeholders will be conducted, supported by assessment of a sample of specific procurement transactions. The sector or agency tool developed by ADB should be completed for all key agencies in each sector.

17. The consultant will undertake the following:
- (i) at the sector or agency level, assess strengths and weaknesses in procurement systems and practices from the perspective of the legal and regulatory framework, the institutional framework and management capacity, the procurement operations and market practices, and integrity and transparency of the public procurement systems;
 - (ii) identify and evaluate procurement risks at the sector or agency level;
 - (iii) propose risk mitigation and management strategies and/or activities;
 - (iv) on the basis of the risk-level assessments, propose, where applicable, sector-specific procurement supervision thresholds;
 - (v) on the basis of an assessment of market practices in response to sector or agency procurement operations, propose procurement method thresholds, i.e.,

- the types and sizes of contracts for which ADB international competitive bidding procedures shall be applied; and
- (vi) assess the maturity of the e-procurement and e-governance system in the country.
18. The consultant shall produce the following outputs:
- (i) for the in-depth sector or agency assessments:
 - (a) develop the program for field review and consultations with government counterparts, development partners, and relevant stakeholders;
 - (b) prepare a procurement assessment plan for a sample of specific procurement transactions of identified sector agencies; and
 - (c) prepare a narrative description of the sector or agency procurement systems, including identification of strengths and weaknesses;
 - (ii) on the basis of the procurement risk assessments undertaken:
 - (a) identify and assess sector and/or agency risks, on the basis of degree of impact and likelihood of occurrence, using the established scale in the assessment tool prepared by ADB;
 - (b) propose risk mitigation and/or management strategies to address identified risks;
 - (c) determine the sector or agency procurement risk rating;
 - (d) propose or confirm existing sector or agency procurement method thresholds, whether ICB, NCB or shopping;
 - (e) propose sector or agency procurement supervision thresholds in terms of prior review limits;
 - (f) propose changes, if necessary, to the NCB annex;
 - (g) summarize findings in the country and sector or agency procurement risk assessment report (in accordance with the outline provided by ADB); and
 - (h) prepare inputs to the country partnership strategy (including mitigation measures).
19. **Duration of the assignment.** The national consultant for each DMC will provide 2 person-months of inputs over a period of 6 months.
20. **Key deliverables.** Each consultant will summarize their sector or agency risk assessment findings in the country and sector or agency procurement risk assessment report as per the outline that will be provided, and provide inputs to the CPS report, including the risk mitigation and management strategies and/or activities.
21. **Qualifications.** The national procurement specialist should have the following minimum qualifications:
- (i) a graduate degree in a major relevant discipline (e.g., procurement, engineering, law, management or business);
 - (ii) at least 7 years of experience in procurement practices, with a background in the implementation of development projects, preferably including experience in the area of procurement reviews or audits, sector or agency procurement assessments, and national procurement reform programs;
 - (iii) significant knowledge and familiarity with the procurement procedures of international financing institutions; and
 - (iv) at least 5 years of experience in the specific DMC.