



International Federation of Consulting Engineers
The Global Voice of Consulting Engineers

What the FIDIC-EBRD contract agreement means for members

FIDIC Briefing Note

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Dr Nelson Ogunshakin OBE
Chief Executive Officer, FIDIC

Foreword

There is a growing need for countries to invest in both social and economic infrastructure at a sustainable level. A recent study has revealed that global infrastructure investment needs to be \$94 trillion between 2016 and 2040, which is 19% higher than the current trend.

FIDIC has undertaken and succeeded with its proactive advocacy initiative programme that engaged with multilateral development banks, financiers, investors, insurers and private and public clients to ensure that FIDIC standard procurement contracts to secure delivery of infrastructure efficient and effective.

This standard contract document forms part of a suite of documents and a wider campaign to improve conditions for members firm and clients in the delivery of infrastructure projects.

The FIDIC community

FIDIC has secured a major agreement with The World Bank (WB), Inter-American Development Bank (IDB), the Caribbean Development Bank (CDB) and the European Bank for Reconstruction and Development (ERDB) that will see the regional funding organisation adopt the use of FIDIC standard contracts for the next five years.

The licencing agreement signed with multilateral banks is a major win, a landmark achievements and good evidence of the value proposition for FIDIC member association, member firms and stakeholders associated with FIDIC.

Under the terms of this agreement, FIDIC has granted these banks the leading source for development financing in the World, Latin America and the Caribbean, a non-exclusive licence to refer to FIDIC contracts for projects they finance, and the documents will be used as part of these multilateral bank's standard procurement bidding documents.

Member associations

The endorsement and adoption of the FIDIC standard contracts with multilateral development banks hails a significant step forward in FIDIC's policy and advocacy activities for its world-wide member associations. Such agreements not only promote the use of FIDIC contracts, which are globally recognised and make procurement processes more efficient, but they also aid in the promotion and development best practice in risk allocation, effective contract management, dispute avoidance and resolution within the global consultancy, engineering and construction sector.

As a result, FIDIC and its member associations enable the consultancy and engineering sector and continue to engage at a strategic level, while also ensuring the use of practical and efficient practices to ensure the efficient delivery of infrastructure.

FIDIC and the consultancy and engineering sector have worked for decades to establish the integrity and reputation of the sector, and it is vital that this work continues going forward. The establishment and signing of such agreements with multilateral development banks continues this important process. It continues to

add value to the sector for every player and person within it. Our member associations have access to FIDIC's network and expertise, which allows engagement in strategic conversations to shape and influence the sector going forward.

Member association firms

When licencing the use of its contracts, FIDIC considers a number of factors, one of which is the benefit to its member associations member firms. It is these firms that design, plan and deliver the infrastructure that will last for generations. It is crucial to the consultancy and engineering sector that, national associations and FIDIC work together and engage to ensure the efficient delivery of infrastructure with the integrity that leaves a legacy we can all be proud of.

The use of FIDIC contracts helps to manage risk, reduces costs for clients and companies, and provides a common base for procurement processes. The benefits of FIDIC contracts and the signing of licensing agreements with these multilateral development banks are felt across the entire supply chain.

FIDIC, its member associations and their member consultancy and engineering firms are proud to engage in such agreements as they form a vital part of meeting the scope of infrastructure delivery required to meet global challenges such as access to effective transportation system, clean and sustainable energy provision, safe drinking water, access to the internet, and mitigating the effects of climate change.

This report provides an important resource for member associations and their members as it sets out:

- What is the ERDB and what is its mission?
- An outline of ERDBs project portal, historical projects and project pipeline
- How to access project information
- An outline of the types of products and services offered
- How to access procurement information and get involved with the ERDB

Over the months and years ahead, FIDIC will progress with the implementation of its advocacy programme to secure similar undertaken and endorsement from other multilateral banks, strategic sovereign government, financiers and private equity investors. Further endorsement and conversion with these strategic stakeholders will be incorporated into the future issued version of this report.

Finally, FIDIC will welcome feedback from member associations, member firms and stakeholders on how best to improve future edition of this report to meet the needs of the consultancy and engineering business sector.

Background

The international engineering federation FIDIC (the International Federation of Consulting Engineers) has secured a **major agreement with the European Bank for Reconstruction and Development that will see the international funding organisation adopt the use of nine FIDIC standard contracts for the next five years.**

Under the terms of the agreement, FIDIC has granted European Bank for Reconstruction and Development a non-exclusive licence to refer to the major FIDIC contractsⁱ for projects they finance, and the documents may be used as part of the bank's standard bidding documents.

The contracts include the latest 2017 Second Edition FIDIC contracts and 1999 editions, which cover a wide range of international construction and infrastructure work and EBRD signing the agreement represents another significant endorsement for FIDIC contracts from a major international funding organisation, following similar agreements signed with the World Bank, Inter-American Development Bank and Caribbean Development Bank in recent months.

This briefing note has been written to assist both FIDIC member associations and their members in understanding the significance and opportunities available as a result of the partnership between multilateral development banks and FIDIC.

This briefing note outlines below some of the European Bank for Reconstruction and Development activities, its interactions with FIDIC and how this is one of many steps in supporting member associations and their members in achieving the target of increasing investment to long-term efficient, sustainable and socially beneficial levels.

What is the ERDB and what is its mission?

The European Bank for Reconstruction and Development (EBRD) was established to help build a new, post-Cold War era in Central and Eastern Europe. It has invested more than €130 billion in a total of over 5,200 projectsⁱⁱ.

The ERDB, similar to other multinational development banks through financial instruments and technical support, helps countries that are working to improve infrastructure, reduce poverty and inequality, by assisting with investment across various projects.

Their commitment to the market and entrepreneurship statement is to:

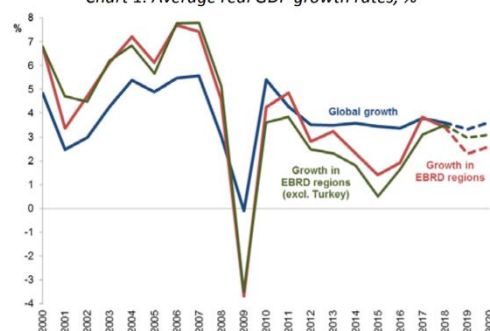
- *“The EBRD is committed to furthering progress towards ‘market-oriented economies and the promotion of private and entrepreneurial initiative’. This has been its guiding principle since its creation at the beginning of the 1990s and, new challenges and the welcoming of new countries to the EBRD world notwithstanding, will continue to be its mission in years to come.”ⁱⁱⁱ*

They define their mandate as^{iv}:

- *“Safeguarding the environment and a commitment to sustainable energy have also always been central to the EBRD’s activity. A commitment to promote ‘environmentally sound and sustainable development’ was made explicit at its founding. More recently, our Green Economy Transition approach has made climate finance a key measure of the Bank’s performance. In 2018 such finance accounted for 36 per cent of its total annual investment.”*
- *“The EBRD serves the interests of all its shareholders - 69 countries from five continents plus the European Union and the European Investment Bank.”*

Figure 1: Average growth in EBRD regions

Average growth in EBRD regions will slow to 2.3 per cent
Chart 1. Average real GDP growth rates, %



Sources: IMF WEO, EBRD forecasts and authors' calculations.

Source: EBRD

In a similar manner to most of the multilateral development banks, the EBRD maintain a number of reports that show the performance of the region(s) in which they operate.

For example, in their biannual *Regional Economic Prospects in the EBRD Regions report*^v they outline that average growth while growing is expected to slow to 2.3% across the regions.

The other reports the EBRD produce to help companies understand the markets in which they operate include^{vi}:

- The EBRD-World Bank Business Environment and Enterprise Performance Survey (BEEPS)
- Life in Transition Survey
- Banking Environment and Performance Survey
- Management, Organisation and Innovation (MOI) Survey

Understanding more about EBRD projects

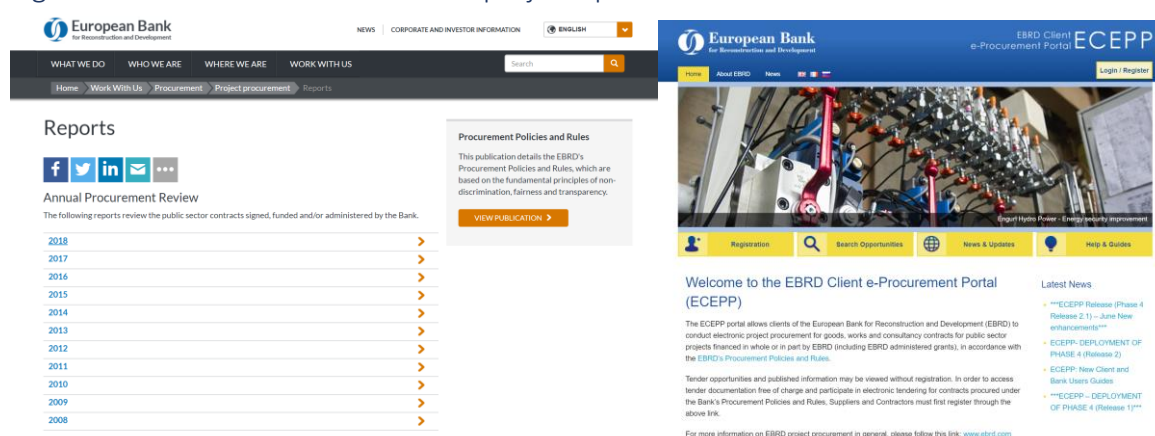
The EBRD has a dedicated “[Client e-Procurement Portal \(ECEPP\)](#)^{vii}” tool to help companies understand the types of projects they are currently engaged with, the point of the procurement cycle they are in, their specific geographical spread etc and to provide guides and updates.

The EBRD assists its borrowers to optimise the use of their resources, develop their economies, and expand production and trade and to undertake efficient procurement processes using its standardised documents and materials.

Their involvement in projects promotes private and public investment and encourages the development of financial tools and institutions in the areas where projects occur. Within this the technical assistance they provide also helps projects to access sectors such as engineers to ensure that projects can be delivered in a sustainable manner.

Below we have provided a short summary for members on the value of the projects listed within the EBRD [Annual Review of Procurement Activities under the Procurement Policies and Rules for 2018](#)^{viii} as well as some figures demonstrating the extent of the coverage across the geographical region in which it operates.

Figure: 2 – CDB – Annual review and projects portal



Source: EBRD

Figures 2 (above) and Figure 3 (next page) help to provide members with an outline of the spread of projects across the region in which the EBRD operate and these have plotted and mapped historical sovereign guarantee projects.

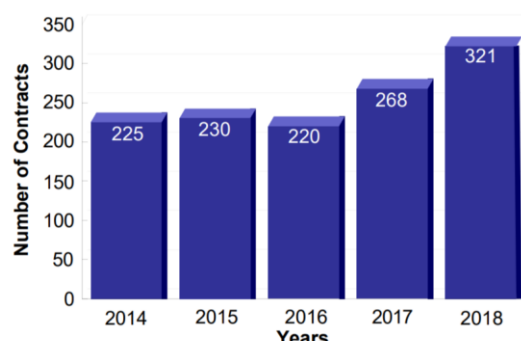
In 2018, a total of 321 contracts (excluding NSD contracts) were signed by the bank’s clients. The total value of these contracts amounted to €2.776m. A total of 1,068 tenders from 56 countries were received.

Within this the EBRD annual review for 2018 states that the “average contract value was € 8.6 million and the average EBRD financing was €6.5m per contract”. Demonstrating not only the size of the projects they undertake but also the significant role they play in financing projects.

As of 31 December 2018, the banks review states that “based on the bank’s commitments at the time, the contract pipeline shows that in the forthcoming four years, the bank’s public sector clients are expected to sign approximately 700 contracts for an amount exceeding €6.576bn” Thus showing the scale and potential of this important client to the consultancy and engineering sector.

As can be seen from Figure 3 below the number of contracts they are signing is also on the increase expanding the potential market that is accessible to FIDIC members as part of the announced five-year agreement.

Figure: 3 – EBRD – number of historical contracts signed



Source: EBRD

As with other banks it is important to understand where not only the EBRD operate but also where the projects are undertaken.

According to EBRD annual review^{ix} the countries with the highest number of contracts signed in 2018 were as follows:

1. KAZAKHSTAN - 53 contracts signed
2. TAJIKISTAN - 45 contracts signed
3. UKRAINE - 41 contracts signed
4. KYRGYZ REPUBLIC - 28 contracts signed
5. BULGARIA - 24 contracts signed

The above therefore account for approximately 60% of contracts signed in 2018. It is, however, also important to look at the value of such contracts. Below we have extracted from their annual review the countries with the highest cumulative value of contracts in 2018:

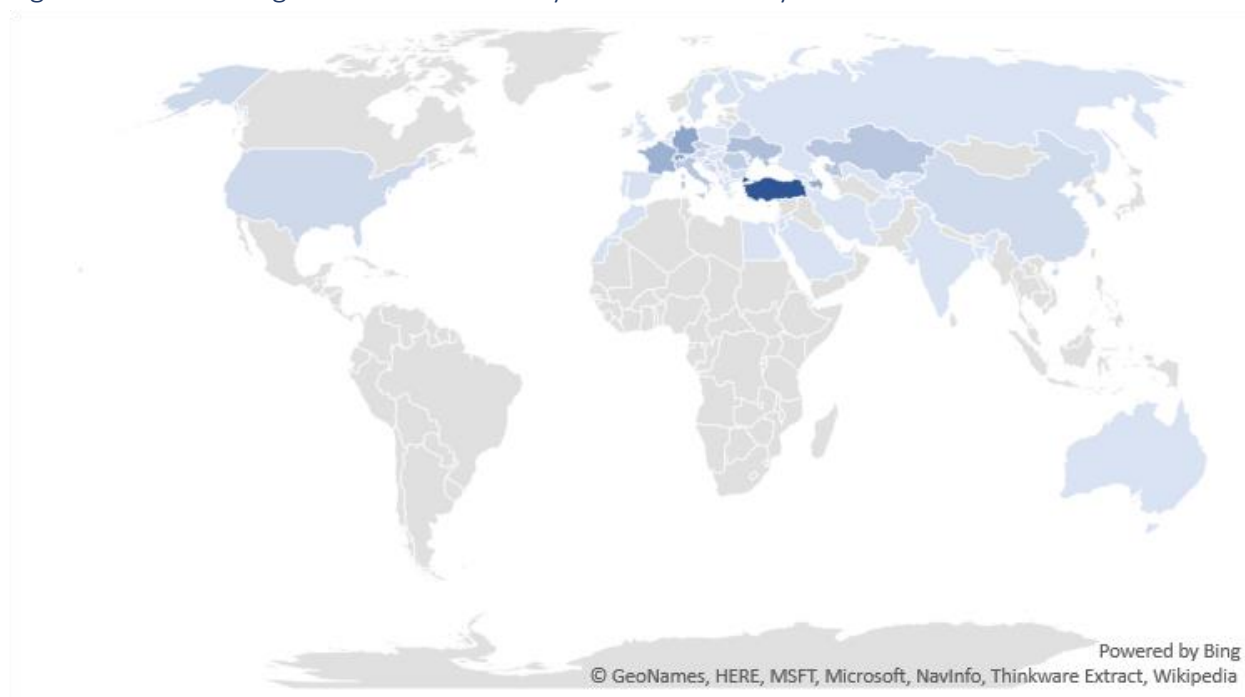
1. TAJIKISTAN - 492 million
2. KAZAKHSTAN - 409 million
3. UKRAINE - 408 million
4. ROMANIA - 286 million
5. AZERBAIJAN - 272 million (should these be monetary values? Eg - €272m etc etc?)

As can be seen from the above, the continued expansion and use of FIDIC contracts on multilateral development bank projects will continue to ensure that the industry enjoys standardised and fair contract terms whilst reducing administrative and legal burden.

Participating firms and where they are from

If you look at the level of participation (the countries from which firms were successful in being awarded contracts) as opposed to the projects/contracts signed per country as can be seen from Figure 4 below the country with the highest level of participation amongst first was Turkey at €633m.

Figure: 4 – EBRD – Signed contract value by tenderer country



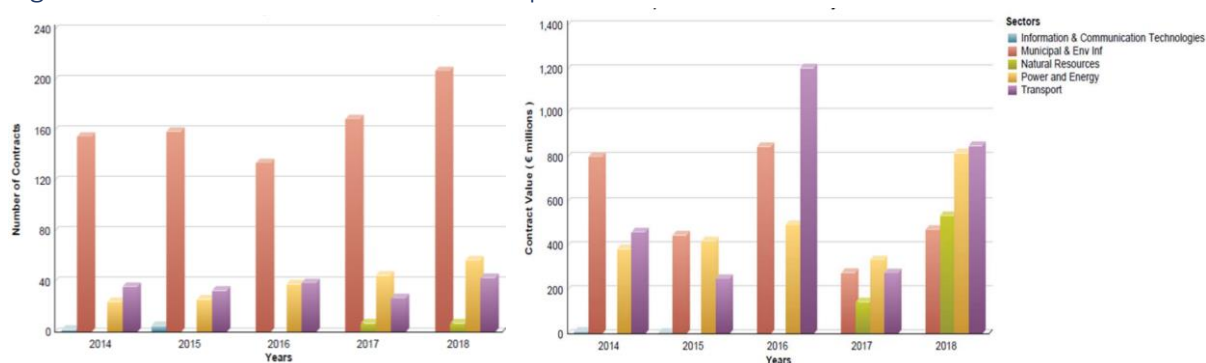
Source: CDB

Analysis by sector

Looking at the EBRD data for 2014 to 2018 the majority of the contracts agreed (823) were in the category of Municipal and Environmental Information (MEI) which has an estimated value of €2.847bn.

Despite having a far lower number of contracts let, the transport sector was the highest sector in terms of the value of contracts awarded at €3.045bn

Figure: 5 – EBRD – Number and value of public sector contract awards



Source: EBRD

The EBRD accessing future project information and opportunities

Institutions such as multilateral development banks are increasingly ensuring that projects which received backing increasingly adhere to outlined procurement principles and provide transparent information through procurement portals or national procurement portals.

This is done to ensure as far as possible that the process is well understood and delivered in a manner which helps to deliver the best value for money for their investment.

This section will outline and provide links to resources for EBRD projects. As we have seen in the previous chapter there are a significant number and wide variety of projects that range from the small to very large in terms of their investment requirement.

As can be seen from Figure 6 below, the EBRD has a projects notices area on its electronic client portal where the current and past list of projects and their status can be accessed.

- Client e-Procurement Portal (ECEPP)^x ([click here](#))
- Procurement Policies and Rules^{xi} ([click here](#))
- Contract award notifications^{xii} ([click here](#))
- EBRD the financing process^{xiii} ([click here](#))

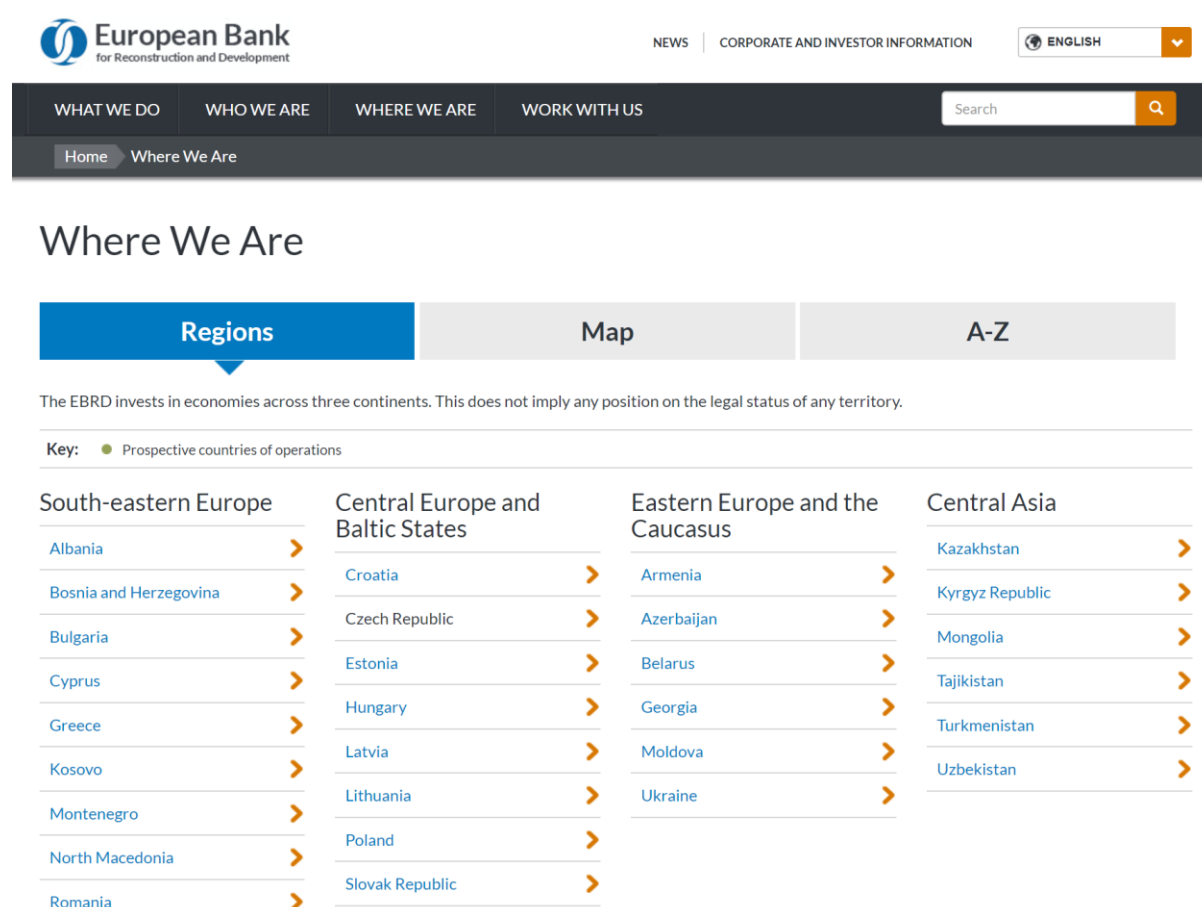
Figure: 6 – EBRD – Client e-Procurement Portal (ECEPP)

Title	Notice Type	Tender Exercise Title	Published	Closing Date	Current State
Bosnia And Herzegovina: Construction of Tunnel Ivan	Contract Award Notice	Construction of Tunnel Ivan	15/10/2019 10:35 UK Time	N/A	Information Only
Kyrgyz Republic: PROJECT IMPLEMENTATION SUPPORT FOR THE KARAKOL WATER PROJECT.	Invitation For Expression Interest	PROJECT IMPLEMENTATION SUPPORT FOR THE KARAKOL WATER PROJECT.	15/10/2019 09:01 UK Time	12/11/2019 07:00 UK Time	Open
Bosnia And Herzegovina: Supply and Installation of Smart Metering	Contract Award Notice	Supply and Installation of Smart Metering	14/10/2019 08:42 UK Time	N/A	Information Only

The [Where are we](#) page^{xiv} on the EBRD website also allows people to view projects at a country level and see relevant information as to what projects are occurring etc.

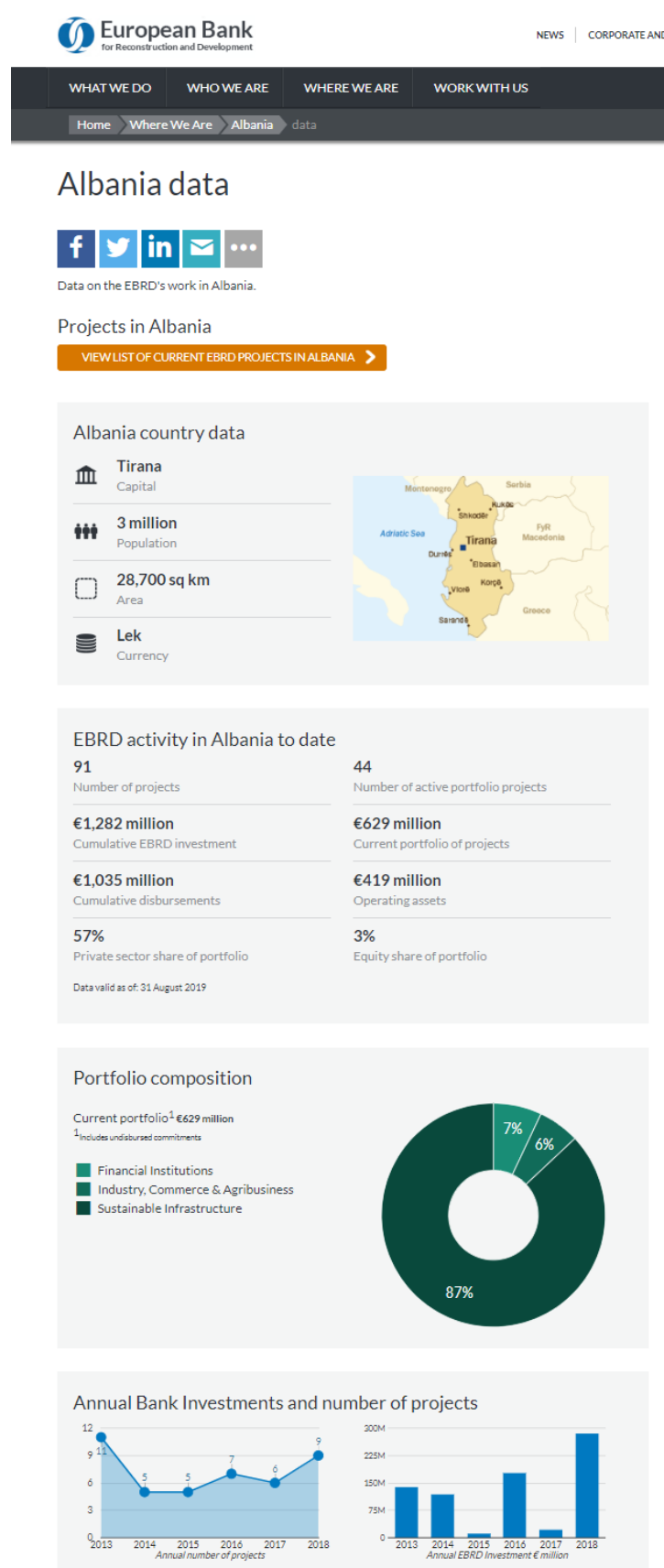
Below Figures 7 and 8 show the country selection process and an example of the information provided for each individual country. Such information is useful when companies are considering where they would like to bid for contracts.

Figure: 7 – EBRD – Country selection area



Source: EBRD

Figure: 8 – EBRD – Example of country profile – Albania



Source: EBRD

The EBRD and how it interacts with consultants and procurement

As part of its engagement with various consultants and engineers, the EBRD has produced documents which provide a comprehensive outline as to the process they go through to engage with and appoint consultants and other parties.

These policies reflect the interest of the EBRD and its various investments and stakeholders and aim to instil best practice. Similar to other multilateral development banks the procurement plans these outline the general project information, approval dates, the procurement method and a summary of procurement package and timelines across the various parties involved.

EBRD procurement policy rules

The EBRD as outlined above provide a document which contains their [procurement policy rules](#)^{xv} this covers the following areas:

Principles and Considerations

- Eligibility
- Responsibilities
- Prohibited practices
- Procurement related complaints
- Mis procurement

Procurement Rules for Public Sector Operations

- Applicability of these rules
- Procurement process and planning
- Notification
- Tendering and various tendering options
- Thresholds
- Evaluation criteria
- Language, standards and specifications
- Tender prices and payment terms
- Conditions of contract
- Procurement monitoring
- Bank review

Procurement in Private Sector Operations

Procurement of Consultant Services

- Consultant selection procedures
- Shortlist
- Eligibility
- Language
- Evaluation and selection
- Contract negotiations and administration
- Bank review

EBRD standard procurement documents

Like other multinational development banks, the EBRD have a standard set of procurement documents and guidance^{xvi}. Should this highlighted xvi be small font reference text?

The standard procurement documents (SPDs) are intended for use by the bank's clients for the procurement of goods, works and services on bank-financed projects. Use of these SPDs is mandatory for open tendering and competitive selection procedures and may also be adapted for other procedures under the bank's procurement policy and rules.

These standard documents also include documents for the procurement of consultancy services and include the following

Consultancy Services, Single Stage Open Competitive Selection

- [Procurement Notice Template](#)
- [Request for Proposals \(Single stage\)](#)

Consultancy Services, Two-Stage Open Competitive Selection

- [Procurement Notice template](#)
- [Instructions to Consultants Submission Forms](#)
- [Request for Proposals \(Two Stage Open Competitive Selection\)](#)

Consultancy Services Contract Forms

Time-based complex assignments - [pdf](#)

Lump-sum based complex assignments - [pdf](#)

Simplified assignments (both lump sum and time-based) [doc](#)

Evaluation Forms

- [The Evaluation Forms documents](#)
- [Calculation Tool for Evaluation of Submissions](#)

FIDIC contracts within the EBRD agreement



Conditions of Contract for Construction for Building and Engineering Works Designed by the Employer (“Red book”), First edition 1999 and Second edition 2017;



Conditions of Contract for Plant & Design-Build for Electrical & Mechanical Plant & for Building & Engineering Works Designed by the Contractor (“Yellow book”), First edition 1999 and Second edition 2017;



Conditions of Contract for EPC Turnkey Projects (“Silver book”), First edition 1999 and Second Edition, 2017;



Client/Consultant Model Services Agreement (“White book”), Fifth Edition 2017;



Conditions of Contract for Design, Build and Operate Projects (“Gold book”) First Edition 2008;



The Short Form of Contract (“Green book”), First Edition 1999.



International Federation of Consulting Engineers (FIDIC)

World Trade Center II, Geneva Airport P.O. Box 311 CH-1215 Geneva 15 - Switzerland

Tel. +41 22 799 4900 - Fax +41 22 799 4901

Arthur: Graham Pontin, Head of economic and strategic policy

Email: fidic@fidic.org www.fidic.org

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Endnotes

ⁱ The six FIDIC contract documents covered by the FIDIC/EBRD agreement are as follows:

- Conditions of Contract for Construction for Building and Engineering Works Designed by the Employer ("Red book"), First edition 1999;
- Conditions of Contract for Construction for Building and Engineering Works Designed by the Employer ("Red book"), Second edition 2017;
- Conditions of Contract for Plant & Design-Build for Electrical & Mechanical Plant & for Building & Engineering Works Designed by the Contractor ("Yellow book"), First edition 1999;
- Conditions of Contract for Plant & Design-Build for Electrical & Mechanical Plant & for Building & Engineering Works Designed by the Contractor ("Yellow book"), Second edition 2017;
- Conditions of Contract for EPC Turnkey Projects ("Silver book"), First Edition, 1999;
- Conditions of Contract for EPC Turnkey Projects ("Silver book"), Second Edition, 2017;
- Client/Consultant Model Services Agreement ("White book"), Fifth Edition 2017;
- Conditions of Contract for Design, Build and Operate Projects ("Gold book") First Edition 2008; and
- The Short Form of Contract ("Green book"), First Edition 1999.

ⁱⁱ EBRD, History of the EBRD, accessed 15/10/2019 ([click here](#))

ⁱⁱⁱ EBRD, History of the EBRD, accessed 15/10/2019 ([click here](#))

^{iv} EBRD, History of the EBRD, accessed 15/10/2019 ([click here](#))

^v EBRD, Regional Economic Prospects in the EBRD Regions, May 2019, accessed 15/10/2019 ([click here](#))

^{vi} EBRD, Economic Data, accessed 15/10/2019 ([click here](#))

^{vii} EBRD, Client e-Procurement Portal (ECEPP), accessed 15/10/2019 ([click here](#))

^{viii} EBRD Annual Review of Procurement Activities under the Procurement Policies and Rules for 2018, accessed 15/10/2019 ([click here](#))

^{ix} EBRD Annual Review of Procurement Activities under the Procurement Policies and Rules for 2018, accessed 15/10/2019 ([click here](#))

^x EBRD, Client e-Procurement Portal (ECEPP), accessed 15/10/2019 ([click here](#))

^{xi} EBRD, Procurement Policies and Rules and Related Bank Policies, accessed 15/10/2019 ([click here](#))

^{xii} EBRD, Contract award notifications, accessed 15/10/2019 ([click here](#))

^{xiii} EBRD, EBRD projects: the financing process, accessed 15/10/2019 ([click here](#))

^{xiv} EBRD, Where are we, accessed 15/10/2019 ([click here](#))

^{xv} EBRD, Procurement Policies and Rules 15/10/2019 ([click here](#))

^{xvi} EBRD, Standard procurement documents and guidance notes, accessed 15/10/2019 ([click here](#))