African Development Bank

Execution of Bank Oversight Functions When Using Borrowers’ Procurement Systems

August 2020
Preface

This Guidance Note (GN) provides the detailed methodology, working tools, checklists and templates required as comprehensive guidance to African Development Bank Staff while executing their procurement function with regards to the oversight of Borrowers’ activities, when Borrowers Procurement Systems (BPSs), are being used under loans and grants financed by the Bank Group.

This GN is also a guide to Borrower’s project Executing Agencies (EAs) in planning and implementing external procurement audits. It is developed from, and supports the Operations Procurement Manual Part B, which outlines, in addition to the roles and responsibilities of the Borrower, the Procurement Oversight responsibilities of the Bank.

The intensity of Bank oversight of Borrowers procurement processes depends on the procurement regime or system being used by the latter, namely BPS, Bank Procurement Methods and Procedures (Bank PMPs), or Third Party PMPs. This GN concentrates on procurement oversight under BPS. Two other GNs deal respectively with oversight under Bank and Third Party PMPs.

Users of these GNs are advised to make themselves very conversant with OPM Part B Volume 1, Sections 5-7, which deal with that subject. They form part of the Procurement Toolkit in the Bank’s Procurement Policy Framework.
To obtain further information on procurement under African Development Bank-funded projects or for question regarding the use of this SBD, contact:

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## Abbreviations, Acronyms & Defined Terms

<table>
<thead>
<tr>
<th>Abbreviation or Term</th>
<th>Full Terminology or Definition</th>
</tr>
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<tbody>
<tr>
<td>Accountability</td>
<td>Obligation on those to whom authority is delegated to account and accept responsibility for their actions and decisions. For example, managers are held responsible for carrying out a defined set of duties or tasks, and for conforming with rules and standards applicable to their posts.</td>
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<tr>
<td>ADB</td>
<td>African Development Bank</td>
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<td>ADF</td>
<td>African Development Fund</td>
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<tr>
<td>Applicant</td>
<td>A firm or joint venture that submits an Application in response to an Invitation to Prequalify which is also the Specific Procurement Notice (SPN) for Prequalification.</td>
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<tr>
<td>Application</td>
<td>A document submitted by an Applicant in response to an Invitation to Prequalify, which is also the Specific Procurement Notice (SPN) for Prequalification</td>
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<tr>
<td>Authority</td>
<td>Permission given by a higher Authority, to legally act or take decisions on behalf of an Organization within the limits of its protocols, by-laws, policies, and regulations.</td>
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<tr>
<td>Bank</td>
<td>African Development Bank Group comprising the African Development Bank (ADB), the African Development Fund (ADF) and the Nigeria Trust Fund (NTF)</td>
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<tr>
<td>BD</td>
<td>Bidding Document</td>
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<tr>
<td>BER</td>
<td>Bid Evaluation Report</td>
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<tr>
<td>Bid</td>
<td>An offer, by a firm or joint venture, in response to an Invitation to Bid which is also the Specific Procurement Notice (SPN) to provide the required Goods, Works or Non-consulting Services.</td>
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<tr>
<td>Bidder</td>
<td>A firm or joint venture that submits a Bid for Goods, Works, or Non-consulting Services in response to an Invitation to Bid.</td>
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<tr>
<td>Bidding Document</td>
<td>A compilation of documents comprising Instructions to Bidders, Employers / Purchasers’ Requirements, Evaluation Criteria and Sample Contract, prepared by the Employer/Purchaser for soliciting offers from potential suppliers or contractors.</td>
</tr>
<tr>
<td>Borrower</td>
<td>A Borrower or Recipient of a Loan or Grant from the African Development Bank Group. This term may include any entity of the Borrower that is involved in the implementation of a project financed by the Loan or Grant.</td>
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<tr>
<td>BPAR</td>
<td>Bank’s Procurement Assessment Report</td>
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<td>BPS</td>
<td>Borrower’s Procurement System</td>
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<tr>
<td>Consultant</td>
<td>A variety of private firms, entities, joint ventures, or individuals that provide services of an intellectual, advisory or professional nature.</td>
</tr>
<tr>
<td>Complaint</td>
<td>A communication sent to the Borrower or the Bank, protesting against a decision of a Borrower or the Bank, relating to the execution of a project or providing informing that the Procurement Policy and/or provisions of the Bidding Documents have not been complied with.</td>
</tr>
<tr>
<td>Complainant</td>
<td>The originator of a Complaint</td>
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<tr>
<td>Contract Award Notice</td>
<td>The published notice of contract award.</td>
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1 Defined Terms start with Capitals in the text
<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>CQS</td>
<td>Consultants Qualifications Selection</td>
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<tr>
<td>CS</td>
<td>Consulting Services</td>
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<td>CSO</td>
<td>Civil Society Organization</td>
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<tr>
<td>CT</td>
<td>Country Team</td>
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<tr>
<td>DAM</td>
<td>Delegation of Authority Matrix</td>
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<td>DP</td>
<td>Direct Procurement</td>
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<td>EA</td>
<td>Executing Agency</td>
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<tr>
<td>EOI</td>
<td>Expression of Interest</td>
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<td>FA</td>
<td>Financing Agreement which is the Loan Agreement or Grant Protocol Agreement</td>
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<tr>
<td>FCS</td>
<td>Fragile or Conflict Affected Situations/ Enclaves</td>
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<tr>
<td>F&amp;CU</td>
<td>Fraud and Corruption – Also referred to as Prohibited Practices (PP). The sanctionable practices of corruption, fraud, collusion, coercion and obstruction defined in the Bank’s Integrity Framework, comprising the Sanctions Procedures of the African Development Bank Group, the Whistler Blowing and Complaints Policy, and the Procurement Policy for Bank Group Funded Operations.</td>
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<tr>
<td>FIR</td>
<td>Fiduciary Inspection Review</td>
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<td>FFP</td>
<td>Fit for Purpose</td>
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<td>FPA</td>
<td>Fiduciary Principles Agreement</td>
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<td>GN</td>
<td>Guidance Note</td>
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<td>GPN</td>
<td>General Procurement Notice</td>
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<td>IFB</td>
<td>Invitation for Bids which is also the Specific Procurement Notice (SPN) for Goods, Works and Non-consulting Service.</td>
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<tr>
<td>IPR</td>
<td>Independent Procurement Reviews</td>
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<td>ITB</td>
<td>Instructions to Bidders which forms part of the Bidding Document for procurement of Goods, Works and Non-consulting Services</td>
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<td>LCB</td>
<td>Local Competitive Bidding</td>
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<td>Misprocurement</td>
<td>A situation in which the Bank rules that its financing has not been utilized in accordance with the applicable rules and procedures and therefore decides to apply certain remedies and sanctions.</td>
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<tr>
<td>MRA</td>
<td>Mutual Reliance Agreement</td>
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<td>NGO</td>
<td>Non-Governmental Organization</td>
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<td>Notification of Intention to Award</td>
<td>The notice transmitted to Bidders/Proposers by a Procuring Entity (PE), informing them of the intention to award the contract.</td>
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<td>OPM</td>
<td>Operations Procurement Manual</td>
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<td>PD</td>
<td>Presidential Directive</td>
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<td>PE</td>
<td>Procuring Entity</td>
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<td>PIAC</td>
<td>Office of Integrity and Anti-Corruption</td>
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<td>PMP</td>
<td>Procurement Methods and Procedures</td>
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<tr>
<td>PP</td>
<td>Procurement Plan</td>
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<tr>
<td>PP/F&amp;CU</td>
<td>Prohibited Practices, otherwise also referred to as Fraud and Corruption (F&amp;C)</td>
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<td>PPCF</td>
<td>Project Procurement Complaints Form</td>
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<td>PPOB</td>
<td>Public Procurement Oversight Body</td>
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<td>PPT</td>
<td>Project Task Team</td>
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<td>PRC</td>
<td>Procurement Review Committee</td>
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<td>Prequalification</td>
<td>The initial process which is used in the case of complex and or high value procurement or in any other circumstances for Goods, Works or Non-consulting Services, in which the high costs of preparing detailed</td>
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<tr>
<td>Provision</td>
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<td><strong>bids, could discourage competition, such as custom designed equipment, industrial plant, specialized services, some complex information technology and contract to be let under turnkey, design and build, or management contracting, essentially to ensure that invitations to bid are extended only to firms and entities that have adequate capabilities and resources.</strong></td>
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<tr>
<th><strong>Prequalification Questionnaire</strong></th>
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<tr>
<td>The Prequalification Document prepared by the Procuring Entity (PE) and issued to potential Applicants to complete and submit their Application.</td>
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<tr>
<th><strong>Procurement Documents</strong></th>
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<tr>
<td>A generic term used to cover all Procurement Documents issued by the Borrower. It includes Prequalification Questionnaires, Bidding Documents, requests for proposals document, Request for Quotations document, forms of contracts and any Addenda.</td>
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<tr>
<th><strong>Procurement Policy</strong></th>
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<tr>
<td><strong>Procurement Policy for Bank Group Funded Operations.</strong></td>
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<tr>
<th><strong>Proposal</strong></th>
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<tr>
<td>An offer, in response to a Request for Proposals, which may or may not include price, by one party to provide Consulting Services to a PE.</td>
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<tr>
<th><strong>Proposer</strong></th>
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<tr>
<td>A Consulting Firm, an entity or joint venture that submits a Proposal for Consulting Services in response to a Request for Proposals.</td>
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<th><strong>QCBS</strong></th>
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<td>Quality-Cost Based Selection</td>
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<th><strong>RDG</strong></th>
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<tr>
<td>Regional Director General</td>
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<tr>
<th><strong>REOI</strong></th>
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<tr>
<td>Request for expression of interest which is also the Specific Procurement Notice (SPN) for Consulting Services.</td>
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<tr>
<th><strong>ROM</strong></th>
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<tr>
<td>Regional Operations Manager</td>
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<tr>
<th><strong>Responsibility</strong></th>
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<tr>
<td>The act of being accountable for the performance of an assigned task.</td>
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<th><strong>RFP</strong></th>
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<td>Request for Proposals for Consulting Services</td>
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<th><strong>RFQ</strong></th>
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<td>Request for Quotations</td>
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<th><strong>RMC</strong></th>
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<tr>
<td>Regional Member Country</td>
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<th><strong>TM</strong></th>
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<td>Task Manager</td>
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<th><strong>RVP</strong></th>
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<tr>
<td>Regional Vice President</td>
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<th><strong>SAI</strong></th>
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<td>Supreme Audit Institution</td>
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<th><strong>SNFI</strong></th>
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<tr>
<td>Fiduciary Services and Inspection Department</td>
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<th><strong>Solicitation Documents (SDs)</strong></th>
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<tr>
<td>Includes Prequalification Questionnaires, Bidding Documents, Requests for Quotations (RFQ) and Request for Proposals (RFPs)</td>
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<th><strong>SPN</strong></th>
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<td>Specific Procurement Notice</td>
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<th><strong>SSS</strong></th>
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<tr>
<td>Single Source Selection</td>
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<tr>
<th><strong>Standard Procurement Documents (SPDs)</strong></th>
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<tr>
<td>Procurement Documents issued by the Bank to be used by Borrowers in projects implemented using Bank's PMPs. These include Prequalification Questionnaires, Bidding Documents, Request for Quotations Documents, and Request for Proposals Documents.</td>
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<th><strong>Standstill Period</strong></th>
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<tr>
<td>The period following the Notification of Intention to Award.</td>
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<th><strong>TOR</strong></th>
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<tr>
<td>Terms of Reference</td>
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<th><strong>VfM</strong></th>
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<td>Value for Money.</td>
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Introduction

1.1 In order to explain the Bank’s Procurement oversight function, three related Guidance Notes (GNs) which draw from the Operations Procurement Manual (OPM) Part B Volume 1, Sections 5-7 were developed. They detail the oversight activities when using each of the three procurement regimes namely the: Borrowers’ Procurement Systems (BPS); Bank’s Procurement Methods and Procedures (PMPs); and Third Party PMPs, in executing the Bank’s risk-based approach with its Borrowers. The OPM Part B, in highlighting the roles and responsibilities of the Bank, essentially explains these three procurement regimes and broadly outlines the requisite oversight mechanisms when using them. The specific modalities are highlighted in Figure 1.

![Figure 1: Procurement Oversight](image)

1.2 The above-mentioned GNs provide further support to understanding and using the OPM by making accessible, the tools, working documents including tables and formats, as well as checklists that would be required by Bank Staff in executing this function. This particular GN focuses on oversight under BPS.

1.3 Under full use of BPS, the Borrower’s normal primary responsibility for project administration is extended to include the execution of full oversight functions, including prior and post reviews, resolution of complaints and procurement audits, under the country’s procurement law and regulations. The Borrower therefore executes the full responsibilities of auditing the project including implementing audit recommendations and applying remedies against prohibited practices in accordance with the country’s procurement law and regulations. The Borrower may be represented by a Project Executing Agency (EA), which therefore has the duty, in consultation with the Bank, to select and finance an Independent Auditor with due accreditation as a reviewer to carry out an External Procurement Audit.

1.4 The Borrower’s execution of procurement processing and oversight functions are normally distributed between the EA, the Public Procurement Oversight Body (PPOB)
and the Supreme Audit Institution (SAI). Thus, while the EA executes the procurement process, oversight is assured by the PPOB and other appeal bodies. The RMC’s SAI organizes preparation and/or compilation of annual external procurement audit reports which are normally processed through the Borrower’s procurement system. Being the government’s entity mandated to conduct such audits, the Bank encourages the SAI to rely on the PPOB as its technical arm which possess the required expertise to do such audits and prepare the required audit reports.

1.5 When BPS is being used, the essential elements of oversight undertaken by the Bank in this case comprise review of Borrowers’ Annual Project Procurement Audits Reports, assessment of any identified departures from the Procurement Plan (PP), Financing Agreement (FA) and the Procurement Policy Framework, and when needed commission Independent Procurement Reviews (IPRs) which focuses on detailed examination of any potential cases of misprocurement.

1.6 In order to undertake these activities efficiently, both Borrowers and Bank Staff need to properly understand the key elements of the Procurement Auditing process, an overview of which is given in Figure 2 and more details are provided in Annex A.

**Figure 2: Understanding Procurement Auditing**

An Overview: Procurement Auditing would comprise:
- Introduction to Procurement Auditing
- Regulatory framework of the Public Procurement comprising Legal, Internal and external controls, Procurement Planning, Procurement Documents, Qualification, Evaluation, Contracts, Procurement Challenges/Protests
- Contract administration and procedures
- Internal control and quality assurance procedures

Overview of the Procurement Audit Process
- Establishing the Audit Context (Objectives, Scope)
- Audit Planning
- Audit Execution
- Reporting

Executing the Procurement Audit
- Selection of Samples
- Sources of Audit Information
- Development of Audit Checklists (for each of the stages of the Procurement Process)
- Requirements for Conducting the Audit

The Audit Report
- Preparing the Audit Report
- Audit Report Outline
1.7 This GN highlights the procurement audit process, provides the details and explains the accompanying activities in order to upgrade and expand the competencies of Bank and Borrower’s Procurement Specialists (PSs) in planning, setting up appropriate objectives and scope, procurement audit execution and management including procurement audit risk assessment and mitigation as well as audit reporting. It also contains the modalities for the review of Borrowers’ Procurement Annual Audit Reports.

1.8 The **cost of the procurement audit** shall be included under the project or program, and it shall preferably be associated with, and to the extent possible be integrated with the Financial Audit.

1.9 **Important Note:** Even though while using BPS the Bank relies on procurement audits for its oversight responsibility, Bank’s Procurement Specialists (PSs) shall not wait for the review of the audit reports submitted by Borrowers, it is the responsibility of the PSs to monitor the compliance of the ongoing procurement processes done under BPS with what was agreed upon with the Borrower and reflected in the Financing Agreement, this shall include receiving the bidding documents, evaluation reports,…etc. Following each supervision mission and portfolio review, a specific section on procurement under BPS shall be included in the resulting aide-memoire or report. All obligations of the Borrower when it comes to BPS shall be brought to the attention of Borrower during negotiations and launching of projects. Though no official no objection is required, Borrowers are obliged to timely provide the Bank with any documents deemed necessary.

2. **The Procurement Audit Process**

2.1 **Essential Elements of the Audit Process**

2.1.1 This section provides an overview of the procurement audit process and explains each step in detail. These various steps (essential elements) are the following:

   a) Establishing Audit Objectives;
   b) Defining Audit Scope;
   c) Setting Audit Standards;
   d) Developing Audit Plan;
   e) Outlining an Audit Report;
   f) Executing the Audit: sample selection, collection of documentation & evidence; and examination; and
   g) Audit Output & deliverables - Finalizing the Audit Report with Findings and Recommendations normally covering the following:
      - EA Procurement Capacity;
      - Compliance with rules and regulations of Procedures and process for procurement, contracting and contract management
      - Performance in the achievement of VfM;
      - Potential Prohibited Practices; and
Conclusions and Recommendations, including Action Plan.

2.2 Establishing Audit Objectives

2.2.1 The aim of the procurement audit for a Bank-financed project being executed under BPS is to ascertain that funds were used for the purposes intended, evaluate the degree of achievement of the Bank’s procurement vision, and to contribute to the improvement of the entity’s governance, risk management, and control processes. In addition to the above compliance check, the audit also aims to ensure that the environment assessed by the Bank while approving the use of BPS is still the same, and if there are changes, the audit will list those changes and assess their acceptability by the Bank e.g. changes in the Public Procurement Law, mandates of various institutions...etc. The audit will also assess the capacity of the EA and ensure that it is performing as anticipated during project appraisal and whether any mitigation measures established at the time are working properly. Finally, the audit will also aim to conduct physical inspections (where necessary). The audit objectives should articulate specifically what the engagement is aimed to accomplish. An exhaustive list of audit objectives is provided in para. 2 of Annex A.

2.3 Defining Audit Scope

2.3.1 The Procurement Audit Scope is the framework or guidelines drawn, within which the audit is performed. It identifies the specific stages, and elements of the procurement processes that resulted in the contracts covered by the audit. Defining the scope therefore means gathering and analysing information to obtain a good understanding of the environment and entity-level controls to ensure that the audit methodology is relevant and efficient. The procurement audit will essentially focus on compliance and in specific circumstances the scope may be extended to cover the realization by the Borrower of optimum Value for Money (VfM) as required under the Bank's Procurement Framework.

2.3.2 An example of scope to be covered under each selected contract, is the following:

- Procurement Plans;
- Selection of Procurement Methods and Procedures;
- Advertising - Procurement Notices;
- Prequalification Documents, where used for complex procurement;
- Solicitation Documents (Bidding Documents / Requests for Proposals / Request for Quotations);
- Justifications for single-source procurement;
- Requests for clarifications;
- Bid Opening Records (Minutes);
- Bids/Proposals Evaluation (Evaluation Reports);
- Approvals of Contract Awards at the national level;
- Award Notifications;
- Contracts Signature;
- Advertising of Awards (if required);
- Contracts Management; and
- Procurement Documents filing.

2.4 Setting Audit Standards

2.4.1 A Standard, by definition, is generally an indicator used to assess something. Without this indicator, it is impossible to perform the assessment process effectively and credibly. Standards may be as follows:

- **INTOSAI and its Standard Setting Principles**: INTOSAI sets the Standards and Sources for auditing based on some basic principles ([https://www.intosai.org/focus-areas/audit-standards](https://www.intosai.org/focus-areas/audit-standards)).
- **Regulatory Audit Standards**: These are generally accepted accounting principles and compliance with rules governing the procurement process.
- **Performance Audit Standard (adopted Criteria)**: It is difficult to identify one particular standard for this type of audit, because it deals with different aspects of Management including style, information systems, efficiency, effectiveness, outcomes, cost productivity, economy, that is measuring VfM.

2.4.2 The scope of the audit mandate determines the scope of standards to be applied: In public procurement, standards are in two categories:

- **General standards**: For example: transparency, segregation of procurement responsibilities, grouping of purchases; and
- **Specific standards**: This is the specific standard or goal set by the Procuring Entity (PE) or Executing Agency (EA) itself to achieve its operational goals, including standards for processing bids (such as business process standards, specific timeframes, specific documentation).

2.4.3 **Measures of Tender/Proposals Evaluation**: Standards in the context of evaluation of solicitations are criteria based and comprise:

- Technical Criteria; and
- Financial/Commercial Criteria.

2.4.4 **Standards for the Assessment of Contractors, Suppliers, Consultant Selection**: These cover the technical, financial capability and performance of the Supplier, Contractor or Consultant, as follows:

- Technical ability and Expertise;
- Experience;
- Methodology;
- Financial Ability;
- Availability of ancillary services such as equipment, maintenance, training, availability of spare parts;
- Effectiveness of Human Resources – (Personnel);
- Capacity to deliver on time (past performance); and
- Depending on the scope of the audit:
  - Documentation will need to be reviewed;
Specific questionnaires will need to be prepared/adapted; Field visits may need to take place; and Tests may need to be conducted.

2.4.5 **Audit Standards for Contract Preparation and Management:** This is accomplished through customization of a relevant questionnaire to assess; (i) contract formats and awards; (ii) contract performance; and (iii) delivery.

2.5 **Developing an Audit Plan**

2.5.1 In preparing for the audit the Borrower shall establish an audit plan. This is the specific process to be followed when preparing for and conducting an audit and it helps the external Auditor to obtain sufficient appropriate evidence for the circumstances, helps keep audit costs at a reasonable level, and helps avoid misunderstandings between the Auditor, the Borrower’s Executing Agency (EA) and the Bank.

2.5.2 In preparing for the audit and establishing the audit plan, the EA must:

- Designate an audit liaison person, a contact person or persons within the EA’s organization, who will facilitate the work of the Auditor and provide liaison, assistance and co-ordination within and outside the EA. The contact person will be the focal point for communication between the Auditor and the EA. He /she will compile the EA’s audit plan and execute the ensuing activities on the EA’s behalf;
- Send a general communication to the process owners and affected staff stating the requisite assistance, information and documents to be provided to the Auditor;
- Notify Information Technology personnel of the upcoming audit and keep the key IT systems contacts open for discussions with the Auditor; and
- Review policies and procedures and official documents related to the project.

2.5.3 The EA shall make ready and provide the following Bank project relevant documents, at the minimum, to the Auditor:

- The Bank Project Appraisal Report;
- The Financing Agreement (FA) governing the project;
- The Project Quarterly Progress Reports submitted by the EA to the Bank; and
- The list of all signed contracts.

2.5.4 The EA shall also provide the Auditor with access to the following essential project and contract related documentation:

- The country’s Procurement Laws and Regulations and eventually all new regulations adopted since project appraisal time;
- All updated and approved procurement plans;
- All advertisements;
- Solicitation Documents comprising Bidding Documents, Request for Quotations, and Request for Proposals;
- Minutes of Bid Opening;
- Bid Evaluation Reports for civil works and goods and Technical and Financial Evaluation Reports for consulting services;
• Copies of bids, proposals, and quotations;
• Contract award decisions and official requests for higher authority approvals where applicable;
• Minutes of contract negotiations if applicable;
• Copies of all signed contracts together with any contract amendments;
• Bidders’ Claims and related decisions;
• Notification of contracts with copies of bid securities and performance securities;
• Contract Amendments and Change/Variation Orders;
• Contracts terminated;
• Actual Contract Payments vs. Contract Award Amount;
• Securities (for Bid, Performance, Advances, Insurance, Liability, etc.);
• Contractors’ Claims;
• Damages and Penalties for Delays, non-compliance with Functional Guarantees, etc.;
• Payment certificates, payments made (date and value), final price;
• Withdrawals from the Loan/Credit Agreement (date and value);
• Reasons for Slow Progress of Completion;
• Delays in Payments, Imports, Customs, etc. if any;
• Shipping documents (if applicable);
• Test certificates, quality certificates etc.;
• List of deliverables and completion (date, description, quantity, location of goods or works);
• If any, contractual Disputes and their Resolution; and
• Any other relevant documents.

2.6 Conducting the Audit: Running Proceedings: sample selection, collection of documentation and evidence; and examination

2.6.1 Selecting Audit Samples, rational and methods: The procurement audit shall usually cover all contracts done under BPS. In some cases, the number of contracts may be too big and auditing all contracts is not practical, in such cases, statistical samples are used. This is done for a number of reasons namely; (i) because examining all data forming the whole is cumbersome, particularly when this whole is complex; (ii) in order to achieve better efficiency and economy; (iii) to provide credibility to the Audit work; and (iv) to justify the results achieved. A “Sample” is a part or proportion of the whole representing the whole. Examining a sample allows the identification of the whole and its characteristics and to extrapolate conclusions about the whole without examining it entirely.

2.6.2 As indicated in OPM Part B Volume 1, Section 5.2, the sample of Contracts to be audited shall be determined and agreed between the Borrower and the Bank, during project appraisal. Normally, the sample size should cover about 20% of the total number of contracts under the project. The elements of sampling presented in this sub-section, shall form the basis for this determination.

2.6.3 There are three main methods of sample selection used in auditing. These comprise:
• **Random Sampling:** A sample is chosen in such a way that it represents all segments found in the whole, parts of the whole are chosen in such a way that all have an equal chance to be measured.

• **Convenience Sampling:** A sample that is dependent upon the assessment of the Auditor and the nature of risks found in the procurement entity, sampling is done as convenient.

• **Cluster Sampling:** A whole is divided into clusters and a few of these clusters are exhaustively sampled.

2.6.4 In reviewing the population of contracts under the project or programme issues may be outstanding. The choice of the sample of Contracts to be audited may then be made based on the outstanding issues to be addressed and their characteristics. Outstanding issues may include:

• Contracts above certain thresholds;
• Contracts for special procurement;
• Contracts of relative importance (financially or strategically);
• Contracts awarded to a specific Bidder/Consultant;
• Contracts prepared by a specific Officer;
• Contracts with complaints/disputes;
• Contracts with implementation costs exceeding the allocated budget (cost-overrun);
• Contracts awarded in a specific timeframe;
• Contracts with implementation time exceeding the original;
• Contracts with substantial modifications arising after signature; and
• Contracts with Addenda/Amendments/Change Orders/Variation Orders/.

2.6.5 The characteristics to be considered when selecting a sample from the Contracts that need to be examined include:

• Relative importance of Contracts;
• Contracts that needed major adjustments at the time of execution;
• Contracts in which expenditure has exceeded the amount stated in the budget;
• Contracts that needed adjustments in value or timeframe; and
• Contracts that gave rise to complaints or disputes.

2.6.6 The Auditor shall also check the list of contracts against the Bank’s Listing of sanctioned firms, at the Bank’s Website ([https://www.afdb.org/en/projects-operations/debarment-and-sanctions-procedures](https://www.afdb.org/en/projects-operations/debarment-and-sanctions-procedures)). Contracts with a positive result will be added to the sample of contracts to be reviewed and handled. It shall be examined in detail and the results shall be highlighted in the Audit Findings.

2.6.7 A Sample Terms of Reference (TOR) for the External Audit of Borrowers Projects or Programs, is given in **Annex B**. It is a generic format compiled to assist Borrowers in preparing specific TORs for their projects financed by the Bank and using BPS. A sample reminder letter to the Borrower to prepare and submit procurement audit reports in
line with the FA is provided in Annex C. Also, guidance on Procurement Sampling is attached in Annex D to provide more detailed guidance.

2.6.8 **Evidence Requirements:** while executing the procurement audit means examining Evidence of the procurement process and the ensuing contract that was awarded and executed, in order to produce the delivery. The quality of the audit is driven by the quality of the Evidence examined. Therefore, Evidence requirements with respect to characteristics, sources, types and importance are critical, and are based on international standards.

2.6.9 **How to Obtain Evidence:** the Auditor must execute the following activities to obtain the Evidence:

- Examination of Internal Control Systems;
- Analysis of the outcomes/results of the operation in the organization under audit;
- Comparison between audit results and expectations;
- Performance of detailed tests;
- Execution of audit to verify compliance of the organization under audit with set rules and procedures;
- Verification of illegal activities that may come to the Auditor attention;
- Verification of prohibited practices that may come to the Auditor’s attention;
- Verification of data/information that is obtained from relevant parties; and
- Re-performance of key organization activities.

2.6.10 **The Executing Agency’s (EA’s) Procurement Files:** normally the EA or Procuring Entity (PE) shall keep records of the procurement proceedings for a minimum period of five (5) years from the period of the award of contract with respect to goods, works, non-consulting and consulting services. The procurement file shall contain the following information;

- Procurement Notices (GPN, SPN)
- Solicitation document including all clarifications and addenda;
- Bids/Proposals;
- Bid/ Proposals opening and evaluation reports;
- Contract award notification;
- Signed contract concluded between the PE and the successful bidder / offeror;
- Amendments/ Addenda/ Variation Orders/ Change Orders to the contract;
- Certificates of completion;
- All correspondences between the PE and the Bidder; and
- Any other useful information, instructions and reports that are related to the procurement process and the contract.

2.6.11 **Documents Verification:** the review and verification of documentation shall be carried out in respect of compliance with the Bank’s Financing Agreement (FA), Project

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2 **Evidence**: The documents, data, facts, interviews that could support a procurement Auditor in drafting his/her audit report including formulation of opinions and findings

3 **Re-performance** refers to checking the sampling work that has already been done. Involves rechecking a sample of the computations and transfers of information.
Appraisal Report (PAR), Procurement Plan (PP), Project Implementation Manual (PIM) or similar document applicable to the projects, as well as the AfDB’s Procurement Policy Framework, which is available at www.afdb.org see also Contract Data Collection Sheet under Annex E. The Auditor shall confirm from the Borrower’s Procurement Files, the sound implementation of the process (timeframes, approvals, use of appropriate documents, evidence of procurement and contract monitoring), focusing on:

- Procurement Plans and Updates;
- Advertising;
- Pre/Post Qualification;
- Bid / Proposals Opening;
- Solicitation Documents;
- Bid Validity Extensions;
- Evaluation Reports and Award Notifications;
- Protests or Complaints from Bidders/Contractors or third parties;
- Signed Contracts;
- Contract Addenda, Amendments, Change Orders and Variation Orders;
- Delays in payments; actual contract payments vs. contract award amount;
- Securities (for Bid, Performance, Advances, Insurance, Liability, etc.);
- Contractors’ Claims/ Contractual Disputes and their Resolution;
- Damages and Penalties for Delays, non-compliance with Functional Guarantees, etc.;
- Reasons for Slow Progress of Completion;
- Imports, Customs, etc. if any; and
- List of deliverables and completion (date, description, quantity, location of goods or works): certificates of acceptance/completion, defects list, tests.

2.6.12 The Auditor should conduct a thorough review of the available documentation and the related procurement activities:

- For some contracts, project sites should be visited, or inventory checks should be carried out by a technical specialist, to make physical inspections of quality and quantity of goods, works and services financed under the project;
- Where appropriate, and to the extent practical, prices should also be compared with similar contracts financed by agencies in the country and the region and verified against international market prices for the items in question; and
- The Auditor must also identify any prohibited practices and risks and include these in the audit findings.

2.7. Audit Outputs and Deliverables – Procurement Audit Report
2.7.1 The Auditor shall, at the completion of the review, compile a Draft Procurement Audit Report containing their preliminary findings, which shall be presented to the Borrower as specified in the TOR.

2.7.2 The Borrower will review the Draft Report and furnish the Auditor with its comments and in doing so, the Borrower shall address all the findings and recommendations. The Auditor shall not be required or expected to change the findings of the Report to reflect the Borrower’s comments. If there is a disagreement between the Borrower and the Auditor, the latter shall retain the findings and recommendations, but must incorporate the Borrower’s position, verbatim, in the Report making it clear that this is the Borrower’s position on the issue.

2.7.3 The final Audit Report shall focus on the review of the findings and recommendations. Details of the review methodology and procedures, evidence substantiating the findings, and elaboration on the recommendations should preferably be covered in Annexes.

2.7.4 All Audit Reports will be in the language of the Terms of Reference. An outline of a typical Procurement Audit Report is given Annex F. The Borrower is mandated to submit Procurement Audit Reports on projects and programs financed by the Bank Group, on an annual basis as a minimum. In case the Borrower fails to provide the Bank with the agreed upon reports, the Bank may in such case review or suspend the use of the Borrower Procurement System.

3. Review of Borrowers’ Procurement Audit Reports

3.1 The Procurement Specialist (PS) for a given project is normally responsible for reviewing the procurement performance for that project on an annual basis using the Procurement Risk Assessment and Management (PROCRAM). The inputs to this review include (but not limited to) the Project Appraisal Report (PAR), Borrower’s Annual Procurement Audit Reports, Procurement Supervision Reports and Country Portfolio Review Reports.

3.2 The review of the Audit report shall be processed in accordance with the applicable Delegation of Authority Matrix in effect. The Bank’s comments, conclusions shall be

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Box 1: Examples of Lack of Compliance

The Audit Report for an EA on a Bank-financed project being executed under BPS is submitted to SNFI. It contains findings establishing that despite the applicable requirements of the Procurement Law and Regulations in the RMC, the EA is not using the country’s SBDs and they are not publishing contract awards. The procurement Auditor has not made any recommendation in connection with these two findings. Which actions would you have expected he/she to recommend and within which timeframe would you expect these recommended actions to be carried out? What action will the Bank take?

The Auditor should have recommended in its report for the EA to ensure that the applicable SBDs are used, and contract awards are published in the following years. The Audit Recommendations should alert PPOB to oversee the EA’s performance more strictly and where lack of compliance is detected appropriate remedies should be applied in line with the Country’s Procurement Laws. The Bank, on its part, will execute an Independent Procurement Audit to ascertain the depth of this lack of compliance and apply appropriate remedies.
transmitted, by the TM, to the Borrower together with the recommended action plan of mitigation measures for addressing identified deficiencies.

3.3 The TM is responsible, in consultation with the PS, for following up with the Borrower and its EA during supervision, to ensure that recommendations and mitigation measures are implemented.

3.4 In those cases where, as a result of its review, red flags and/or misprocurement is/are identified, an Independent Procurement Review (IPR) shall be organized by the Fiduciary Services & Inspection Department (SNFI) to be conducted by an Independent entity. This activity will be financed by SNFI.

4. Processing Mis-procurement Under BPS

4.1 The IPR requested by SNFI under BPS is reviewed and where Red flags persist, SNFI will execute the following actions:

- Request the concerned Operations Complex (Regional and Sector) to summarize the facts showing why procurement was not carried out in compliance with the agreed procedures in the Financing Agreement (FA);
- Requests the Borrower through the relevant Operations Complex to furnish any explanations and clarification on the case;
- After reviewing all responses and information provided, misprocurement may be declared by the entity authorized to do so in accordance with the applicable DAM. While making this decision, the implications of Procurement Policy Clause 7.2 (Box 2) shall be carefully considered. The decision of misprocurement shall be communicated to the project by the Task Manager.

4.2 Remedies: if SNFI after the review arrives at the conclusion that misprocurement is justified, the operational department, in accordance with the applicable DAM, shall decide the type of remedies to be applied in accordance with the Bank’s Procurement Policy. Such remedies may be any one of the following:

- Declare misprocurement in accordance with the Bank’s Procurement Policy;
- Review or suspend the use of the Borrower Procurement System;
- Cancel the portion of the Bank’s financing allocated to the goods, works and consulting services that have been misprocured, except when there are legitimate differences in judgement between the Bank and the Borrower, or a misunderstanding as to the requirements of the FA, in which case the Bank may agree not to cancel the portion concerned but instead to reallocate it to other components of the project;
- Exercise other remedies provided for under the FA; or

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Box 2: Policy Clause 7.2
Misprocurement under Contracts awarded using the Borrower Procurement System:

For contracts procured under the Borrower Procurement System, the Bank will, normally, accept the judgment of the Borrower provided; (i) the procedures and processes of review by the Borrower have been correctly followed consistent with the provisions of the law and regulations in the Borrower’s system; and (ii) there has not been, in the opinion of the Bank, an obvious and intolerable misapplication of the Borrower’s policy.
- Decide otherwise as the case may be.

4.3 To the extent possible, the Bank shall use the Procurement Audit findings to highlight to the Borrower, deviations that can lead to misprocurement, and corrective action plans should be discussed. The Borrower shall be advised at that time, if bad practices or deviations are not rectified, the Bank may declare misprocurement.
Annex A: Key Elements of Procurement Audit Under BPS

1. The Need for Procurement Auditing

1.1 Background: The auditing of public procurement receives great attention in governance and transparency circles because public procurement constitutes about 15% to 20% of GDP in developed countries and about 20% to 25% in developing countries. Public procurement involves large expenditures, big markets, and it has huge potential both in public and private sectors as it takes place in private companies, public authorities, central and state governments, and in municipalities. Good Public Procurement is about satisfactory service delivery to constituents and shareholders. Public procurement is a strategic function and constitutes an essential part of governance. Whether from the government’s standpoint or from the private business standpoint, it is essential for conducting good business. It has a great potential for supporting the development of a region, country, production sector, private company, or category of companies such as SMEs. Accountability in public procurement is therefore essential and auditing is its tool.

1.2 Rational for Procurement Auditing: The auditing of procurement is imperative because it;

➢ forms part the Bank’s fiduciary responsibility;
➢ is essential for achievement of project development objectives (PDO);
➢ helps to verify that development resources are used for the intended purposes;
➢ helps to verify that procurement decisions are not tainted by political or other undesirable influences;
➢ assists to identify potential Prohibited Practices;
➢ helps identify project specific issues;
➢ helps identify systemic issues;
➢ leads to formulation of recommendations;
➢ helps to propose appropriate solutions leading to Fit for Purpose Procurement; and
➢ facilitates achievement of VfM.

1.3 Types and Classifications of Procurement Audits: There are two types and two classifications of procurement audits, as given in the Table below. The Bank’s Procurement Audits are a combination of compliance and performance audits. In respect of the execution of the Bank’s oversight functions Procurement Audits are carried out by external independent Auditors.

<table>
<thead>
<tr>
<th>Types and Classifications of Procurement Audits</th>
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<tbody>
<tr>
<td><strong>External</strong></td>
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<tr>
<td><strong>Internal</strong></td>
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</table>
2. Objectives

2.1 The objectives of the external procurement audit are to evaluate the conformity of the BPS methods and procedures used by the project, with the provisions of the Procurement Plan (PP), Financing Agreement (FA) and the Bank’s Procurement Policy Framework. It is focused on verifying the following:

- Compliance with applicable procurement procedures and the legal requirements of competition;
- Compliance with Borrower’s legal, institutional mandates, regulations, policies, procedures and contracts;
- Efficiency of the project procurement activities, including consistency between procurement plans and actual implementation progress;
- Conformity of technical quality and quantities delivered;
- Reasonableness of unit prices of contracts;
- Existence of due internal controls covering procurement planning, related solicitation methods and procedures, and execution processes including authorization, approval processes, and contract management procedures;
- Reliability and integrity of financial and operational information;
- Application of risk mitigation measures at each step of the procurement process including choice of contract type and contractual provisions, supervision of contract performance, performance evaluation;
- Implementation of mitigation measures, if needed such as training, monitoring of procurement, etc: and
- Performance of contract administration and monitoring – including control of expenditures, particularly to check that payments conform to the terms of contract, do not exceed the value of the contract, are made on time to eligible firms, and are reconciled and recorded; and
- Compliance with the Audit Manual; and
- Achievement of Value for Money (Applicable only in specific situations as agreed between the Bank and the Borrower).

2.2 The specific actions undertaken in order to achieve the objectives during the procurement auditing process may be summarized as follows:
➢ Assessing the procurement capacity of the EA while conducting the procurement under BPS;
➢ Evaluating procurement and contracting procedures and processes followed, contract management and price competitiveness under the project;
➢ Verifying whether goods, works, non-consulting and consulting services were actually supplied/completed in compliance with contract provisions, including technical specifications, terms of reference and the delivery and payments terms required by the solicitation documents;
➢ In case of deficiencies and/or systemic issues, identifying possible improvements to the procurement and contract management process; and
➢ Identifying any red flags that may point to any irregular practices (Prohibited Practices) that may have taken place.
Annex B: Sample Terms of Reference (TOR) for Borrower’s Procurement Audit Under BPS

1. Introduction

1.1 The Bank’s Procurement Policy Framework adopts a risk-based engagement with its Borrowers which is broad-based and is founded on an overall strategy to support RMCs by using their procurement systems, as a first step, where these are reviewed and found generally consistent with the Bank’s policy and principles. An approach referred to as “building by using”, it seeks to use Borrowers’ Procurement Systems (BPS) to the extent possible with capacity development to build up RMCs capability.

1.2 The Bank’s use of BPS is comprehensive and therefore, mandates the use of Borrowers’ control, auditing and complaints review mechanisms, for projects where it is agreed for BPS to be used.

1.3 These Terms of Reference (TOR) are compiled as a generic format to assist Borrowers in preparing specific TORs for their particular projects financed by Bank and using BPS.

2. Objectives

2.1 The objective of this audit is to: (i) verify the compliance and performance of procurement procedures and contract management with the provisions of the Financing Agreement (FA) and as reflected in the most recent approved Procurement Plan; (ii) verify physical and technical compliance of deliveries in relation with the disbursement rate; and (iii) review the EA’s procurement capacity to fulfil its fiduciary mandate.

3. Scope of the Audit

3.1 During the assignment, the Auditor shall tackle the fundamental aspects of the transactions made under the project and financed by the Bank, with respect to the provisions of the RMCs Public Procurement Laws and Regulations, and the fiduciary work normally carried out by Bank staff. It will mainly involve the following:

➢ Verifying the Compliance of the procurement process, tendering and the evaluation with the provisions of the FA, procurement plans, the provisions of the public procurement law and regulations, the auditor will assess:
  o compliance with the legal, institutional mandates, regulations, policies, procedures and contracts;
  o the consistency between procurement plans and actual implementation progress; and
  o effectiveness of due internal controls covering procurement planning, related solicitation methods and procedures, and execution processes including authorization, approval processes, and contract management procedures; and
  o Contract management i.e. amendments, payments, claims and implementation timelines.

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4 This is a sample form which can be modified in accordance with the objective and scope of ProcA
Verifying conformity of technical quality and quantities delivered in accordance with the contract's conditions while ensuring reliability and integrity of financial and operational information as these relate to those deliveries, including:
- Reasonableness of unit prices of contracts;
- Conformity of the final contract with the approved solicitation documents, in particular with regard to the validity of Addenda, Change Orders, and any other Amendments made to the original contract during its execution; and
- The eligibility of expenditures.

The risks regarding the respect of the principles of procurement, control, competences and the management capacity of the EA staff, and more generally those related to the national system.

Assessing the overall EA capacity to validate that it is inline with the assessment made during project appraisal. The assessment shall be based on a threefold due diligence process covering the EA on the basis of an evaluation of past performance and operational track record: 1) compliance with the country's legal and institutional framework and other legal and regulatory obligations; 2) overall qualitative and quantitative capacity in terms of organizational structure, internal procedures, resources, and qualified staff; and 3) ability to carry out procurement processes in a diligent, effective, and efficient manner.

3.2 The examination and analysis of each contract selected and the determination of whether the actions taken by the EA of the project, conform with the RMCs Procurement Laws and Regulations and the FA, which will be based, but not be limited on the following documentation:

- **Procurement Plans (PPs) and Updates:** The Borrower’s PPs and their updates duly approved by the Bank and incorporated into the FA must be examined.

- **Advertisements:** The procedures of publicity and their validity must be checked, in particular the requirements as regards the location of the required publication, indications that the AfDB is the source of financing, the period for preparation of tenders, the deadline date for submissions and opening of the offers, the required guarantees for the bid/tenders, the address where to obtain the invitation to tender documents... etc.

- **The Solicitation Documents:** Must be examined to determine if standard documents were used for the invitation to tender; eligibility, bid and performance guarantees, currencies (of the offer, the evaluation and the payment), validity of the prices, formulas for adjusting prices, proof (support documents) for the capacity of the tenderer to carry out the contract; criteria for evaluating the offer, local contents like preferences (if applicable), technical specifications, terms of reference... etc.
Bid/Tender/Proposals Opening: The procedures of opening the bids must be examined; compliance with the deadline dates for the submissions; period between the deadline date of submissions and opening of bids; records of the presence of representatives of the tenderers; rejection of late submissions, opening of all the tenders in convenient time, reading of the details, official minutes of the bid opening, official report of the discussions of the problems associated with the tenders at the time of opening the bids.

Bid/Tender/Proposals Evaluation: The evaluation of the bids/tenders/proposals must be checked: arithmetic errors, use of a points system instead of the criteria of evaluation indicated in the tender documents (if applicable), commercial and financial requirements imposed on the tender and to the tenderers, determination of substantial responsiveness to the technical specifications (to raise minor or major variations), application of preferences in favour of the country of the Borrower (if applicable), validity of the offers and the guarantees of the offer, awarding the contract to the tenderer evaluated with the lowest substantial responsiveness, notification of the contract award, etc..

Contract Award: The performance guarantee must be reviewed: coherence of the deadlines with the tender documents; official reports of negotiations related to the contracts of consultants and of the modifications made to the final versions of the contracts for goods, works and services. Any changes, addenda, amendments made to the approved contracts must also be examined.

Complaints: The complaints from tenderers or other concerned parties, including any resolutions implicating the Bank, must be noted.

Contract Execution and disbursement: The compliance of the delivered goods and completed works and services with the requirements, specifications and payment schedule defined in the contract

4. Sampling (include if applicable)\(^5\)

4.1 If agreed, the Auditor will make a representative selection of procurement transactions, that is, contracts for goods, works, non-consulting and consulting services that used BPS, in order to examine them. The sample size "a posteriori" may vary depending on its importance within this framework, the amounts spent, or the number of contracts signed. This selection will have to obey two criteria:

- the need for the observations of the audit to be statistically significant; and
- the necessity to identify the improvements to be introduced.

4.2 The procurement transactions covered by the sample could be in the making or under execution. It is important that the sample selected shall be representative of the following:

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\(^5\) Sampling should only be used if the number of contracts to be reviewed is too big which makes it not practical to review all. If sampling shall not be used, section 4 may be deleted.
➢ the various types of contracts;
➢ the different service providers of goods, works, non-consulting and consulting services;
➢ the methods of acquisition used, Open Competitive Bidding, Limited Competitive Bidding, Direct Procurement (DP);
➢ selection based on quality & Cost (QCBS), Least Cost (LCS), Quality only (QBS), Consultants’ Qualifications (CQS), Fixed Budget (FBS) and Single Source Selection (SSS) also selection of individual consultants whichever is applicable on the project; and
➢ the complexity of the contracts and the number of endorsements made.

4.3 It is the responsibility of the Auditor to ensure this representativeness, based on his experience with similar audits. During the assignment, the Auditor may modify the sample by adding, substituting or eliminating some contracts if a different option of analysis proves more representative in terms of its contribution towards a more significant report.

4.4 For each one of these selections, a significant number of procurement transactions have to be reviewed in order to verify, on the one hand, the conformity of the mode of procurement with that envisaged in the FA and the Procurement Plan (PP), and on the other hand, the conformity of the procedures used with those of the BPS.

4.5 Lastly, a specific review will have to be performed where the procurement procedure was the object of a complaint by the tenderers or where any prohibited practices are deemed to have been committed.

4.6 By using the objectives and criteria mentioned above, the Auditor should be able to choose and examine a minimum number of contracts, representing approximately 20 % of the total.

4.7 Guidance on Procurement Sampling is attached (Attach Annex D to this GN).

5. Steps in Executing the Audit

5.1 The Auditor will organize his preparation for the report, according to a specific work plan, approved by the EA. In principle, his work should proceed in three phases:

➢ Phase I - Preparation of the Assignment – Duration 1 week: - This phase must include consultations with all the individuals in the country responsible or implied in the management of procurements for the project, concerning the status and the documents of the project including the FA, PAR, and Supervision Reports, the experience and capacities of the EA, the existence of known problems... etc;

➢ Phase II - Actual Audit Execution – Duration 2 weeks: - Execution of the scope of the audit shall normally be undertaken in the field. The Auditor shall work with the EA, any associated technical ministries, provincial authorities, and the Public Procurement Oversight Body (PPOB). This phase covers execution of the various reviews and examinations stipulated in section 3 in this TOR on “Scope of the Audit”. It starts with an “initial documentary review” during which key bidding and contract information is gathered using the “Contract Data Sheet” (attached)
[Attach Annex E]. This is followed by more “detailed documentary reviews”; then by “documentary checks of contract performance”; and it ends with the “physical verification of goods and civil works” as attached detailed in the “Note on Procurement Sampling”[Attach Annex D]. The Auditor should normally prepare most of the report in the field and this activity should culminate in a preliminary report to be discussed with the EA at the end of the field mission; and

➢ Phase III - Drafting the Final Audit Report – Duration 1 week) - The Auditor shall complete the final version of the report according to a format approved by the Borrower and previously agreed with the Bank. A sample format for the Borrower’s Audit Report which is recommended by the Bank is attached (attached Annex F to this GN). It is expected that the final version will contain the opinion of the Auditor regarding the regularity and compliance with the procurement procedures and with the provisions of the FA, indicating any material deviations in the latter as well as the weaknesses of the EA or, where necessary, in the fiduciary work of the Bank with regard to the reviews carried out in the field by Bank Staff. The conclusions will highlight any red flags for wrong doings or negligence on the part of the EA or the national authorities associated with execution of the project. The report will also recommend specific follow-up actions, including further enquiries, change of procedures and where necessary, in the institutional mechanisms with respect to public procurements.

6. Duration of the Audit
6.1 The audit assignment is envisaged for a duration of 4 weeks.

7. Data, Documents, Services and Facilities
7.1 During execution of the assignment in the country, the EA shall ensure that the Auditor will have at his/her disposal all what is necessary to make the mission a success:

➢ The EA will make a Liaison Officer, usually the project procurement specialist, available during all the stages requiring the Auditor’s presence in the field;
➢ The EA will make available all relevant documentation for the as requested by the Auditor, in particular, the project appraisal report, the FA and pertinent supervision reports.

7.2 Most of the documents and information will be available in the EA’s project files, and the Auditor shall be prepared to review and inspect this information in the offices of the EA.

7.3 The Auditor shall work in close collaboration with the Liaison Officer and staff of the EA for day-to-day activities and the review work to be performed. As far as practical, the Auditor should give the EA advance notice of specific information and documents which will be required. The EA shall arrange for the site visits if required.

Annex C: Sample Reminder Letter to the Borrower to Submit Procurement Audits

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6 Review and monitoring of procurement plans and related updates, action plan agreed in the PAR, contract implementation, etc.
Dear Mr. /Mrs. (Name):

Subject: Procurement Audit (ProcA)
Date of Reviews:

In accordance with the Loan/Grant/Trust Funds (TF) Agreement/s #..........., the Bank reminds you that the Borrower agreed to submit Procurement Audit (ProcA) Reports carried out by a Consulting Firm or an individual Consultant selected by the Executing Agency (EA) [or any other national institution agreed upon in the Project Appraisal Report] and financed under the said Credits/Loans.

The Procurement Audit (ProcA) shall review contracts executed under the Borrower Procurement System (BPS) for the following project/s:

- Names of Project/s .................

The main objective of the review is to assess the procurement compliance and performance of the project/s and to make recommendations, if any, for the improvement of procurement practices. Based on the procurement performance rating, the Bank, in consultation with the Government of (name of country), will consider the updating of the procurement review thresholds the sectors for your projects.

The review will cover a sample of contracts under BPS which you have awarded in [year[s]] and which are financed in whole or in part from the Loan/Grant/TF. Kindly ensure that project /program EAs’ prepare details of all such contracts following the attached format and send the form as an email attachment together with the latest approved procurement plan and if available the procurement monitoring report, by (deadline). This information should also be made available during the first day of review of the project/s.

Besides the following documents must be made available for review in your offices for all contracts included in the review sample:

- Any modifications in the country procurement system since project appraisal;
- Withdrawal Applications (SOEs);
- Copies of Specific Procurement Notices (SPNs) covering all goods, works and consulting services (REOI); any Requests for Prequalification; Invitation for Bids/ Quotations;
- Bank’s No Objections for changes in the procurement plan;
- Bidding Documents; Request for Proposals (RFP) and Requests for Quotations (RFQ) Documents;
- Clarifications requested and issued;
Addenda to bidding documents /RFP issued;
Minutes of Bid/quotation/proposal opening;
Bids/quotations/proposals received;
Clarifications requested and received;
Bid/quotation/proposal Evaluation Report;
Complaints received and responses;
Notification of Award/Letter of Acceptance/LPO;
Signed Contracts;
Securities (Mobilization Advance/Performance);
Payment certificates/Invoices;
Goods received note/Delivery notes;
Inspection Certificates/Acceptance Certificates/Certification of Completion;
Progress Reports;
Publication of contract award if applicable; and
Any other document to be asked for by the Auditor.

It is to be noted that the selection of the procurement auditor shall be undertaken following the procedures set out in the Project’s Financing Agreement (FA) and in accordance with the Bank’s Procurement Policy Framework.

Kindly let us know when we shall receive the completed procurement audit (ProcA) report, noting that it should be submitted not later than three (3) months after the end of the fiscal year. Please note that the non-submittal of the required audit report may result in the Bank reviewing/suspending the use of the Public Procurement System under the above-mentioned project/s.

The Project/Program Task Manager will liaise with the EA/s of the selected project/s to ensure that the schedule for the procurement audit is conducted in due course.

Name of Country Manager ..........

Cc. Director General
Annex D : Guidance on Procurement Audit Sampling

1. General Considerations

1.1 The Auditor is responsible for the selection of the contracts to be reviewed on the basis of the information provided by the Borrower and other sources. The number of contracts in the Audit sample does not necessarily have to lead to any statistically significant findings. The exercise needs to be sufficiently material to support demonstrable findings and credible recommendations.

1.2 The main criteria and considerations to be used in selecting the Audit sample of contracts should include the following:

- The target population of bids/contracts should be those which have been completed or which were approved at least 2-3 years ago for services and for goods and equipment, and at least 3-4 years ago for works. Consultant contracts, which tend to last for the duration of a project, may be ongoing;
- The sample should cover the various procurement methods provided for in the Financing Agreement’s (FA) Procurement Method (OCB - International/National, LCB, Direct Procurement), taking into consideration cases of prequalification and post qualification.
- Complexity (high, moderate, simple,) and value (high, medium, low).
- Major pieces of equipment, and commodities, including the installation and commissioning of equipment procured under the project;
- If there are a large number of small contracts, it may be possible to group a number of small contracts as one, for purposes of the Audit;
- Complaints/Protest/Disputes/Claims during bidding and contract execution and how these were addressed.
- Critical items for success of the project;
- Contracts awarded to the lowest evaluated bidder which met the qualification criteria; awarded to higher bids as the lowest bidder failed to meet the qualification criteria or for other reasons, etc.; and
- Contract Addenda/Change Orders/Variation Orders/ amendments.

1.3 The above review of available data should be undertaken for contracts awarded to date under each project.

1.4 Distortions in the procurement process are frequently manifested in one or more of the following situations:

- Low participation of bidders and reduced competition;
- One or more bidders winning a disproportionate amount of contracts in a project over time;
- Bid prices consistently over cost estimates and/or current market prices;
Significant number of changes from bid to contract award and to final completion; and

Significant and recurring increases in the final contract price over the original bid price and/or the original contract price, due to contract addenda, amendments and change orders.

If patterns are identified in a series of contracts, which reflect any of the above distortions, one or more of the contracts in the series should be selected for more detailed review in the Audit sample.

1.5 The Auditor, during execution of the assignment, will have the flexibility to select, substitute or drop particular contract(s) if an alternative line of investigation is judged more effective in generating conclusions. However, it should not be the response to the lack of access to the required documentation.

1.6 In order to address the main areas mentioned above, it may be necessary to develop a set of ad hoc Audit techniques involving initial and final documentary reviews which are described in the sections following hereon.

2. Initial Documentary Review

2.1 It may be useful to develop a standard "Contract Data Sheet" to perform the initial documentary review. For each of the selected contracts, key information should be gathered based on documents obtained from the Executing Agency (EA's) procurement methods and procedures (solicitation documents; pre-qualification questionnaires/ bids/ technical and financial proposals; evaluation reports; signed contracts; contract addenda, change orders, amendments, claims, payment certificates, acceptance certificates, etc.), as well as from the Bank Staff Project Appraisal Reports (PARs) and Financing Agreements (Loan Agreements/ Grant Protocol Agreements) available from the EA. A Model Contract Data Collection Sheet is provided in Annex D.

2.2 The aim of this initial review is not necessarily to find all the information which will be needed for the purpose of the Audit, but rather to collect and compile key procurement data to the greatest extent possible, based on documents made available to the Auditor. In some instances, specific contract information may not be found through the review. This may be retrieved during later phases of the Audit or identified as a deficiency in the information trail of the project. In any similar situation, the Auditor will report on the absence of any documentation due to either a poor filing system, or to voluntary retention from the EA. In cases of voluntary retention from the EA, the situation should be reported to the national Public Procurement Oversight Body (PPOB).

2.3 The data sheet should include factual indicators related to the procurement of goods, works, non-consulting and consulting services for each bid or proposal and to the execution of the awarded contract. Presented in a comparative manner, this basic information provides the starting point for assessing performance and for identifying patterns, potential deviations or cases of non-conformities.

3. Further Documentary Reviews

3.1 For all contracts in the review sample, the Audit would specifically review:
➢ Solicitation documents to assess the compliance of these documents with the Borrower’s procedures and the timeliness of the Procurement Plan;

➢ Prequalification, bid and proposals evaluation reports to verify the compliance of the EA’s evaluation with the solicitation documents and the timeliness of the decision process;

➢ Signed contracts to verify their consistency with the bidding documents;

➢ The time lags between key events to assess the time effectiveness of the procurement process in relation to the approved Procurement Plan in the FA. The requisite authority’s approval at each stage of the process should be specifically analyzed to assess the timeliness and comprehensives of the Borrower’s review, particularly regarding omissions or deviations in the Borrowers’ documents which were picked up or missed; and

➢ OCB (International and National), LCB, other methods and procedures used in the project(s) together with the national review comments and "no objections" in accordance with the Borrowers Procurement Laws and Regulations.

4. **Documentary Checks of Contract Performance**

4.1 In addition to the documentary review mentioned above, specific file checks should be performed at the EA’s premises. The main objective of this additional control is to evaluate the performance of contracts awarded and to assess their degree of compliance with agreed requirements and technical specifications (e.g., test, inspection certificates), payment terms and timely performance. This review should cover about half of the contracts reviewed and focus on the following items:

➢ **Quantitative and qualitative changes in contract scope**: Based on the information included in the contract data sheets, change orders should be reviewed in order to assess their compliance with the Borrower’s procedures;

➢ **Status of deliveries**: The dates of the different deliveries agreed in each contract should be checked and any discrepancy noted. In appropriate instances, the final destination of deliveries should also be verified;

➢ **Status of payments**: Evidences of payments by the EA for all the selected contracts should be checked. Payment information should also be used to cross check and to confirm the date of contract completion; and

➢ **Quality documentation**: The Auditor should also check the availability of quality documentation mentioned in each contract, such as certificates, inspections performed and laboratory tests.

5. **Physical Verification of Goods and Civil Works**

5.1 Physical inspections should normally cover about one third of the contracts reviewed and could include the contracts for which documentary/file checks were carried out.

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7 Solicitation documents include prequalification and bidding documents, requests for proposals (RFPs), requests for quotations (RFQs).
Depending on the type of goods, works and non-consulting services, the following types of inspections should be performed as appropriate:

- **Standard physical inspections of goods/installations**: Quality control (conformity with technical specifications stipulated in the contract) and confirmation that quantities were delivered;

- **Spot physical inspections of a sample of goods delivered**: Such inspections should be complemented by documentary checks to confirm the delivery of quantities specified in the contract and to assess quality compliance;

- **Spot physical inspections of goods/installations delivered**: Such inspections should be complemented by documentary checks on use/Installation of goods received and the different locations; and

- **On site visits to civil works**: Field visits should be undertaken to verify the status of works or to confirm their completion. Documentary checks (certificates of acceptance/completion, defects list, tests, etc.) should also be made.
Annex E: Contract Data Collection Sheet

1. General

1.1 Country :
1.2 Project Title :
1.3 Project Identification Number :
1.4 Loan/Grant Reference Number :
1.5 Executing Agency (EA) :
1.6 Total Project Cost :
1.7 Loan/Grant Amount :
1.8 Loan/Grant Approval Date :
1.9 Loan/Grant Signature Date :
1.10 Loan/Grant Effective Date :
1.11 Initially estimated duration :
1.12 Current disbursement deadline :
1.13 Other sources of Finance :
1.14 Contract Name :
1.15 Contract Number :
1.16 Description of goods, works or services :
1.17 Successful Bidder :
1.18 Number of bids received :
1.19 Date of award/signature :
1.20 Date contract performance completed :
1.21 Location of goods, works or services :

2. Procurement Details

2.1 Contract Package :
   *(Items and Quantities)*

2.2 Categories of Expenditure :
   *(Types of Contract - Goods, Works, Consulting Services)*

2.3 National Procurement Method :
   *(OCB, LCB, Shopping, QCBS, Direct Procurement, etc)*

2.4 Prequalification (yes/no) :

2.6 Single stage/ Two stage :

2.7 BPS Review approval procedure :
3. **Review of Procurement Processing Timelines (Tables E1 and E2)**  
*(Comparison with Procurement Plan (PP))*

<table>
<thead>
<tr>
<th>Principal Stages</th>
<th>Procurement Plan Date</th>
<th>Actual Date</th>
<th>Observations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Complete preparation of Bidding Document and Specific Procurement Notice (SPN)</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Issue of SPN</td>
<td></td>
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<td></td>
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<tr>
<td>Deadline for Submission of Bids/ Tenders</td>
<td></td>
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<tr>
<td>Opening of Bids/ Tenders</td>
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<tr>
<td>Evaluation Report Completed</td>
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<tr>
<td>Seek opinion of National Authority on the evaluation report</td>
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<tr>
<td>Contract Approved/Signature</td>
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<tr>
<td>Complaints on the process</td>
<td></td>
<td></td>
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<tr>
<td>Contract Amendments if any</td>
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<tr>
<td>Performance Guarantee</td>
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<tr>
<td>Advance Payment Guarantee</td>
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<tr>
<td>Payments</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Certifications and Date of Completion/Delivery</td>
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<tr>
<td>Unit Prices in line with the market</td>
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<tr>
<td>Filing of documents</td>
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<tr>
<td>Red Flags for Prohibited Practices</td>
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</table>

<table>
<thead>
<tr>
<th>Principal Stages</th>
<th>Procurement Plan Date</th>
<th>Actual Date</th>
<th>Observations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Request for Expression of Interest (REOI) prepared</td>
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<tr>
<td>Issue REOI</td>
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<tr>
<td>Complete preparation of Shortlist</td>
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<tr>
<td>Shortlist Approved</td>
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<tr>
<td>Complete preparation of Requests for Proposals (RFP)</td>
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<tr>
<td>RFPs Issued to Shortlisted Consultants</td>
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<tr>
<td>Receipt of Proposals</td>
<td></td>
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<tr>
<td>Opening of Technical Proposals</td>
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</tbody>
</table>
Complete Evaluation of Technical Proposals
Opening of Financial Proposals
Prepare Combined Evaluation report
Seek opinion of National Authority on the evaluation report
Contract Approved/Signature
Completion of Contract Performance
Complaints on the process

4. **Contract Costs**

4.1 Exchange rate/date (if used) :

4.2 Price of lowest evaluated bidder :

4.3 Contract value at award :

4.4 Contingencies :

4.5 Final contract price :

5. **Contract Administration**

5.1 Contract Addenda/Change Orders/Variation Orders/Amendments:

<table>
<thead>
<tr>
<th>Number</th>
<th>Description</th>
<th>Date</th>
<th>Price Impact</th>
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5.2 Contract Payments:

<table>
<thead>
<tr>
<th>Number</th>
<th>Amount</th>
<th>Date of Invoice</th>
<th>Date of Payment</th>
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<tr>
<td>Final Payment</td>
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<td>Total Payments</td>
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</tbody>
</table>

6. **Disbursements**

6.1 Disbursement method :
*(Direct, SOE, Special Account)*

6.2 Percentage of Bank financing :

6.3 Disbursements:

1. Amount; date.
2. Amount; date.
3. Amount; date.
4. Amount: date.

7. **Deliverables.**

<table>
<thead>
<tr>
<th>Number</th>
<th>Quantity or % of Works</th>
<th>Date Delivered or Completed</th>
<th>Remarks (Note any discrepancies from Contract)</th>
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<tbody>
<tr>
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Annex F: Sample Outline of Borrower’s Procurement Audit Report

COUNTRY

NAME OF PROJECT

1. Summary of Findings and Recommendations

2. Outline of the Audit
   2.1 Objectives and Terms of Reference :
   2.2 Scope, Approach and Content :

3. Source Data
   3.1 Executing Agency (EA) of the project :
   3.2 Total Project Cost :
   3.3 Loan/Grant ADF or ADB :
   3.4 Other sources of financing :
      ▪ Government :
      ▪ Others :
   3.5 Date of loan approval :
   3.6 Estimated date of Commencement :
   3.7 Estimated duration of the project :
   3.8 Expenditure Categories and Modes of Procurement: Modes as defined in the Project Appraisal Report (PAR) (where necessary, from the Loan/Grant Agreement if modification can be identified) by Expenditure Categories (Civil Works, Goods and Consultancy Services) executed under BPS:

4. Proceedings
   4.1 Definition and Justification of the sampling:
   4.2 Table of procurement transactions which were subjected to review:

<table>
<thead>
<tr>
<th>Expenditure Category</th>
<th>Description of Transaction</th>
<th>Procurement Mode</th>
<th>Name of Contractor/Supplier/Consultant*</th>
<th>Amount (HT, National Currency)**</th>
<th>Status of Execution</th>
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<tr>
<td>TOTAL AMOUNT</td>
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* Expenditure Categories comprise Works = W; Goods = G; and Consulting Services = C. Goods and Works also include non-consulting services.

** Procurement Modes for Goods and Works comprise Open Competitive Bidding (OCB – International/ National); Limited Competitive Bidding (LCB – International/ National) and Direct Procurement (DP); while those for Consulting Services include Shortlisting and Direct Contracting or Single Source Selection, as specified in the Financing Agreement (FA).

* Where Contracts have been signed.

** 1UA = ........ (Local currency)
4.3 Summary of audit methodology.

5. Findings

5.1 Results of the assessment of modification in the BPS

5.2 detailed examination of the procurement transactions compliance for each procurement of Goods, Works Non-Consulting and Consulting Service.

5.2.1 Presentation of the procurement process (objective, procurement mode, review procedure).

5.2.2 Findings from the review of the procurement processing timelines, based Table E1 and E2 of Annex E.

5.2.3 Conclusions from the review. Detailed summary of major and/or minor deviations.

5.3 Performance of Procedures and processes for procurement, contracting and contract management.

5.4 Potential irregular practices (prohibited practices).

5.5 Capacity of the Executing Agency (EA) and the risks: (Analysis of the risks regarding the EA’s compliance with the principles of procurement, control, competences and the management capacity of the EA staff, and more generally those related to the national system).

6. Conclusions, Recommendations and Actions

(The conclusions and recommendations will have to relate to the areas of analysis indicated under item 4 of the Terms of reference; this paragraph could be supplemented by a matrix of the recommended actions, if necessary).