Enhancing Public Sector Procurement Practices –
Quality Assurance & Capacity Building Programme for Client-led Implementation

Terms of Reference

1. BACKGROUND

Sound public sector procurement is key to the EBRD’s mandate. It fosters efficient use of public funds whilst contributing to corporate governance and capacity building. Since 2012, the Bank has lent annually an average of EUR 2.5 billion to clients in the public sector, both on a sovereign and sub-sovereign basis, who commit to apply EBRD Procurement Policies & Rules ("PP&R"). This represents in the region of 70 new clients per year. These clients are often the most resource constrained of the Bank’s client base and are in many cases unfamiliar with the concept and principles of IFI public sector procurement. Generally, the clients are in the Sustainable Infrastructure sector (municipal infrastructure, transport and power and energy). Whilst most clients benefit from consultancy services to support implementation, an analysis of the EBRD’s public sector portfolio indicates that these consultants, although frequently offering a high level of technical expertise, are not always familiar with the EBRD PP&R and its application and the quality of procurement support and advice can be inconsistent. As such, the preparation and finalisation of critical procurement documentation (e.g. prequalification documents/tender documents and prequalification/tender evaluation reports) and the handling of contractual matters (e.g. variation/change orders) for EBRD financed contracts\(^1\) can take longer than originally envisaged. This has a significant impact on operational efficiencies, both at client and Bank level, project delivery and operating asset generation.

The Bank strives to encourage international good practice in procurement, transparency in public sector procurement and enhanced competition. This in turn facilitates efficient project delivery and thereby provides opportunities for successful transition. Poor quality documentation submitted by clients and their consultants hinders this impact considerably and hinders efficient contract award, disbursement and final delivery of the physical project.

Whilst previously, with a smaller portfolio, the Bank may have been able to guide the client on improving its submissions, current volumes of contracting now make this quality screening and capacity building support, very challenging: In 2017 a total of 247 contracts were signed in the related sectors totalling EUR 988m. Indications are that this will increase by almost 40% in 2018 to 393 contracts for an estimated value of EUR 3.9bn.

A variety of initiatives are being discussed and implemented within the Bank and with the Bank’s public sector clients on potential improvements to the public sector procurement capacity in the EBRD Countries of Operation, to address the immediate need for urgent assistance with quality review and capacity building support (quick and detailed feedback on main areas of non compliance). The Bank has established a Quality Assurance & Capacity Building Programme (the “Programme”) as a way to support enhancement of public procurement practices. Under the Programme, the Bank established a contractual framework that allows designated individual procurement experts (the “Experts”) to work alongside our

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\(^1\) The terms EBRD/Bank-financed operations or EBRD/Bank-financed contracts, as detailed in the EBRD Procurement Policies & Rules, relates to operations, projects and contracts that are financed in whole or in part from the ordinary capital resources or Special Funds resources of the Bank or from any other resources or grants administered by the Bank.
clients and their Project Implementation Unit (“PIU”) support consultants, to act as the first line of procurement quality review and feedback and support them in addressing the deficiencies therein.

The expertise provided under the Programme is divided across the EBRD’s regions, each region having access to a small panel of experts (the “Expert Panels”) who act as central recipients of draft documentation as submitted by EBRD clients. These clients are selected for support by the EBRD based on the assessment of procurement skills and capacity of any given client and their dedicated PIU consultants or as needs arise subject to the complexity or volume of the process and the client’s performance to date.

The Bank is now seeking to register up to 7 additional experts\(^2\) for the Programme preferably locally based and, where needed, with the local language knowledge coupled with a fully proven track record of successful cooperation with IFIs in the procurement area. The additional experts will become part of the overall Expert Panel for the Programme.

2. **OBJECTIVES**

The Objective of the Expert Panel is to work alongside EBRD clients and their PIU support consultants and act as the first line of procurement quality review and feedback, supporting the clients and their PIU Support consultants to address the deficiencies therein. The aim is to ensure that documentation submitted to the Bank for review and clearance is not only of a higher quality, allowing for a speedier processing time as the quality and standards required for EBRD acceptance have been addressed, but also timely provision of a tailor made feedback back to clients and consultants, building their capacity to comply with the EBRD PP&R’s. By providing this support, via dedicated and preferably locally based expertise, the speed of knowledge transfer and quality of deliverables will be improved, materially affecting the pace of project implementation.

In order to ensure that EBRD clients are able to apply relevant procurement approaches in a timely and efficient manner, the Expert Panels will:

i. Support the clients and their PIU consultants to deliver required procurement and contractual documentation to the Bank for necessary no objection/approval in full compliance with the EBRD PP&R and related guidance materials;

ii. Provide a thorough quality review and assurance test to ensure the highest standards of documentary preparation to facilitate timely approval by the Bank of the submission;

iii. Provide timely, high quality feedback (with necessary explanation to support the feedback) on identified deficiencies to the clients and their consultants with a view to building up their capacity to achieve high level compliance with the Bank’s PP&R’s and to minimise the potential for subsequent procurement related complaints/challenges;

\(^2\) Please note that the experts and the consulting firms that are already engaged under the EBRD Expert Panel do not need to re-apply.
iv. Provide capacity building/training services to ensure that the clients and the consultants are able to implement IFI procurement methodologies and principles.

The approach will allow the EBRD to quickly mobilise expertise to provide punctual and focussed support to clients who are struggling to meet EBRD’s requirements with regard to the documentation and procedures linked to procurement under EBRD PP&R. This support is expected to be provided until the end of 2021.

3. **Scope of Services**

The Expert Panels will be required to work closely with selected clients and their PIU support consultants. Clients will be selected for support by the EBRD based on an assessment of their procurement skills and capacity and that of their dedicated PIU support consultants and/or, as needs arise, subject to the complexity or volume of the process and the client’s performance to date. The Expert Panels will be expected to act as the first line of procurement quality review and feedback and support EBRD clients to address any the deficiencies therein with the overall aim of assisting the clients in receiving a timely “no-objection” from the Bank.

The Experts will be required, on a case-by-case basis, to work closely with EBRD clients to critically review and quality assure the following:

- Project procurement strategies and procurement plans;
- Procurement documentation pertaining to the procurement of consultants (e.g. requests for proposals, proposal evaluation, contract preparation) to ensure compliance with EBRD PP&R (Section 5 – Procurement of Consulting Services);
- Pre-qualification documents and pre-qualification reports to ensure compliance with EBRD PP&R, EBRD Standard Prequalification Documents and Prequalification Guidance Note;
- Tender documents for goods/supply and install/works contracts to ensure compliance with EBRD PP&R, EBRD Standard Tender Documents and associated guidance material;
- Tender evaluation reports (in the event of two-stage tender, the first and/or second stage tender evaluation report) to ensure the appropriate EBRD Tender Evaluation Report format is used, the tender evaluation process has been undertaken in accordance with the evaluation criteria contained in the tender document no-objected by the Bank, the Bank’s PP&Rs and EBRD Tender Evaluation Guidance Note;
- Variation/change orders and/or amendments issued under contracts to ensure compliance with the relevant conditions of contract and to determine their eligibility for financing from the EBRD loan;
- Issues pertaining to contract finalisation (including the review of any draft contracts) and other related contract issues; and,
- Proposed responses to procurement related complaint/concerns.

It is anticipated that this work will involve close liaison with the EBRD’s clients, identifying any inconsistencies, errors or omissions and working closely with them to not only address these but also to understand the need for such changes, in line with the EBRDs PP&Rs.

In addition to the above, and in support of a sample diagnostic exercise being conducted by the EBRD to support a better understanding of the barriers to efficient procurement the Experts will be expected to provide feedback to EBRD as to why issues of non-compliance
with documentary processes occurred and suggested approaches to mitigate such issues in future. It is also anticipated that the Expert Panels may need to provide EBRD clients and their consultants with procurement training (in the event that specific training needs are identified).

4. IMPLEMENTATION ARRANGEMENTS AND DELIVERABLES

The Programme is expected to last for two years.

The Bank intends to identify, register and select up to 7 further individual consultants with a high level of expertise in IFI procurement, preferably locally based and with local language knowledge, to cover public sector procurement for investments in the EBRD’s Municipal & Environmental Infrastructure, Transport, and Power, Energy & Utilities sectors for the following EBRD regions:

a) South Eastern Europe & the Mediterranean (Morocco, Tunisia, Egypt and Jordan);

b) Western Balkans and Serbia (Bosnia & Herzegovina, Albania, Montenegro, FYR Macedonia, Kosovo and Serbia);

c) Eastern Europe & the Caucasuses (Ukraine, Belarus, Moldova, Armenia, Azerbaijan and Georgia); and,

d) Central Asia (Kazakhstan, Kyrgyz Republic, Tajikistan, Turkmenistan, Uzbekistan and Mongolia).

The Experts will provide ad-hoc services under a call-off arrangement ensuring a thorough quality assurance check of the clients’ procurement documentation, helping clients to correct or amend such documentation where necessary, and ensuring capacity building of both clients and their consultants. Subject to the success of this approach, and the regional dimensions, training activities with selected EBRD clients may be required. Experts shall also provide feedback to EBRD with regards to lessons learnt and recommend application of these to any EBRD procedure or practice.

For each specific assignment, the EBRD will identify which Expert from the Expert Panel is best suited to the specific assignment in question (in terms of relevant sector and country specific experience and relevant language skills). In the event that the identified Expert is unavailable to undertake the specific assignment, the EBRD will identify the next best-suited Expert.

It is anticipated that the bulk of the Assignments will be for a value of less than EUR 75,000 and therefore directly awarded however, should an assignment be identified in excess of this value then a competitive tendering approach amongst the pre-selected Experts for the respective region will be used and evaluated on the basis of both a technical and a financial proposal. There will be no limit to the number of assignments allocated to a Panel Expert as the Programme must be flexible to the business needs of the pipeline, as long as the overall budget for the Programme is not exceeded.

For each specific call-off assignment, prior to the commencement of the assignment the following will be subject to the agreement of the EBRD and the Expert;

a) details of the specific task to be undertaken by the Expert (including scope of work and objectives);
b) the location where the services shall be undertaken;
c) the maximum budget for the assignment;
d) assignment deliverable(s); and,
e) timing of the assignment.

Following agreement on the above, the Expert will be expected to commence the assignment as soon as it practically possible, but in any event generally no later than 5 working days.

Being included on the EBRD Expert Panel will not oblige the Bank to request services from the Expert. Furthermore, the Bank reserves the right to contract for similar services or to directly award individual consultancy contracts outside of the scope of the Expert Panel, when appropriate.

All Experts will liaise closely with the EBRD’s Heads of Procurement and Implementation, or a designated Project Implementation Adviser. Where Experts are not familiar with EBRD/IFI Environmental and Social Policies and requirements, the EBRD will require that they undergo adequate EBRD-in house training for any such relevant assignments.

5. **EXPERT PROFILE**

Individuals and consulting firms proposing individuals may apply. The shortlist criteria and weighting to be used will be:

a) At least 10 years’ professional procurement experience in the public sector procurement environment (15%);
b) Proven track record of designing, managing and delivering relatively complex, large-scale procurement operations and providing procurement training to clients (10%);
c) Proven successful experience in the past five years of at least three assignments pertaining to the provision of procurement advice (from the procurement planning stage up to and including the contract management phase) in an IFI environment to an IFI client in one or more of the four geographic regions and in one or more of the applicable sectors (40%);
d) Demonstrable practical experience in the development of tender documents based on internationally accepted forms of contract, for example, FIDIC/NEC or equivalent (15%);
e) Physical presence in one of the four geographic regions (10%); and,
f) Fluency in French and English or another language relevant to one of the four EBRD geographic regions (10%).