

Guidance Note

Procurement Debriefing

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Guidance Note

Procurement Debriefing

Section I: Purpose

EBRD's clients are responsible for implementing Bank-financed projects, including all aspects of the procurement process from the planning stage through to the award of contracts, as well as the administration of the contracts themselves. The Bank monitors the procurement process but is not a party to the resulting contracts. The rights and obligations of the Bank's client vis-à-vis Participants in procurement processes for goods, works and services (including consultancy services) are governed by the pre-qualification, tender or selection documents issued by the client.

Participants in a procurement process governed by the Bank's Procurement Policies and Rules (excluding under other procurement arrangements as described under Section IV Article 1 below) are entitled to a debriefing. This Guidance Note regulates the debriefing process when requested to a client of the Bank.

Section II: Definitions

As used in this Guidance Note, the following terms have the meanings set out below:

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| (1) Bank-financed operations or Bank projects or Bank contracts | Means operations or projects or 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. |
| (2) Complaint | Means a procurement-related complaint filed in accordance with Section IV, paragraph 3 of the Procurement Complaints Directive. |
| (3) Enforcement Policy and Procedures | Means the Bank's Enforcement Policy and Procedures (POL/2017/1) as amended from time to time. |
| (4) Participant | Means any party participating or seeking to participate in a procurement process governed by the Bank's Procurement Policies and Rules. |
| (5) PPAD | Means the Bank's Procurement Policy and Advisory Department. |
| (6) Procurement Complaints Directive | Means the Procurement Complaints Review Directive (DIR/2020/2) approved by ExCom (EX20-186) on 18 September 2020, as amended from time to time. |

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| (7) Procurement Policies and Rules or PP&R | Means the Bank's Procurement Policies and Rules (POL/2017/3) or the Procurement Policies and Rules (BDS08-205 (F)). |
| (8) Prohibited Practice | As defined in the Bank's Enforcement Policy and Procedures. |
| (9) Request for Clarification | Means a request to the client for clarification filed in accordance with the procurement documents. |

Section III: Legal Basis

The Procurement Policies and Rules (POL/2017/3) and the Procurement Policies and Rules (BDS08-205 (F)), Procurement Complaints Review Directive DIR/2020/2.

Section IV: Scope

1. Application

This Guidance Note applies to procurement processes governed by the Procurement Policies and Rules November 2017 (BDS17-057), excluding procurement processes under other procurement arrangements applied in line with Section III, Articles 2.4, 3.10, 3.11 and Section III, Article 4 (Procurement in Private Sector Operations). This Guidance Note also applies to the Procurement Policies and Rules October 2014 (BDS08-205(F)) excluding procurement processes under other procurement arrangements applied in line with paragraph 2.4, 3.13, 3.14 and Section 4 (Procurement in Private Sector Operations).

2. Allegations of Prohibited Practices

Any occurrence, or suspected occurrence, of a Prohibited Practice in the procurement process, award or implementation of any contract in the context of a Bank financed project shall be dealt with in accordance with the provisions of the Enforcement Policy and Procedures and is not covered by this Guidance Note. Allegations of Prohibited Practices shall be submitted to the Bank's Chief Compliance Officer and can be submitted by anyone at any time.

3. Debriefing

3.1 Introduction

If, after notification of a formal decision to reject or not select a tenderer or applicants in a prequalification or first stage tender process or a proposal submitted by a consultant has been notified to the Participants, a Participant wishes to ascertain the grounds on which its application, tender or proposal was not selected or rejected it should address its request to the client which is required to provide a debriefing.

At this debriefing, the relative strengths and weaknesses of the application, tender or proposal submitted and any other appropriate information necessary for the Participant to better understand how it can improve its future chances of success may be discussed. The responsibility for the Debriefing rests with the Bank's client.

3.2 *Who can submit a request to arrange a debriefing?*

A Request to arrange a debriefing can only be filed by a Participant. Firms or individuals that are acting as sub-contractor/consultant to the Participant or do not in any way participate in the relevant procurement process do not have the right to request a debriefing.

3.3 *How to submit a request for a Debriefing?*

The request for debriefing must be submitted to the Bank's client in writing. The request must state: a) the project name, b) the name and number (if applicable) of the tender or selection process in question, and c) the exact issues subject to debriefing with reference to the applicable paragraphs in the procurement documents.

Failure to provide sufficient information may invalidate the request.

3.4 *Deadline for submission of the Request for a Debriefing*

A Request for a Debriefing must be submitted to the Bank's Client as soon as the Participant has received a notification of the outcome of the prequalification, tender or selection process and no longer than 10 days after this notification.

3.5 *Following a Debriefing process*

Should the Participant not be satisfied with the debriefing provided it can either submit to the Bank a Request for Bank Procurement Review or a Procurement Complaint in line with the Bank's Guidance Note on the "Request for Bank Procurement Review" the Bank's "Procurement Complaints Review Directive".

Section V: Waivers, Exceptions and Disclosure

Waivers

The Director of PPAD may grant a deviation from a requirement of this Guidance Note that is not explicitly permitted by the terms of this Guidance Note.

Exceptions

Not Applicable.

Disclosure

This Guidance Note will be published on the Bank's website www.ebrd.com.

Section VI: Transitional Provisions

None

Section VII: Effective Date

This Guidance Note is effective from 22 December 2020

Section VIII: Responsible and Accountable

Accountable

Director, Procurement Policy and Advisory Department

Responsible

Associate Director - Compliance, Procurement Policy and Advisory Department

Section IX: Review and Reporting

Review

Not applicable.

Reporting

None

Section X: Related Documents

The Procurement Policies and Rules (POL/2017/3) and the Procurement Policies and Rules (BDS08-205 (F))

The Procurement Complaints Review Directive DIR/2020/2

Guidance Note on the “Request for Bank Procurement Review”