ABBREVIATIONS AND ACRONYMS

ADB  African Development Bank
ADB  African Development Fund
AUF  Audit and Finance Committee
BPAR  Bank Procurement Assessment Report
BPS  Borrower Procurement System
CD  Capacity Development
CODE  Committee on Development Effectiveness
COMESA  Common Market for Eastern and Southern Africa
COI  Conflict of Interest
CPAR  Country Procurement Assessment Report
CSP  Country Strategy Paper
DAM  Delegation of Authority Matrix
EA  Executing Agency
EU  European Union
ESRP  Environmental and Socially Responsible Procurement
FA  Financing Agreement
FIDIC  International Federation of Engineers
FFP  Fit for Purpose
F&C  Fraud and Corruption, including collusive, coercive and obstructive practices
GCC  General Conditions of Contract
HoPs  Heads of Procurement of the MDBs
ICB  International Competitive Bidding
IDEV  Independent Development Evaluation Department
MAPS  Methodology for Assessment of National Procurement Systems
MDBs  Multilateral Development Banks
MICs  Middle Income Countries
NCB  National Competitive Bidding
NTF  Nigeria Trust Fund
OECD  Organization for Economic Cooperation and Development
OECD-DAC  Development Action Committee of OECD
PCR  Project Completion Report
PDAP  Procurement Capacity Development Action Plan
PP  Procurement Plan
PPP  Public Private Partnership
PRC  Procurement Review Committee
PROCARAM  Procurement Risk Assessment Methodology
REC  Regional Economic Community
RFP  Request for Proposals
RMCs  Regional Member States
SBD  Standard Bidding Document
SOE  State Owned Enterprises
TA  Technical Assistance
UCS  Use of Country Systems
UCPSS  Use of Country Procurement Systems
UN  United Nations
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<tr>
<td>VfM</td>
<td>Value for Money</td>
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<tr>
<td>WAEMU</td>
<td>West African Economic and Monetary Union</td>
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EXECUTIVE SUMMARY

The need for a comprehensive revision of the African Development Bank’s two procurement policy documents, namely, the “Rules and Procedures for Procurement of Goods and Works” and the “Rules and Procedures for the Use of Consultants” was recognized over the last few years. It was realized that, even though the existing procurement policy, as outlined in these two Rules, had served the Bank, RMCs and bidder communities well in the past years, recent trends have underscored the need for a more dynamic policy and procedures that fully support development effectiveness within an acceptable fiduciary compliance framework. Such trends included the changing circumstances of the Bank’s Regional Member Countries (RMCs) which required the Bank to support an increasingly complex set of development objectives and several external emerging factors that were having a significant impact on the application of its operations procurement policy. Among these were the increasing role of procurement in public expenditure management, the rising interests of Governments in ensuring “value for money” in procurement and the growing use by governments, of procurement, to support socio-economic objectives. The effects of globalization on competition and of advancements in technology on procurement could also not be ignored.

An Approach Paper on the subject outlining these imperatives and the follow-on Framework Paper were validated by CODE/AUFI on 18th February 2014 and 03 June 2014 respectively. Consequently a comprehensively revised “Procurement Policy for Bank Group Funded Operations”, and a “Methodology for Implementation of the Procurement Policy of the African Development Bank” was endorsed by CODE/ AUFI on 30th June 2105. The guidance received from the above two Board Committees has been incorporated in the present document that is being presented for consideration by the Boards of Directors.

The proposed Policy is built on a vision to support Bank-financed operations and enhance the procurement systems of the Bank’s RMCs in order for them to obtain optimal Value for Money (VfM) 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. The key feature of the Procurement Framework is the achievement of VFM by Borrowers based on a dynamic and differentiated Fit for Purpose (FfP) approach to procurement transactions. This includes the full use of Borrower Procurement Systems (BPS) for certain contracts, customized methods and procedures for more complex ones and third party systems in some other cases. To achieve this, it adopts a risk-based engagement with Borrowers in which the procurement arrangements incorporated into a Bank financed project and the accompanying Bank levels of fiduciary oversight depend on the quality and performance of the procurement system and the complexity of the procurement transactions. The new Policy, therefore, considers first, the full use of the procurement system of the Borrower for those transactions where the risk of using such systems (including related oversight mechanisms) is not high. It is estimated from available Bank data covering the years 2010 to 2014 that such contracts comprise 65-82% by number but amount to only 10% of the total value. The remaining contracts comprising some 18-35% by number of the Bank’s contract portfolio, but constituting 90% by value, will initially continue to follow mainly Bank methods and procedures. It is
anticipated that as experience is gained with the use of the approach with specific countries and sectors, the use of BPS will increase. This dynamic approach, termed “building by using” will further strengthen the Bank’s position in deepening its support for capacity development to its RMCs and at the same time fulfill such international commitments as the Paris Declaration and its follow-on decisions.

The proposed Policy also proposes customized solutions for fragile situations through its risk-based FfP approach because the country, sector, EA and project level assessments, which are undertaken under the Policy, identify the specific characteristics of fragility with respect to procurement. Weaknesses are mitigated at both the project and the country levels by incorporating appropriate capacity development action plans. On the other hand, while the concept of VfM is equally valid for public as for private sector operations, the framework recognizes that there are critical differences in translating the concept into action. Application of the risk-based FfP assessments of the established commercial practices assists to determine the most appropriate procurement arrangement for operations under the private sector.

The Methodology is aimed predominantly at Bank staff although the Borrowers’ project staff will also find it useful. Its purpose is to support the Policy by providing guidance on the concepts and principles that are contained in it and explain the approach for its implementation under Bank-funded projects and programmes.

The Policy and Methodology are supported by an Operations Procurement Manual (OPM) a comprehensive source of information which 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 and oversight elements and includes the details of the proposed strategy for achievement of VfM through FfP procurement. It provides guidance to Bank and Borrowers staff. It also includes detailed Guidance Notes on specific topics and case studies to ensure consistency in application of the Policy and the Methodology. Standard, model and sample procurement documents, formats and templates are provided in a Toolkit. The OPM and Toolkit are currently under preparation.

In order to ensure the smooth entry into effectiveness of the proposed framework, the above approach means that a number of preliminary activities need to be undertaken before the proposed Policy becomes effective. These include preparation of procurement assessment reports, review of the skills and, later, training of Bank procurement Staff, as well as setting in place the modalities for adequate procurement information management. Based on these needs a comprehensive implementation plan has been developed and it is anticipated that the earliest date of entry into effectiveness for the proposed Policy will be 1st January 2016.

The proposed Policy is expected to bring about significant changes not only in Bank (and RMCs) procurement business processes, but in operational results. With the focus firmly placed on the Borrowing countries achieving Value-for-Money (VfM) through risk-based Fit-for-Purpose (FfP) procurement, transactions in the operations of the Bank will be handled with greater flexibility and effectiveness. Effectively, the Bank will move away from the present “one size
fits all” approach of the existing Rules, to one that is better calibrated to the specific context reflecting the particular needs of the Borrower and the project. A graduated use of oversight instruments from procurement audits to post and prior-reviews will bring greater efficiencies in transaction processing, and permit an optimum use of Borrower and Bank resources. Use of Borrower Procurement Systems (BPS) for low-risk contracts will result not only in increased country ownership of procurement transactions and increased efficiency, but also in diversion of Bank staff resources to more complex transactions and more analytical work. This will bring about qualitative improvements in the handling of complex and high value transactions. Under this approach, the Bank’s fiduciary standards will be improved as the concentration on procurement situations of higher complexity will improve quality and the lower risk transactions will be reviewed through post-reviews and independent procurement audits. Such a customized approach to procurement will also allow a more effective treatment of procurement under fragile and emergency situations.

This memorandum is requesting the Board to approve the “Procurement Policy for Bank Group Funded Operations” and the “Methodology for Implementation of the Procurement Policy of the African Development Bank” and thereby authorize Management to proceed to finalize the Operations Procurement Manual for the African Development Bank (OPM) and Procurement Toolkit for the African Development Bank (Toolkit).
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**Attachments**

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1. INTRODUCTION

1.1 The need for a comprehensive review of the African Development Bank Group’s (Bank) two procurement policy documents, namely the “Rules and Procedures for Procurement of Goods and Works” and the “Rules and Procedures for the Use of Consultants” (collectively “Rules”) was established in the Approach Paper on the subject that was validated by CODE/AUFI on 18 February 2014. This was further elaborated in the subsequent Framework Paper, which was also endorsed by CODE/AUFI on 03 June 2014. It was acknowledged in these documents that the changing circumstances of the Bank’s Regional Member Countries (RMCs) require the Bank to support an increasingly complex set of development objectives. In addition, there have also been several external emerging trends that have had significant impact on the application of the Bank’s operations procurement policy. Critical amongst these are:

a) Procurement is now seen as a strategic function within RMCs’ public expenditure management to effectively and efficiently deliver needed services to citizens;

b) Governments are showing growing interest to ensure Value for Money (VfM) in procurement that enables them to consider factors beyond “lowest price” when spending public funds;

c) Governments are increasingly using procurement to support socio-economic objectives, such as promotion of local industries and Environmentally and Socially Responsible Procurement (ESRP);

d) There has been an increased use of electronic procurement and more specialized procurement methods and procedures such as competitive dialogue and reverse auctions; and

e) Increased globalization is blurring the distinction between bidders from developed and developing countries, promoting the diversification of suppliers and increasing competition.

1.2 Though the existing procurement policy has served the Bank, RMCs and bidder communities well in past years, the trends highlighted above underscore the need for a more dynamic policy and procedures that fully support development effectiveness within an acceptable fiduciary compliance framework. This becomes even more crucial with the ever increasing expectations of the RMCs for more responsive procurement approaches that are difficult to be fully accommodated under the existing Rules. Modernization of the Bank’s procurement policy should, while ensuring fiduciary compliance, entail sharper focus on enhancing development effectiveness.

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1 Reference No. ADB/BD/WP/2014/14 - ADF/BD/WP/2014/12
1.3 This Memorandum transmits to the Boards of Directors for consideration, a comprehensively revised Procurement Policy for Bank Group Funded Operations (Policy) (*Attachment 1*) and the Methodology for Implementation of the Procurement Policy of the African Development Bank (Methodology) (*Attachment 2*). An explanation of the Procurement Framework is detailed in Section 2. The legal foundation for the proposed policy is in Section 3 followed by the inputs to the review exercise in Section 4, and the guiding considerations in Section 5. The features of the proposed Policy are explained in Section 6. A comparison of the existing and proposed policies is given in Section 7. The recommendations of the independent evaluation of procurement are discussed in Section 8, and the implementation plan for the proposed Policy is detailed in Section 9. The current status and the proposed execution timelines are presented in Section 10. The reporting on the implementation of the proposed Policy is described under Section 11 and the conclusions highlighting the benefits of the proposed Policy are explained in Section 12. Finally the Board is requested to approve this Policy and the Methodology in Section 13.

### 2. THE PROCUREMENT FRAMEWORK

2.1 The proposed Procurement Framework comprises the: (i) Procurement Policy for Bank Group-Funded Operations (Policy); (ii) Methodology for Implementation of the Procurement Policy of the African Development Bank (Methodology); (iii) Operations Procurement Manual for the African Development Bank (OPM); and (iv) the Procurement Toolkit (Toolkit). The proposed framework effectively modernizes the Bank’s approach to procurement in the projects that it finances. It also gives a sharper focus to the Bank’s strategy of enhancing development effectiveness and building RMCs’ institutions while executing its fiduciary obligations. This framework is flexible and demonstrably responsive to the Bank’s dual development and fiduciary mandate to support RMCs in strengthening their respective procurement systems within the broader framework of public sector management and governance.

2.2 **The Policy** is built on the following vision:

> “The Procurement Framework supports Bank-financed operations and enhances 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”

The Policy is largely principles’ based relying to a considerable extent on the professionalism of the implementing actors while setting **undisputable standards.** It adopts a risk-based engagement approach to achieve VfM in the contracts financed by the Bank, in which the procurement arrangements and the level of fiduciary oversight depend on the quality and performance of the procurement system used for implementation of the project and the complexity of the procurement transaction. The Bank believes that the existence of sound and well-performing procurement system of a Borrower (that could be at a country, sub-national or agency level) provides the best fiduciary assurance for economic, efficient, effective and
equitable use of its resources. The proposed Policy, therefore, considers first, the full use of the Borrower procurement systems for those transactions where the risk of using such systems (including related oversight mechanisms) is not high. For other transactions, the Procurement Framework presents other procurement options that include not only the traditional competitive and non-competitive methods but also innovative and non-traditional ones such as multi-stage procurement procedures, competitive dialogue, and performance-based contracting and provides clear guidance on their contextual use. To achieve VfM, the proposed framework enables the use of evaluation criteria that consider not only quantitative factors (including those used in the determination of life cycle costs) but also those not easily amenable to quantitative evaluation. In such cases, use of merit points (including for procurement of goods and works) for evaluation is permitted under clearly defined circumstances. The flexibility so introduced will enable use of methods and procedures (including oversight arrangements) that are contextually Fit-for-Purpose (FfP) and help achieve VfM for the Borrower while ensuring the Bank’s fiduciary standards are maintained.

The policy also permits the use of third party procurement systems under certain conditions, for example when a project is being jointly co-financed with another donor (and the procurement policy and procedures of the other donor are sought to be used\(^2\)), or if a specialized agency has been identified to implement the project and the governing rules of such specialized agency do not permit it to use any procurement framework other than its own. For this purpose, the Bank will review the procurement policies of such donors and agencies and permit their use in a Bank financed project when it is satisfied that the underlying principles of such policies are broadly consistent with the Bank’s own, the practices and standards followed are sound and that the use of these policies and procedures will help achieve VfM for the project in question. This will greatly facilitate co-financing with other partners and reduce transaction costs to the Borrowers.

2.3 **The Methodology** is aimed predominantly at Bank staff although the Borrowers’ project staff will also find it useful. Its purpose is to support the Policy by providing guidance on the concepts and principles that are contained in it and explain the approach for its implementation under Bank-funded projects and programmes. The Procurement Framework applies to all Bank-financed investment operations, and consequently, compliance with the Methodology is mandatory unless the Boards of Directors have granted a waiver. It is fully recognized that, given the flexibility provided under its proposed risk-based FfP approach, the implementation of the policy will require sound professional judgment by Procurement Specialists and other Bank Operations staff. Accordingly, the Methodology provides guidance that ensures consistency with regard to the design of procurement arrangements for Bank’s interventions. It includes provisions specifically with regard to undertaking the assessments that constitute the foundation for application of the Bank’s risk-based engagement with its Borrowers. It contains modalities for conducting diagnostics at country, sector, project and transactional levels, leading to identification of procurement capacity gaps, assessment of capacity building initiatives and

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\(^2\) Situations when the procurement framework of the other donor can be used include, for example, when the financial contribution to the project from the other donor is larger than the Bank’s, or when the other donor has a comparative advantage in the sector or the country of the project.
formulation of action plans. This diagnostic work, at the country and sector level is captured in the Bank’s Procurement Assessment Report (BPAR), which includes a customized tool based on the OECD-DAC’s Methodology for Assessment of Procurement Systems (MAPS). At the transaction level, the Methodology also outlines critical threshold considerations for selection of appropriate methods and procedures for procurement as well as guidance on appropriate oversight instruments through application of risk-based FfP procurement to achieve optimal Value for Money. It lays emphasis on the use, by the Bank, of Borrowers’ Procurement Systems\(^3\) (BPS), based on the principle of “building by using” which encourages RMCs to improve their procurement systems. It covers guidance on the implementation of capacity development initiatives and concludes with monitoring and evaluation approaches and benchmarks. The Methodology also includes guidance on implementing the policy with regard to private sector operations and states in fragile situations.

2.4 The OPM constitutes a comprehensive source of information for both the Borrower and the Bank. It 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 VfM through FfP procurement. It further details the application of the methodology permitting more selective use of particular methods of procurement to optimize achievement of VfM. The OPM also provides transactional-level detail on the various methods and modalities for procurement of goods and works, and the acquisition of consultancy services with guidance on their choice and use. It is an overall “how to” resource for procuring goods, contracting works, and recruiting consultants, explaining in detail, how specific aspects should be managed, providing information on what users must know, and what they must do and not do, along with checklists to further assist them. The OPM also provides guidance and advice to its users on how to manage their responsibilities under projects and programmes financed by the Bank Group. It maps out the lines of authority and accountability in the execution of the Bank’s procurement function, in line with the Bank’s Delegation of Authority Matrix (DAM), and provides specific instructions to staff. The OPM is expected to be a dynamic document that will accommodate changes within the context of the Bank’s operations, as the lending environment changes, and as new policies, procedures, and new ways of doing business are enacted by the Bank. (An overview of the content of the OPM is given in Attachment 3).

2.5 The Toolkit contains directional guidance in the form of standardized documents, sample documents, guidance notes, formats and templates to support the execution of the Policy. (A preliminary outline, or sample contents of the Toolkit is also given in Attachment 4).

3. THE LEGAL FOUNDATIONS FOR THE PROCUREMENT POLICY

3.1 The principles enshrined in the Bank’s operations procurement policy are founded in the Agreements Establishing the African Development Bank, the African Development Fund and

\(^3\) The term Borrower Procurement System (BPS) includes procurement systems at a sub-national or agency level.
the Nigeria Trust Fund as well as the General Conditions Applicable to Loan, Guarantee and Grant Agreements of the African Development Bank and the African Development Fund (Sovereign and Non-sovereign). These provide that the responsibility for the implementation of a Bank-financed project, including the use of financing proceeds and the award of contracts for goods, works, and services rests solely with the Borrower. The Bank’s fiduciary mandate requires it to ensure that financing has been used for the purposes intended and without regard to political or non-economic influences or considerations. The proposed Policy is set within the limits of the provisions\(^4\) of these overarching Bank legal documents.

4. **INPUTS TO THE POLICY REVISION**

4.1 The current revision is based on the findings of extensive research work covering the Bank’s track record on procurement as well as exhaustive consultations that included Borrowers, donor countries, the private sector, civil society, other stakeholders and Bank Staff. In particular, the revision benefited from the following:

a) More than 60 consultation workshops held in member countries\(^5\);

b) Over 600 responses to an online survey questionnaire;

c) 15 analytical studies\(^6\) covering many aspects of the Bank’s track record in procurement;

d) Extensive internal and external peer review\(^7\);

e) Findings of a study on the “Evaluation of Efficiency and Effectiveness of the Bank’s Operational Procurement Policies and Practices” conducted by the Independent Development Evaluation Department of the Bank (IDEV);

f) Findings from an audit of projects’ procurement done by the Auditor General of the Bank (OAGL); and

g) Suggestions from other Multilateral Development Banks (MDBs) through discussions during the meetings of the Heads of Procurement (HoPs) of International Financing Institutions (IFIs).

5. **GUIDING CONSIDERATIONS**

5.1 The key considerations that have guided the formulation of the proposed Procurement Framework are discussed below:

a) **Separation of policy from procedures and processes:** The proposed approach separates and consolidates procurement objectives and principles in the Policy document. Both the Policy and the Methodology are proposed to be approved by the Boards of Directors. The

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\(^4\) Those provisions in particular state: (i) eligibility requirements related to the nationality of bidders; (ii) that loan proceeds may only be used for the granted purpose, and that eligible expenditures can be disbursed on the basis of due diligence, economy and efficiency; and (iii) that the Bank rules prevail through the Financing Agreement (FA).

\(^5\) The main messages of the consultation workshops are detailed under *Attachment 5*.

\(^6\) List of analytical studies is provided in *Attachment 6*.

\(^7\) The comments received are summarized in *Attachment 7*. 

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supporting procedures and processes are included in two other volumes - namely the OPM and Toolkit, to be approved by Bank Management.

b) **Procurement that meets the contextual needs of projects:** The proposed Procurement Framework is predicated on providing greater flexibility in the use of contextually determined procurement processes while ensuring that such processes consistently meet the principles in the Policy. It supports the notion of FiP in selecting and applying methods of procurement that permit more customized approaches for high risk transactions and more standardized methods for those with lower risk. It is by this means that the Bank will better position itself, *inter alia*, to tailor application of the procurement arrangements in individual projects to RMCs’ capacities and to project specific requirements and thereby cater more optimally to the requirements of its Borrowers including Middle Income Countries (MICs) and States in Transition.

c) **Greater, yet measured reliance on borrower procurement systems and increased emphasis on institutional reforms and capacity development.** The proposed framework acknowledges that fiduciary assurance in a transaction is best provided by a credible and well-functioning borrower procurement system. This approach necessarily requires an assessment of applicable country laws and regulations, institutions and their performance, a focused market analysis, an executing and implementing agency capacity review and a risk-based categorization of the nature and complexity of the procurement involved. Depending on the results of such assessment, the approach provides for: (i) the full use of a borrower procurement system for those transactions where the risk is assessed to be sufficiently low based on the capacity and performance of the borrower and the implementing agency; and (ii) the use of Bank’s methods and procedures or other acceptable methods and procedures for higher risk transactions. In addition, and based on the assessment, the proposed framework also promotes working with the Borrower, to define a reasonable and achievable procurement reform programme, through: (i) promotion of a significantly increased level of capacity development including technical assistance delivered more effectively; (ii) close collaboration between all stakeholders; and (iii) national ownership of targeted reforms.

d) **Need to sustain execution of the fiduciary provisions from the Agreement Establishing the African Development Bank and Fund:** The proposed framework retains and builds upon the Bank’s fiduciary obligations. The Bank’s fiduciary mandate has two critical dimensions: risk and assurance. The Bank’s approach to procurement has, in the past, primarily (if not singularly) focused on the ‘risk’ dimension of this mandate. This has translated in many cases, at an operational level to a rigid approach that has placed procedural compliance above VfM considerations. Given the somewhat inflexible nature of the existing policy, the extent of a borrower’s commitment to capacity improvement and reform was not adequately appreciated as a meaningful and critical part of fiduciary assurance and, in that sense, was insufficiently emphasized. The proposed framework corrects this misapplication and applies a dynamic risk-centred approach with equal consideration for fiduciary ‘assurance’ provided by borrowers. Thus, under the proposed framework, the approach is to not only minimize misuse of Bank funds which continues to
remain of paramount importance but, at the same time, to maximize use of the procurement cycle as a means to increased development effectiveness. The focus of the proposed framework on encouraging use of borrower procurement systems, while advancing the Bank’s commitment to sustained development effectiveness in its RMCs, requires a considered and calibrated approach to risk management as part of the necessary trade-off between process and results.

e) **Maintaining the Regional African identity and character of the institution and development of national industry:** As a premier financing institution in Africa, encouraging the development of domestic and regional industry is an important objective of the Bank. The proposed framework is one of the principal vehicles to achieve this. This is sought to be realized through: reducing transactional costs for local bidders; more effective inclusion of domestic industry through applications of various provisions (including, for example, preference margins, inclusion of local content where found appropriate etc.); simplification of bidding documents particularly for low value procurement; and targeting pre-bid assistance to certain groups and Small and Medium Size Enterprises (SMEs). Such provisions will be based on application of transparent and equitable evaluation criteria, and will be used primarily in situations where they represent a clear advantage and where the principles of economy and efficiency are not adversely impacted.

f) **Retention of the most productive lessons learnt in application of the MDBs’ operational procurement, policies, procedures, standards and practices over the years:** The Bank’s existing procurement Rules and their periodic revisions expounded international best practices. In order for the Bank not to lose the benefit of its past experience, the lessons learnt are incorporated into the proposed framework.

g) **Incorporation of global innovation and advances in public procurement practice:** The policy recognizes that the form, variety and types engendered by currently on-going innovations in public procurement have far-ranging implications for the Bank’s future operations. The proposed framework accommodates new and innovative procurement methods and procedures. Concepts and principles such as life-cycle costing and procedures such as e-procurement (even though already mentioned in the existing policy), are advanced and pushed into practical and generalised use.

h) **Commitment to harmonization:** Given the sheer magnitude, complexity and long-term nature of current development effectiveness challenges, coordination between the Bank, other donors and RMCs is critical. The proposed framework reflects the Bank’s continued commitment to the Paris Declaration, the Accra Agenda for Action, and the Busan Consensus. It is in this regard that there has been continued dialogue with the Heads of Procurement (HOPs) of the Multilateral Development Banks with respect to this review. Further, the proposed framework’s risk-based engagement with Borrowers demands an appropriate assessment tool. To ensure that such tools do not place unreasonable burden on borrowers, it is necessary that the approach be harmonized among donors. The Bank is currently participating in the revision of the Methodology for Assessing Procurement
Systems (MAPS) by being an active member of the international Working Group composed of MDBs, Bilateral donors and beneficiary countries, and is financing part of the costs, namely the participation of Africa representatives (Senegal and Zambia) and some specific studies necessary for finalizing this initiative (called MAPS Plus). MAPS plus will also help establish and measure globally accepted standards for public procurement as countries move from reforms of the first generation (that build the foundation for a well-functioning public procurement system by establishing a legal, regulatory and institutional framework) to second-generation reforms (the development of modern and more efficient country procurement systems including through use of technology). This is indeed timely as these tend to address some of the key features of the Bank’s new procurement policy including electronic Government Procurement, performance measurement, new procurement modalities and monitoring of procurement outcomes to improve public service delivery.

i) **Incorporation of socio-economic considerations:** It is recognized that several countries have successfully adopted procurement frameworks that address and include specific socio-economic objectives, such as Environmentally and Socially Responsible Procurement (ESRP). While the Bank acknowledges RMCs’ positions in pursuit of ESRP objectives, it recognizes that uniform inclusion of such sustainability considerations also bring some challenges. Countries that do not have such technologies and supply capability may perceive application of prescriptive ESRP policies as discriminatory and possibly intended to promote particular supplier interests. Application of ESRP requires a solid legal basis and a strong scientific and institutional capacity in the country to determine relevant bid qualification and evaluation criteria with relative objectivity as a way of capturing total costs and benefits. The proposed framework adopts a balanced position and supports ESRP provisions in Borrowers’ legislations as long as these do not conflict with the principles of the Policy. Going forward, the Bank’s model bidding documents will also include provisions to reflect the Bank’s relevant safeguard policies.

6. **FEATURES OF THE PROPOSED PROCUREMENT FRAMEWORK**

6.1 **Value for Money.** This is achieved by striking the right balance between the four procurement principles of economy, efficiency, effectiveness and equity. It requires an examination of different procurement methods (and oversight arrangements) and selection of the one that affords the optimum VfM, often through the prioritization of these principles for a given situation. The underlying theme of this paradigm is the concept of risk at country, sector, project and transactional level. It includes assessment of the likelihood and impact of failure, leading to a
determination of optimal FfP procurement method for a given transaction. A judicious, yet objective assessment of relevant factors is necessary and it is important that the process be fair and transparent and ensures sufficient predictability of results for ensuring the credibility of the procurement system.

6.3 To obtain optimal VfM, an assessment of the total costs in a procurement transaction and the value or benefits obtained as procurement outcomes (based on project needs) is normally required. At a project level, this assessment begins with initial procurement planning defining the overall procurement strategy to be followed and includes consideration of bid-packaging and the timing of procurement transactions based on the specific market and the intended development outcomes of the intervention. It leads to the development of the detailed procurement plan that incorporates the procurement method to be employed for a specific procurement transaction, a description of the criteria to be used for evaluation and how the Bank’s fiduciary responsibility will be discharged. VfM takes into account not only the initial and/or life cycle costs and quality, but also factors such as risk, proportionality, predictability, sustainability, flexibility, innovation, timeliness and targeted outcome of procurement during the entire procurement cycle and also includes factors such as contract conditions. The VfM approach is not intended to monetize benefits and cost for each factor but to assess whether the procurement meets the “five rights” (i.e. right price, right quality, right quantity, right timing and right source) and whether the exercise delivers the desired outcomes in a cost effective manner.

6.4 Evaluation criteria for achieving VfM may include elements representing whole-life cycle costs and quality to meet the user’s requirements. The qualification and evaluation criteria may be: (i) quantifiable in monetary terms where such benefits and cost can be determined through the life cycle costs computations; (ii) not quantifiable in monetary terms where neither the Terms or Reference (TOR) nor the outputs can be precisely measured wherein the merit point system may be used or pass or fail levels may be set; or (iii) qualification criteria mandated by law or regulations or Bank’s policies.

6.5 **Fit for Purpose - A Dynamic and Flexible Approach.** The Bank considers that a risk-based and dynamic FfP procurement approach is most appropriate for achieving the optimal VfM outcome for the projects that it finances. The Procurement Policy requires that the procurement methods and procedures applied by the Borrower in any given intervention, and the nature and extent of Bank oversight, are all Fit for Purpose (FfP). The concept of FfP in the context of public procurement is broad-based and encompasses all stages and phases of the procurement process. It requires proper identification, incorporation and execution of relevant elements for each procurement activity including procurement methods, procedures and Bank oversight provisions. FfP procurement provides the procuring entity with the opportunity to make process decisions based on the considerations that apply to the particular transaction.

6.6 The application of FfP, similar to VfM, must be based on consideration of the principles of economy, efficiency, effectiveness and equity and recognition that each procurement intervention is designed to fulfil its unique objectives in the procurement arrangements for a
project. The FfP approach also requires due consideration to competition\(^8\), fairness and transparency to address different priorities to achieve certain specific goals. In practice, there may be the need for balancing these key principles giving priority to one over the other in designing the best fit for the specific purpose for a given transaction.

6.7 Application of risk-based FfP procurement extends through the entire project and procurement cycles from the initial stage of project concept, needs assessment, packaging, specifications, deciding appropriate procurement methods, prequalification (when appropriate), bidding, evaluation, post-qualification, contract conditions and implementation and the specific nature and extent of the Bank’s oversight. It also includes a critical review of a country’s sustainability and socio-economic imperatives and whether they can be included in the bidding documents (without impacting the principles in the procurement Policy). FfP will necessarily need to take into account the outcomes of relevant assessments conducted at the country, sector and project levels, and the complexity of the transaction. Finally, the overall strategy for risk-based FfP procurement under the project will be laid out in the procurement arrangements in the Project Appraisal Report (PAR), included in the Procurement Plan (PP) and incorporated into the Financing Agreement (FA), in order to achieve all the above objectives.

6.8 Determination of FfP will be challenging as the process is dynamic and there may be the need to revisit a decision on FfP if substantial time has elapsed or conditions changed since the initial decision was made. The determination of FfP procurement modalities and any ensuing revisions must be driven by justified business needs, integrity and the desire to make the best use of public funds and not the result of inefficiency or inaction. This will normally require gathering relevant information and conducting consultations with stakeholders involved in or concerned with the specific procurement transaction. To ensure successful outcomes of the execution of the procurement process, judicious and careful consideration of the FfP approach is inescapable at every stage of the procurement cycle.

6.9 Full Use of Borrower Procurement Systems (BPS). Consistent with the Policy, risk-based FfP aims at optimal use of BPS in full, for specific transactions, with the Bank’s oversight being exercised through independent procurement audits for such transactions. Under the proposed Policy, at the request of the Borrower, the first consideration would be given to the use of Borrower’s Procurement Systems subject to these being acceptable and credible and effective remedies being present. In practice, even when a Borrower has a good and well performing procurement system that has been evaluated in its entirety and found by the Bank to be substantially acceptable, there may still remain some issues that may be of concern. This may prevent some contracts (particularly those identified to have a larger risk) from being procured using the borrower’s system. It is expected that identification of the weaknesses will lead to the preparation of a series of corrective measures that will be incorporated in the Procurement Capacity Development Action Plan (PDAP) outlined in the Bank Procurement Assessment Report (BPAR). Successful implementation of the PDAP may, in the medium and long-term enable greater number of transactions being procured using the BPS in subsequent projects. This

\(^8\) Competition, fairness and transparency are explained in the Policy and Methodology documents.
approach of, “building by using” will enable a dynamic and country led incremental reform program.

6.10 The full use of BPS is in line with the Bank’s international commitments with respect to the Paris Declaration and the subsequent agreements. Using BPS makes the Bank a direct stakeholder in the country’s procurement reform program and gives it greater legitimacy while placing it in a stronger position to undertake dialogue with the Borrower leading to more effective outcomes. In addition to the above, the advantages of using the BPS in full includes avoidance of the creation of hybrid systems where jurisprudence may not exist. Using BPS will mean relying on country interpretation of their own laws and regulations and their internal control institutions including Fraud and Corruption (F&C). This will permit the Bank to engage deeply and more meaningfully with the country on discussions on the adequacy and effectiveness of the anti-fraud and integrity institutions and their role in delivering VfM in procurement. However if the use of BPS results in awarding a contract to a firm or individual ineligible under Bank rules, the Bank will not finance such a contract. Necessary provisions will be included in the Financing Agreement.

6.11 It is critical to appreciate that the Bank’s fiduciary mandate is not compromised when it permits the use, where appropriate, of BPS in full for low risk transactions, even if circumstances where permitting such limited BPS application may, in practice, result in derogations from central principles and considerations of the Bank’s Policy and/or the terms and conditions of the Methodology. This is because allowing such derogations in any Bank financed intervention is only permissible if two pre-conditions exist: first, the assessed singular or cumulative fiduciary risk impact of such derogations must be held to be marginal or de minimus in the relevant BPAR and, second, the borrower must have agreed to provide adequate fiduciary assurances in terms of specific time-bound commitments to undertaking acceptable intermediate to longer-term corrective actions as set out in the corresponding PDAP.

6.12 An analysis of the distribution of contracts financed by the Bank by value and number over the past five years reveals that, in the case of works, almost 82% of the total number of contracts represents only 10% by cumulative value. Similar results are obtained for goods and services where 80% and 65% by number respectively represents 10% by value (see figure 1 below). It is envisaged that, initially, transactions to be procured under BPS will be among these contracts. Given their low cumulative value, such an arrangement will not represent significant risk to the Bank. The oversight over such contracts is proposed to be exercised through periodic independent procurement audits that would be financed out of project funds. The Bank resources released in this manner will be utilized for better quality review over higher value and complex contracts. The fiduciary standards so obtained are expected to be higher than those at present.
6.13 **Contract Monitoring.** The proposed framework puts strong emphasis on assistance to the Borrower on more effective contract administration, particularly for large value and critical transactions. Through this arrangement, the Bank will also be able to monitor performance of suppliers/contractors/consultants and create a database that can be used for better quality analysis and decision making. The Bank will also continue to review contract extensions requested by the contractors and recommended by the Borrowers and assist in enhancing the capacity of the Executing Agencies (EAs) in handling of claims. The Bank also intends to establish a data base of the costs of the major items frequently procured in order to monitor the performance of the applicable framework.

6.14 **States in Fragile Situations.** The Bank recognizes the need to address the specific challenges of procurement under Bank operations in states in fragile situations, given that a large number of such countries are in Africa. Conditions of fragility also exist in many regions and sectors even in countries not classified as fragile. The Procurement Framework proposes customized solutions to such situations through the risk-based FfP procurement. As a result of the country, sector, EA and project level assessments, the specific characteristics of fragility with respect to procurement will be identified and any weaknesses mitigated at both the project as well as the country level through appropriate action plans. In these cases too, long-term sustainability will be ensured by way of meaningful capacity building measures both to the state and the private sector. The most appropriate procurement options to meet these challenges will vary according to the prevailing...
country scenario and the extent of these challenges. Under high risk conditions identified as a result of the assessment process, the framework enables the Bank to assist the Borrower by means of increased technical assistance and/or the use of procurement agents and, where appropriate, use of specialized agencies (including those of the UN) to support the handling of procurement.

6.15 **Procurement under Private Sector and Public Private Partnerships.** The proposed framework applies to both sovereign and non-sovereign guaranteed operations. While the concept of VfM is equally valid for private sector operations, the framework recognizes that there are critical differences in the application of this concept. Under the proposed framework, the Bank will conduct an assessment of the established commercial practices and determine the most appropriate procurement arrangement for operations under the private sector to ensure that contracts awarded by private sector Borrowers are in the best financial interest of the client company. It should be mentioned that the Bank will not finance costs that exceed market prices. The OPM provides detailed guidance on how this is to be applied.

6.16 **Handling of Complaints.** The credibility of a procurement system depends to a significant extent on how complaints from bidders are handled as this is an important measure of transparency and fairness. The Bank has in place a comprehensive, just and speedy complaint handling mechanism which is outlined in the Terms of Reference for the Procurement Review Committee (PRC)\(^9\), the highest procurement oversight body in the Bank. The process has been further strengthened in the proposed procurement framework. It specifies that Bidders are free to send copies of their communications on issues and questions concerning the Borrower to the Bank or to write to the Bank directly, when Borrowers do not respond promptly, or the communication is a complaint against the Borrower. The Standard Bidding Documents of the Bank now contain a dedicated mail address where bidders can send their complaints. The Bank has established a central database for registering procurement complaints, a dedicated staff to monitor them and regular review by the Manager to ensure their speedy resolution. In the cases of contracts using the Bank’s, or third party methods and procedures, and therefore subject to prior review, the Bank works with the Borrower to examine and take all additional facts into consideration prior to the award of contract. The Bank’s review will not be completed until the communication is fully examined and taken into account. For contracts under the Borrower’s Procurement System (BPS) and therefore not subject to prior review by the Bank, the communication or its relevant extracts, as deemed appropriate, are sent to the Borrower and the project Executing Agency with a copy to the country’s Procurement Regulatory organ, for due consideration and appropriate action, in accordance with the country’s mechanism for the treatment of complaints, except where the complaint is against the Borrower. Thereafter, the Borrower shall provide to the Bank all relevant documentation for review and where appropriate, the Bank will undertake its own independent audit and apply remedies including misprocurement in accordance with the Policy. Strict timelines are being introduced to ensure speedy disposal of complaint cases. On the other hand, complaints received from bidders against the Borrower, or involving allegations of fraud and corruption (F&C) are referred to the Bank’s Integrity and Anti-

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\(^9\) Presidential Directive No 01/2014 Concerning Terms of Reference of the Procurement Review Committee, issued by the President on 02 February 2014, outlines the Bank’s processes for examination and treatment of complaints including sanctions, as well as for cases of misprocurement.
Corruption Department (IACD). Such cases may warrant a different treatment due to reasons of confidentiality and the Bank applies due care and discretion in sharing information deemed appropriate, with the Borrower. Redacted version of the decisions of the Procurement Review Committee will be published on the web-site of the Bank.

6.17 **Beneficial Ownership.** This term refers to the natural person(s) who ultimately own, effectively control or profit from an arrangement or company, or on whose behalf a transaction is made through a company\(^ {10}\). Beneficial owners of a company may reside outside the jurisdiction where the company is incorporated. Use of anonymous, front or shell companies with beneficial ownership in public financed contracts pose great threat of misuse of funds for criminal purposes, including for money laundering or terrorism financing, corruption, tax fraud, trafficking and other offences. A common law enforcement concern is the difficulty to obtain information on the ownership of foreign companies and trusts, and little, if any, cooperation on identifying beneficial ownership by some countries. In light of this situation, the Bank will adopt a two pronged approach against misuse of corporate vehicles to disguise the identity of the beneficial owner for illicit purposes. The first would be to encourage and liaise closely with its Borrowers to (i) obtain, disclose and publish beneficial ownership information on companies, trusts, and other legal entities that are registered within their borders, including those beneficial owners residing abroad; (ii) to maintain such information in publicly available central registers\(^ {11}\) so that it can be used in investigations; and (iii) to respond to requests to identify the beneficial ownership of legal persons or legal arrangements registered within their borders. Secondly the Bank will consider incorporating into the Bid Form for procurement of goods, works and acquisition of consulting services, a statement requiring bidders to disclose beneficial ownership information when they win the contract and adequate sanctions for providing wrong information.

6.18 **Procurement Lead Time.** The proposed framework emphasizes results to achieve Value-for-Money (VfM) for the Borrower countries and accepts that input processes are only a means to achieve these. As, with improvement in the procurement systems of the country, more and more contracts will be awarded using the systems of the Borrower, significant process efficiencies are expected in the medium and the long-term. As the fiduciary oversight in such cases will be exercised ex-post, through procurement audits, shortening of average procurement lead time is also expected. The impact on project implementation will be visible in due course. Initial estimates suggest that, through rationalization of thresholds, the project implementation period will reduce by between six to eight months.

6.19 **Transparency and Openness.** The Procurement Framework puts great emphasis on enhancing the overall transparency of the Bank’s procurement operations. It is strongly believed that increased disclosure and participation in public procurement enhances competition, fairness, improves contract performance, and secures development outcomes. The Bank will encourage its RMCs to affirmatively disclose documents and information in a manner that enables

\(^{10}\) The owners of anonymous, front or shell companies, which are entities used to disguise the identity of their true owners, that is the person(s) who ultimately control or profit from the company, are also known as the “beneficial owners”.

\(^{11}\) Borrowers may be encouraged to commit to creating fully public beneficial ownership registers of companies which are incorporated within their borders.
meaningful understanding, effective monitoring, efficient performance, and accountability for outcomes. The Bank is also a strong supporter of the Construction Sector Transparency (CoST) which is a program launched by DFID in 2008. CoST works with government, industry and civil society to disclose information on public investment in infrastructure. The information is designed to provide access to statistics and thereby empower stakeholders and enable them to hold decision-makers to account. This creates a business environment in which corruption is less likely to thrive and helps drive improvements in management and efficiency. Ultimately, improvements in transparency and accountability contribute to better value for money and better quality infrastructure and services. CoST is currently active in Ethiopia, Malawi, Tanzania, Uganda, and Zambia. The Bank has been invited by the secretariat of CoST to be a member of the Advisory Panel (AP) to oversee the process of the Strategic Review (SR) of the program.

6.20 **Conflict of Interest.** The proposed framework requires that consultants provide professional, objective, and impartial advice and at all times hold the client’s interests paramount, without any consideration for future work, and that in providing advice they avoid conflicts with other activities, assignments, relationships and their own corporate interests. A task force comprising ORPF, GECL, CHRM, IACD, SIEO and CSVP was set up to review and suggest revisions to the Bank’s internal rules on this subject. The work of the task force will focus on but not limited to, ex-staff or ex-consultants who form or become associated with companies that seek to work with the Bank directly or under Bank-financed operations. The findings and recommendations of the task force will be incorporated in the OPM and the Standard Bidding Documents.

7. **COMPARISON BETWEEN THE CURRENT RULES AND THE PROPOSED POLICY**

7.1 The proposed Policy differs substantially in its underlying philosophy, content and presentation from the current Rules. Building on the principle of separation of policy from procedures and processes, the proposed policy first establishes a new vision which it proceeds to elaborate in greater detail highlighting the objectives, principles, and considerations underpinning it and outlining how they can be achieved. It describes the scope and applicability of the policy, and specifies the Bank’s eligibility and conflict of interest requirements. It further stipulates prohibited practices, anti-fraud and corruption requirements and standards, and lays down the conditions that would warrant the Bank to declare mis-procurement and institute appropriate remedies. The Policy, supported by the Methodology, delves in detail in expanding its application to achieve the vision; dealing with proposed risk-based assessment of Borrowers’ procurement systems and capacities, the general elements of a public procurement system for goods, works, and consulting services, and the provisions for encouraging development of Borrowers’ industry, and environmentally and socially responsive procurement (ESRP). It concludes with consideration of the Bank’s requirements for procurement planning, monitoring and evaluation under its projects and programmes.

7.2 The Policy ensures that: (i) the stringent fiduciary oversight standards of the Bank are enhanced to adequately reflect and appropriately balance fiduciary risk and assurance within an overriding VfM framework; (ii) the overall standards of procurement remain at no less than the existing
levels; (iii) open competition remains the preferred method for procurement of goods and works; (iv) the need for high quality services in the selection and use of consultants remains paramount; (v) the most productive lessons learnt in application of the MDBs public procurement standards and practices over the years are retained; (vi) fraud and corruption risk is managed, mis-procurement is identified when it occurs and appropriate remedies applied; and (vii) the Bank mainstreams capacity development in its operations in the RMCs.

7.3 A detailed comparison between the current rules and the proposed Policy is included under Attachment 8.

8. RECOMMENDATIONS OF THE INDEPENDENT EVALUATION OF THE BANK’S PROCUREMENT PERFORMANCE

8.1 The Independent Development Evaluation Department (IDEV) carried out an evaluation of the efficiency and effectiveness of procurement performance in the Bank’s operations during 2007–2013. The evaluation was aimed at examining: a) how well the Bank’s procurement performance met its mandated fiduciary principles of economic, efficient and appropriate use of its funds while preventing corruption; b) how effectively it has helped its member countries build sound and well-functioning national procurement systems; and c) how well its procurement policies and procedures were coordinated with and contributed to the Bank’s overall development assistance programmes and objectives. The main findings and recommendations of the evaluation and how it is addressed under the proposed Policy are detailed in Attachment 9. It should be noted that other recommendations that are not directly related to the policy have already been addressed in the Management Response presented to CODE/AUFI discussed on 28 October 2014.

9. IMPLEMENTATION OF THE PROPOSED PROCUREMENT FRAMEWORK

9.1 Entry into Effectiveness: The Bank fully recognizes the importance of ensuring the smooth entry into effectiveness of the proposed framework in which the prescriptive nature of the existing Rules will be replaced by a principles-based Policy. The risk-based approach adopted by the framework will mean that a number of preliminary activities will need to be undertaken before the proposed Policy becomes effective. These will include preparation of BPARs and orientation and training of Bank Staff, and based on this, it is anticipated that the earliest date of effectiveness for the proposed Policy shall be 1st January 2016. Upon effectiveness, the following situations will apply:

a) New projects approved after the date of effectiveness, in countries in which there is adequate information for BPARs to be prepared, will be subjected to the proposed Policy;

b) New projects approved after the date of effectiveness, in countries for which there are no BPARs ready, will be subjected to an amended approach without the BPAR;
c) Under existing projects approved prior to the date of effectiveness of the proposed Policy, new procurement processes commencing in countries where the Borrowers elect to follow the new Policy may; (i) follow the new Policy if there are BPARs; or (ii) follow an amended approach if there are no BPARs; and

d) Existing projects for which the Borrowers elect to continue to follow the previous Rules under which the Loans were approved may do so.

9.2 A comprehensive implementation plan has been developed (Attachment 10) encompassing, the start-up stage, preparation of BPARs, procurement information management, Bank and Borrowers’ staff capacity building. The key elements of the implementation plan are described hereunder:

a) Start-Up Approach

The start-up approach to implementation of the proposed Policy is crafted based on consideration of a number of factors as follows:

- Countries where a good body of information and diagnostic work (especially using the OECD-DAC MAPS) recently carried out exists, and where the Bank’s customized MAPS can easily be applied to prepare the BPARs;
- Countries for which the preparation of Country Strategy Papers (CSPs) is programmed for 2016 and 2017;
- Countries for which there is a reasonable number of projects (Pipeline of Projects) targeted for Board presentation in early 2016 and for which expenditure of resources for preparation of the BPARs is justified;
- Countries in which other analytical information exists on previous contracts financed by the Bank or other MDBs, to facilitate preparation of BPARs and review of procurement risks;
- Balanced representation of Francophone, Anglophone and Lusophone countries; and
- Geographical distribution with representation of all the regions covered by the Regional Procurement Coordinators (RPCs);

b) Preparation of the Bank’s Procurement Assessment Report (BPAR)

The entry into effectiveness of the proposed Policy, for projects or programmes in a given RMC, will depend on the existence of a BPAR and therefore its preparation will be expedited. The BPAR is based on a customized version of the OECD-DAC MAPS, and its compilation will entail execution of a number of activities starting from collection of information, analysis and report writing, dissemination internally and externally as well validation internally and final endorsement by the country. It will contain a Procurement Capacity Development Action Plan (PDAP) to be agreed between the Borrower and the Bank. The assessments will be conducted through a consultative process and country dialogue will be key for government-buy in, during the application of the proposed Policy. Scheduling of the preparation of BPARs is determined based on the factors outlined in (a)
above. The BPAR findings will also contribute to the assessments at the EA and project levels, which are based on the Bank’s Procurement Risk Assessment Methodology (PROCRAm), developed specifically for use by the Bank to assure the dynamic application of the Policy.

The initial preparation of BPARs and their validation for entry into effectiveness of the proposed Policy, is targeted to be completed by December 2015 for selected countries. For countries where CSPs have recently been completed, it is planned to commence the diagnostic work early in 2016. Assessments at the country and the sector levels will be coordinated with other donors, given the need for harmonization, and it will be carried out under the leadership of the Borrower country.

c) Market Analysis

As part of the overall fiduciary risk assessment framework, market analysis is a critical activity to be undertaken during the preparation/evaluation of a Bank-financed project with a view to analyzing the characteristics of the market (structure, firms’ capabilities, price trends, fraud & corruption, and future developments). The outcome is meant to identify and mitigate any fiduciary risk when using the borrower system, promote local content if any, and in application of the “fit for purpose”, identify the best procurement methods and procedures for the procurement plan. With a view to rationalizing the use of resources and promoting common strategies among donors, the Bank started a joint assessment with the Millennium Challenge Corporation (MCC) and the World Bank in 3 countries in Africa (Ghana, Tanzania and Senegal). The first mission was carried out in Ghana during July 2015.

d) Procurement Information Management

Key information on procurement transactions is currently stored under the SAP-PS system based on the Essential Procurement Data Entry Form. In addition, the Bank has recently developed the Project Procurement Workflows (PPW) under Baobab as a new collaboration platform which is integrated with SAP as the source of initial data. Furthermore, an archiving system under Baobab has been created where additional information external to what is captured in SAP is being stored. These three platforms serve as the repository of procurement data. All the activities leading to improvements in management of information are targeted to be completed by December 2015 in time for the rolling out of the new policy. It should therefore be noted that the improvements being proposed do not recommend migration to any new system but enhancement of the existing system and resolving the key weaknesses previously observed.

e) Capacity Building for Bank Staff

The fit for purpose approach adopted by the proposed Policy requires use of professional judgment by competent Bank staff to make the requisite procurement “no objection” decisions. This requires sustained internal capacity building in areas like risk assessment (including through the customized OECD-MAPS assessment tool) and determination of FfP
procurement to ensure VfM for Bank operations. The initial orientation to staff in this respect was conducted in March 2015. However, training will need to be a continuous activity for improvement in the qualitative and quantitative skills of staff, and to ensure that the Bank’s dialog with the Borrowers on improvement in their procurement systems is credible and consistent.

The current resources in the Bank with regard to the number of procurement staff is considered sufficient for the implementation of the proposed Policy. In addition to procurement staff, it is imperative for the Bank to accredit staff, especially operations project Task Managers, to make procurement “no objection” decisions in line with the Delegation of Authority Matrix (DAM). To this end, the Bank has developed a comprehensive capacity building plan that includes skills assessment, training of procurement and other operations staff, e-learning as well as training of trainers. The capacity building plan includes the following activities:

- **Assessment of procurement skills of ORPF Staff.** This assessment (*Attachment 11*) has been executed through the engagement of independent consultants, who have; (i) determined the procurement competency requirements for implementation of the Policy Framework, on the demand side; (ii) assessed the competency of the current stock of procurement officers on the supply side; (iii) determined skills gaps; and (iv) prepared an outline of a skills development plan.

- **Preparation of pedagogical procurement training materials.** The Bank is preparing pedagogical procurement training materials based on the Procurement Policy, the Methodology, OPM and Toolkit.

- **Delivery of procurement training to ORPF staff including training of trainers.** Procurement training shall be conducted, in French and in English (and later in Portuguese) with ORPF procurement officers as the target group at the Intermediate and Advanced levels. The first training on the main aspects of a sound public procurement system was completed in June 2015.

- **Creation of Internal Specialized Experts.** Based on the findings of the skills assessment exercise, staff with specific areas of strength e.g. advanced knowledge of specific types of contracts, method of assessments etc. will be identified. They will be provided with specific training and will act as specialized experts within the department. Bank staff in general and procurement staff in particular will request them for guidance within their areas of expertise. They will be also asked to train the rest of the staff on these specific areas to ensure internal knowledge transfer within the Bank. This activity will be conducted in close collaboration with international specialized bodies.
- **Conversion of materials onto an E-Learning Platform.** The pedagogical materials developed by the Bank, in English and French, will be converted onto an E-Learning Platform at the Basic, Intermediate and Advanced Levels.

- **Change Management.** The above-mentioned capacity building exercise will also include change management and will further focus on behavioural change of Bank staff towards more innovative thinking across the whole project life cycle while keeping their fiduciary responsibility firmly in mind. It should be mentioned that while developing the proposed Policy, intensive and regular consultation meetings were held with various staff of the Bank (including procurement staff) regarding developments concerning the proposed approach and the expected change.

e) **Capacity Building in Borrowers’ Countries.** The proposed Policy will enable a more focused approach as a detailed country (and sector and executing/implementing agency) assessment will be carried out and specific areas of weakness will be identified. Capacity building at the country level is envisaged to be a collective effort to be coordinated amongst donors. Capacity building in RMCs will include, apart from training, other activities like reform of institutions, development of centres of excellence and professionalization of the procurement function.

9.3 **Required Financial Resources:** The estimated budget required for the implementation of the proposed framework is indicated in Table (1) below. While most of these resources will need to come from the administrative budget of the Bank, we are also approaching some trust funds to finance some activities. Capacity building efforts in RMCs will particularly require significant resources and the Bank will collaborate with other donors in this direction. The Procurement Capacity Development Action Plan (PDAP) will include a number of discrete, but connected activities some of which can be financed by the Bank through its projects while others may be of interest to other donors. Given the holistic nature of the PDAP, these efforts will be mutually reinforcing leading to better development outcomes.

**Table (1): Estimated Budget**

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<thead>
<tr>
<th>No.</th>
<th>Item Description</th>
<th>Estimated Budget (USD)</th>
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<tbody>
<tr>
<td></td>
<td></td>
<td>2015</td>
</tr>
<tr>
<td>1</td>
<td>Drafting of the Operations Procurement Manual &amp; Tool kit (one time: subsequent modifications will be minor and will likely be managed in-house)</td>
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<td>2</td>
<td>Editing of Policy, Methodology, Manual &amp; Toolkit (one-time)</td>
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<td>3</td>
<td>Translation of Manual &amp; Toolkit</td>
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<td>4</td>
<td>IT work on Manual &amp; Toolkit</td>
<td>15,000</td>
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<tr>
<td>No.</td>
<td>Item Description</td>
<td>Estimated Budget (USD)</td>
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<td>------------------------</td>
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<tr>
<td></td>
<td></td>
<td>2015</td>
</tr>
<tr>
<td>5</td>
<td>Printing of all documents</td>
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<td>Skills assessment of procurement staff</td>
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<td>Training of Procurement Staff (delivery of the training)</td>
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<td>Change Management</td>
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<td>Assessment of country systems</td>
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<td>11</td>
<td>Training at country level (continuous education)</td>
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<td>Creation of Awareness</td>
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<td>Procurement Conference</td>
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<td>FM/ Procurement Consultants (day-to-day work)</td>
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<td>Monitoring &amp; Evaluation</td>
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<td><strong>Total</strong></td>
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</tbody>
</table>

9.4 Most of the activities included in the above table do not have substantial recurrent expenditure as these will be completed in the first three years. ORPF has already received funds (in 2014 and 2015) for some of these activities. Recurring expenditure will be limited to capacity building within the Bank and the countries, carrying out assessments at country, sector and project levels (to be done in collaboration with other donors), preparation of the progress reports, Independent Procurement Reviews, preparation of analytical reports based on data collected during implementation and procurement audits (financed by the projects themselves). The existing authorized head-count of procurement staff is considered sufficient for implementation of the framework.

10. CURRENT STATUS AND IMPLEMENTATION TIMELINE

10.1 The preparation of the OPM and the Toolkit is currently under way and is expected to be finalized by the end of November 2015. The skills assessment exercise was completed in June 2015. Capacity building exercise will start as soon as the proposed policy is endorsed by CODE/AUFI.
It is envisaged that the proposed Policy will be effective and will be gradually implemented as from 1st of January 2016.

11. REPORTING ON THE IMPLEMENTATION OF THE PROPOSED POLICY

11.1 The Bank will regularly prepare and publish a number of studies and reports while implementing the proposed Policy. These will include: (i) the Bank Procurement Assessment Report (BPAR) including the Procurement Capacity Development Action Plan (PDAP); (ii) report on the discharge of the fiduciary obligations by the Bank which will include a collation of results of prior reviews, post reviews, procurement audits and any special reviews; and (iii) the procurement annual reports that capture statistical information on Bank-financed contracts and that will continue to be prepared and posted on the Bank’s website. In addition, effective 2016 and for the following five years, the Bank will submit an annual report to the Board on the status of implementation of the proposed Policy. The report will detail the performance of both the Bank and Borrowers in the realization of obtaining optimum VfM (detailed reporting included in the Implementation Plan (Attachment 10)).

12. CONCLUSION

12.1 The proposed Procurement Framework will bring about significant changes not only in Bank (and RMCs) processes, but in operational results. With the focus firmly based on achievement of VfM by Borrowers through risk-based Fit-for-Purpose (FfP) procurement, transactions in operations of the Bank will be handled with greater flexibility and effectiveness. The review of Borrowers systems will enable development of a body of knowledge that will benefit all stakeholders including the RMCs and the donor community. This will also permit deeper dialogue to be carried out with the countries for governance reforms and measuring their impact. A graduated use of oversight instruments from procurement audits to prior and post-reviews will bring greater efficiencies in transaction processing, and permit a more optimum use of Borrower and Bank resources. The Bank will also look at other strategic objectives of the Borrower countries with greater empathy. This will allow the Bank to move away from a “one size fits all” approach to one that is better calibrated to the specific context. Use of BPS for low-risk transactions will allow for a deeper and a more legitimate dialogue with the countries for systemic reforms. Diversion of Bank staff resources from low risk to more complex transactions (and more analytical work) will bring about qualitative improvement in the handling of complex and high value transactions. This will also help improve Bank’s fiduciary standards. A customized approach to procurement will also allow a more effective treatment of procurement under fragile and emergency situations. It is further believed that mainstreaming these issues in Bank’s dialogue with the countries will encourage the use of electronic procurement and other innovative procurement methods.

12.2 The above will, however, require a major shift in the skills of the Bank operations staff (including those handling procurement). Under the proposed framework, their work will move from
ensuring mechanical compliance to Bank procedures to one that will require a more analytical assessment of the existing systems. This will require significant capacity building efforts within the Bank and in Borrower countries. The result of this exercise will be a more skilled and better prepared and motivated staff.

13. RECOMMENDATION

13.1 The Board is requested to approve the *Procurement Policy for Bank Group Funded Operations* and the *Methodology for Implementation of the Procurement Policy of the African Development Bank* and thereby authorize Management to proceed to finalize the *Operations Procurement Manual for the African Development Bank (OPM)* and *Procurement Toolkit for the African Development Bank (Toolkit)*.
Attachment 1

Procurement Policy for Bank Group Funded Operations