

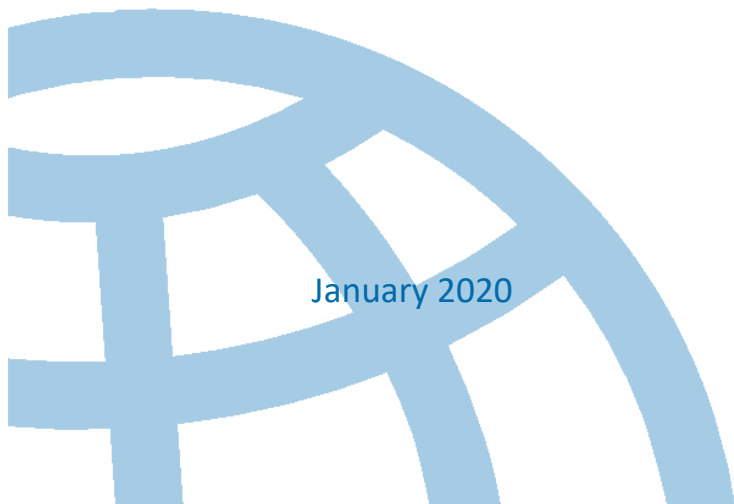


International Federation of Consulting Engineers
The Global Voice of Consulting Engineers

What the FIDIC-AfDB contract agreement means for members

FIDIC Briefing Note

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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), Caribbean Development Bank (CDB), European Bank for Reconstruction and Development (EBRD), Asian Infrastructure Investment Bank (AIIB) and now the African Development Bank (AfDB) 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, the Caribbean, Europe and Asia 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:

- Who are the AfDB and what is their mission?
- An outline of AfDB's 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

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 association, 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 African Development Bank Group (AfDB) that will see the international funding organisation adopt the use of seven FIDIC standard contracts for the next five years.**

Under the terms of the agreement, FIDIC has granted the **African Development Bank Group** 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 mainly include the 2017 Second edition FIDIC contracts, which cover a wide range of international construction and infrastructure work, and the AfDB signing up represents a major endorsement for the contracts from a major international funding organisation.

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 the AfDB and FIDIC.

This briefing note outlines below some of the AfDB's 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.

Who are the AfDB and what is their mission?

The AfDB is a multilateral development bank with a mission to improve the quality of Africa's growth: inclusive growth, and the transition to green growth. Its headquarters are in Côte d'Ivoire and was founded in 1964 and comprises three entities: The African Development Bank, the African Development Fund and the Nigeria Trust Fund.

The AfDB similar to other multinational development banks through financial instruments and technical support helps countries to invest in sustainable infrastructure and other productive sectors, with the aim to better inclusive and green growth.

African Development Bank's strategy for 2013–2022 defines the follow operational prioritiesⁱⁱ:

Priority 1 – infrastructure development

Africa still has a significant infrastructure need, but only invests 4% of its GDP in infrastructure, compared with 14% in China. The AfDB intends to significantly scale up infrastructure financing in transport, energy and water across the continent through both its own lending and leveraging its financial resources.

Priority 2 – Regional economic integration

Having 54 individual countries, often without the physical and economic machinery to act in tandem, seriously limits growth potential. The AfDB aims to play a leading role in fostering Africa's economic integration to create larger, more attractive markets to the wider international investment and trade markets.

Priority 3 – Private sector development

The AfDB aims to deliver finance and provide advice and technical assistance. Working with the private sector the AfDB aims to respond to the specific needs, opportunities and challenges of the private sector. It will focus on African entrepreneurship, addressing the constraints that face women and young entrepreneurs and supporting micro, small and medium enterprises.

Priority 4 – Governance and accountability

Economic growth can only be built on the firmest foundations of just, transparent and efficient governance and institutions administered by the capable state. Responding to demands in Africa for better governance and basic services, the AfDB will assist institutions that support inclusion and promote accountability and improve public financial management.

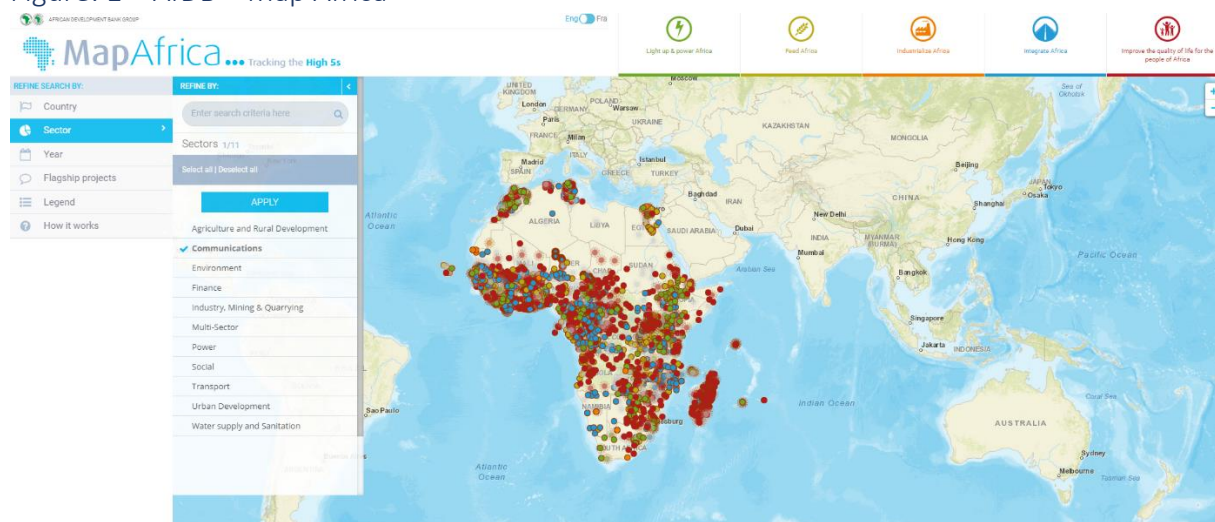
Priority 5 – Skills and technology

The AfDB wants to assist in increasing the supply of skilled workers, the AfDB therefore aims to step up its support for technical and vocational training. The aim is to equip young people with the right skills for both the formal and informal sectors, including the skills to create small businesses.

Source: AfDB

As can be seen from figure 1 below the AfDB have a platform called [map Africa](#) which shows all of the projects in which they are engaged.ⁱⁱⁱ

Figure: 1 – AfDB – Map Africa



Source: AfDB

Figure: 2 – AfDB – Map Africa – access to the data portal

Importantly as can be seen from figure 2 when the individual projects are clicked in the Map Africa platform there are also options to access:

- The AfDB's [data portal](#)
- A country outline
- A country brief
- Sector information

This data portal allows users to be able to filter the projects in which AfDB are involved and based on 4 key African regions:

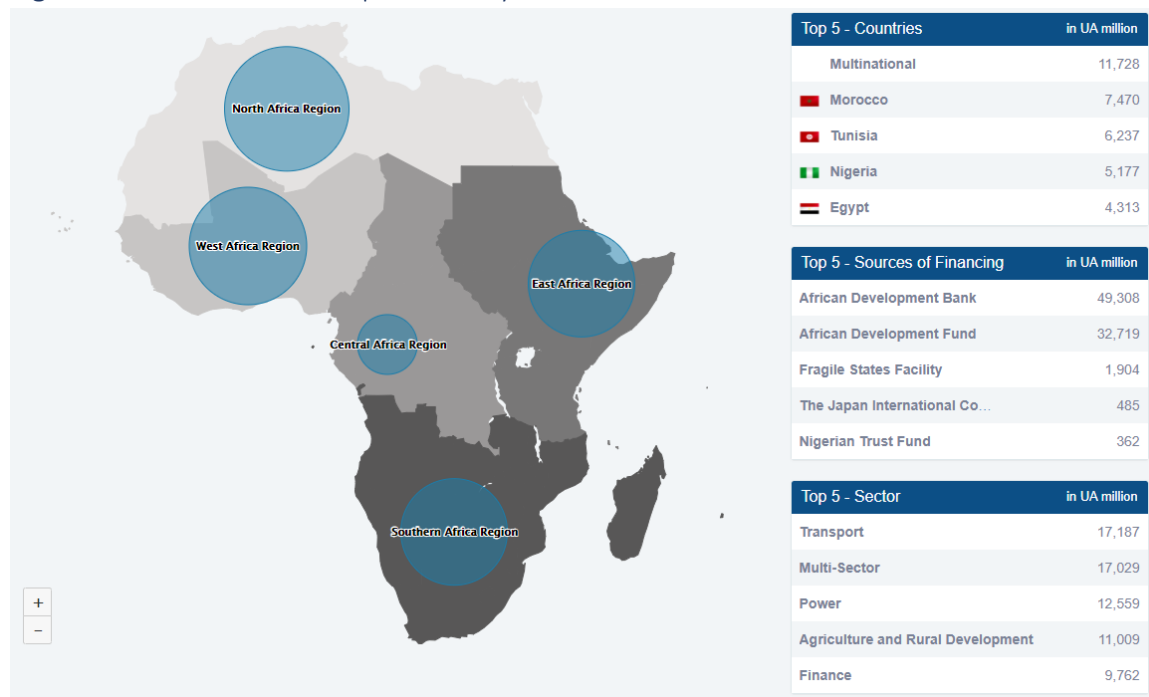
- North Africa region
- West Africa region
- East Africa region
- Central Africa region
- Southern Africa region

Source: AfDB

The data portal provides access to information on all of its lending projects from 1967 up to now. It also allows you to see an overview of Africa as a whole showing the top 5 countries by investment amount in UA millions, the top five sources of financing and the top 5 sectors in which projects have been undertaken.

This tool therefore provides a very powerful tool for FIDIC members to understand the scope, scale and target investments for the AfDB based on their strategic priorities.

Figure: 3 – AfDB – the data portal – key stats



Source: AfDB

As can be seen from figure 3 above the African Development Bank has financed over 49,308 UA million into projects, with the African Development fund not far behind on 32,719 UA millions.

The top five sectors account for 67,546 UA million in investment and are:

- Transport
- Multi-sector
- Power
- Agriculture and Rural development
- Finance

The AfDB accessing future project information and opportunities

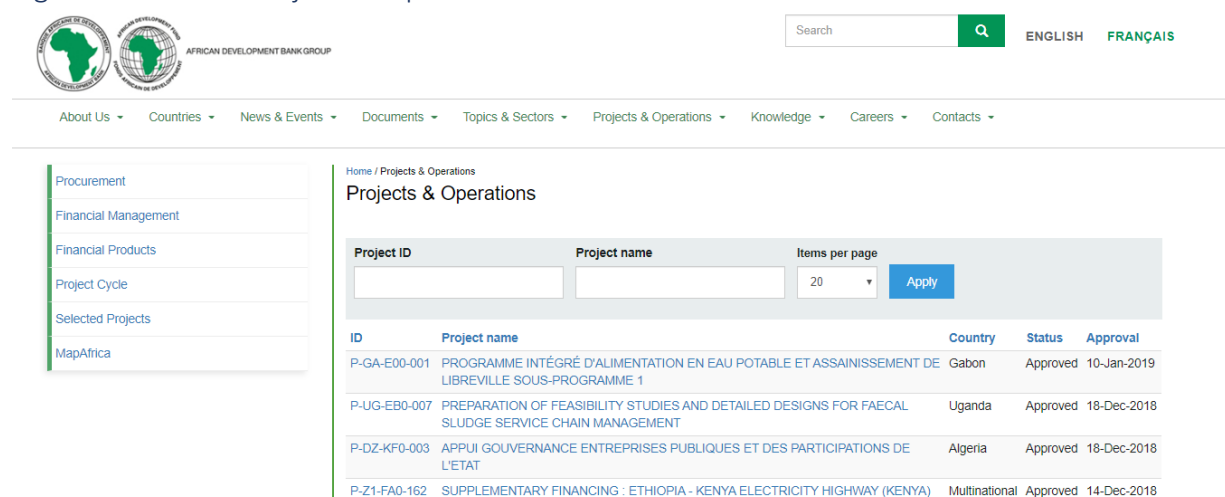
Institutions such as multilateral development banks are increasingly ensuring that projects which received backing increasingly adhere to outlined procurement principles and provide transparent information through procurement portals or national procurement portals.

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 AfDB projects. As we have seen in the previous section there are a growing number and wide variety of projects that range from the small to very large in terms of their investment requirement.

Figure 4 below the AfDB has a [project and operations](#) area on its website to help companies understand the types of projects they have engage with, their geographical spread and a current and historic project pipeline^{iv}.

Figure: 4 – AfDB – Projects & operations



The screenshot shows the AfDB website's 'Projects & Operations' page. The page includes a search bar, navigation menus, and a table of project listings. The table has columns for ID, Project name, Country, Status, and Approval. The following table represents the data shown in the screenshot:

ID	Project name	Country	Status	Approval
P-GA-E00-001	PROGRAMME INTÉGRÉ D'ALIMENTATION EN EAU POTABLE ET ASSAINISSEMENT DE LIBREVILLE SOUS-PROGRAMME 1	Gabon	Approved	10-Jan-2019
P-UG-EB0-007	PREPARATION OF FEASIBILITY STUDIES AND DETAILED DESIGNS FOR FAECAL SLUDGE SERVICE CHAIN MANAGEMENT	Uganda	Approved	18-Dec-2018
P-DZ-KF0-003	APPUI GOUVERNANCE ENTREPRISES PUBLIQUES ET DES PARTICIPATIONS DE L'ETAT	Algeria	Approved	18-Dec-2018
P-Z1-FA0-162	SUPPLEMENTARY FINANCING : ETHIOPIA - KENYA ELECTRICITY HIGHWAY (KENYA)	Multinational	Approved	14-Dec-2018

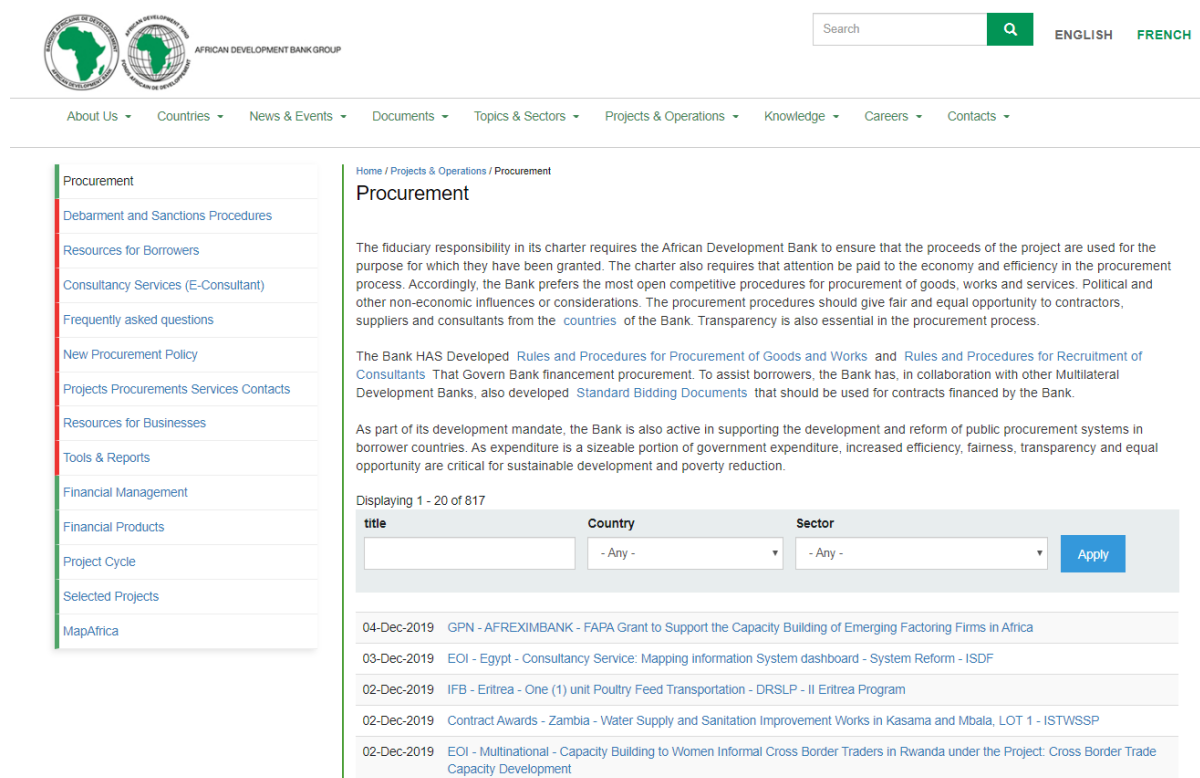
Source: AfDB

When accessed each project contains details such as:

- Name
- Status
- Sector
- Approval date
- Task manager
- Total currency of project
- Implementation agency
- Location
- Objectives
- Description
- A statement on the project benefits

As can be seen in figure 5 below when considering future opportunities the AfDB also has a [procurement](#) page which lists projects that are currently available.^v These can be searched by name, country or sector.

Figure: 5 – AfDB – Procurement – project information



Home / Projects & Operations / Procurement

Procurement

The fiduciary responsibility in its charter requires the African Development Bank to ensure that the proceeds of the project are used for the purpose for which they have been granted. The charter also requires that attention be paid to the economy and efficiency in the procurement process. Accordingly, the Bank prefers the most open competitive procedures for procurement of goods, works and services. Political and other non-economic influences or considerations. The procurement procedures should give fair and equal opportunity to contractors, suppliers and consultants from the countries of the Bank. Transparency is also essential in the procurement process.

The Bank HAS Developed [Rules and Procedures for Procurement of Goods and Works](#) and [Rules and Procedures for Recruitment of Consultants](#) That Govern Bank financing procurement. To assist borrowers, the Bank has, in collaboration with other Multilateral Development Banks, also developed [Standard Bidding Documents](#) that should be used for contracts financed by the Bank.

As part of its development mandate, the Bank is also active in supporting the development and reform of public procurement systems in borrower countries. As expenditure is a sizeable portion of government expenditure, increased efficiency, fairness, transparency and equal opportunity are critical for sustainable development and poverty reduction.

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title	Country	Sector
04-Dec-2019	GPN - AFREXIMBANK - FAPA Grant to Support the Capacity Building of Emerging Factoring Firms in Africa	
03-Dec-2019	EOI - Egypt - Consultancy Service: Mapping information System dashboard - System Reform - ISDF	
02-Dec-2019	IFB - Eritrea - One (1) unit Poultry Feed Transportation - DRSLP - II Eritrea Program	
02-Dec-2019	Contract Awards - Zambia - Water Supply and Sanitation Improvement Works in Kasama and Mbala, LOT 1 - ISTWSSP	
02-Dec-2019	EOI - Multinational - Capacity Building to Women Informal Cross Border Traders in Rwanda under the Project: Cross Border Trade Capacity Development	

Source: AfDB

When projects are clicked through on companies can access the procurement documentation, which provides them with further details about the project and the opportunity.

The AfDB and how it interacts with consultants and procurement

The AfDB like other multilateral banks has in place a mandate and role to ensure that procurement is undertaken in an efficient, fair and transparent manner. On their [procurement](#) webpage they state explicitly:

“The fiduciary responsibility in its charter requires the African Development Bank to ensure that the proceeds of the project are used for the purpose for which they have been granted. The charter also requires that attention be paid to the economy and efficiency in the procurement process. Accordingly, the Bank prefers the most open competitive procedures for procurement of goods, works and services. Political and other non-economic influences or considerations. The procurement procedures should give fair and equal opportunity to contractors, suppliers and consultants from the countries of the Bank. Transparency is also essential in the procurement process.”^{vi}

AfDB procurement policy

As part of its engagement with various parties, consultants and engineers the AfDB has produced a [procurement policy](#) which provides an outline as to the practices and process they expect to occur to engage with and appoint consultants and other parties.

The procurement policy provides a toolkit to enable parties that receive financing from the AfDB to run a procurement process in line with their expectations.

The [Procurement policy for bank group funded operations](#)^{vii} covers the following areas:

- General
- Vision and objectives
- Principles and considerations
- Scope and applicability
- Eligibility
- Prohibited practices and sanctions
- Mis-procurement
- Application of the policy
- Procurement under Private Sector Operations
- Co-financing
- Procurement planning
- Monitoring and evaluation

This policy also includes a section specifically for the procurement of consulting services. The AfDB has a similar position and approach to other MDBs favouring a competitive approach to its procurement processes for consultancy services stating in its general principal that:

“The Bank requires acquisition of consulting services to be conducted through competition among qualified short-listed firms in which the selection is based on the quality of the proposal and, where appropriate, on the cost of the services to be provided. The shortlist shall be prepared based on wide and free publication of Requests for Expressions of Interest (REOIs) with no restriction on the participation of consultants except for eligibility conditions.”^{viii}

Likewise, whilst it is not the favoured approach across many MDBs the AfDB leaves open the possibility of using other forms of tender where a clear advantage is demonstrable:

“When consulting services may be optimally obtained through a pre-qualification exercise, the Bank may agree to use of such process in appropriate circumstances. In exceptional cases, the Bank may

agree to a less or non-competitive process to be used. Single-Source Selection (SSS) of consultants may be appropriate only if it presents a clear advantage over competition.”^{ix}

The section on consulting services also covers areas such as

- Use of language
- Rejection of bids
- Rejection of Abnormally Low Bids
- Development of Borrower’s Industry
- Transfer of Knowledge
- Environmentally and Socially Responsive Procurement (ESRP).
- E-Procurement
- Second-hand Goods
- Leasing and Renting

As can be seen from the list above like other MDBs the AfDB also encourages recipients to continually modernize their procurement systems including incorporating procurement through electronic means (e-procurement) as this can facilitate efficiency, economy and transparency in the procurement process.

As can be seen from figure 6 below the AfDB also run an electronic process and platform to register consultants like some other MDBs. It is therefore important that FIDIC members look at, register and join such systems to engage with the AfDB project opportunities.

Figure 9: – Consultancy Services (E-Consultant)

The AfDB E-Consultant is a database of Individual Consultants and Consulting Firms maintained by the African Development Bank Group. From the AfDB E-Consultant site, you can register yourself as an Individual Consultant or register a Consulting Firm.

- [Login or Register](#)
- [Current Expressions of interest for Consultants](#)

Source: AfDB

Finally, the bank also has more specific [Rules and Procedures for the Use of Consultants in projects](#)^x. These can be found on their [Policies & Procedures](#) webpage^{xi} The purpose of this document is to define the policies and procedures for the selection, contracting, and monitoring consultants required for projects that are financed in whole or in part by Financing from the AfDB.

This document contains:

- Introduction and purpose
- Quality and cost based selection
- Other methods of selection
- Types of contracts and important provisions
- Selection of individual consultants
- Various appendices

Examples of FIDIC contracts within the AfDB Agreement



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”), 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.



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Endnotes

ⁱ The seven FIDIC contract documents covered by the FIDIC/AfDB Bank agreement are as follows:

- 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”), Second Edition 2017;
- [Conditions of Contract for EPC Turnkey Project (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 AfDB, AfDB’s Strategy for 2013-2022, accessed 4/12/2019 ([click here](#))

ⁱⁱⁱ AfDB, Map Africa, accessed 4/12/2019 ([click here](#))

^{iv} AfDB, Projects & operations, accessed 4/12/2019 ([click here](#))

^v AfDB, Procurement, accessed 4/12/2019 ([click here](#))

^{vi} AfDB, Procurement, accessed 4/12/2019 ([click here](#))

^{vii} AfDB, procurement policy for bank group funded operations, August 2015 ([click here](#))

^{viii} AfDB, procurement policy for bank group funded operations, August 2015 ([click here](#))

^{ix} AfDB, procurement policy for bank group funded operations, August 2015 ([click here](#))

^x AfDB, Rules and Procedures for the Use of Consultants, July 2012 ([click here](#))

^{xi} AfDB, policies and procedures, accessed 4/12/2019 ([click here](#))