

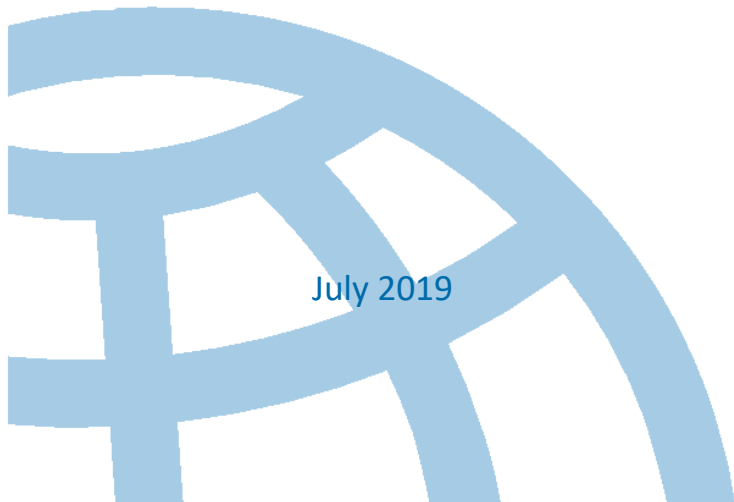


International Federation of Consulting Engineers
The Global Voice of Consulting Engineers

What the FIDIC-CDB contract agreement means for members

FIDIC Briefing Note

July 2019



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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) and the Caribbean Development Bank (CDB) 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:

- Who are the CDB and what is their mission?
- An outline of CDBs 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 CDB

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 Caribbean Development Bank 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 the Inter-American Development Bank 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 with both the Inter-American Development Bank and World Bank signed up represents a major endorsement for the contracts from a major international funding organisation. FIDIC also expects to announce similar agreements with other multilateral development banks soon.

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 Inter-American Development Bank and FIDIC.

This briefing note outlines below some of the Caribbean Development Bank'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 CDB and what is their mission?

The Caribbean Development Bank is a regional financial institution, which was established by an Agreement signed on October 18, 1969, in Kingston, Jamaica, and entered into force on January 26, 1970.

The CDB similar to other multinational development banks through financial instruments and technical support helps countries that are working to reduce poverty and inequality, by assisting with investment in health and education, and advance infrastructure whilst improving growth prospects.

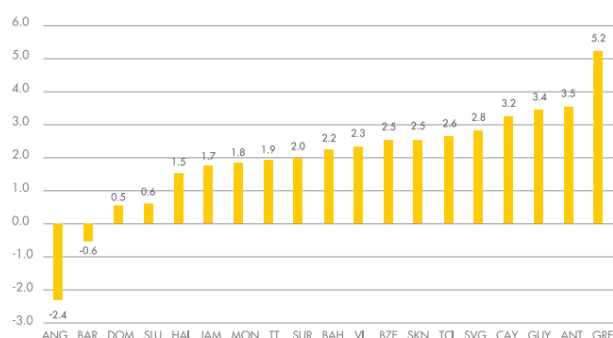
Their mission statement is to:

- *“CDB intends to be the leading catalyst for development resources into the region, working in an efficient, responsive and collaborative manner with our BMCs and other development partners, towards the systematic reduction of poverty in their countries through social and economic development”ⁱⁱ*

They define their purpose asⁱⁱⁱ:

- *“The purpose of the bank shall be to contribute to the harmonious economic growth and development of the member countries in the Caribbean and to promote economic co-operation and integration among them, having special and urgent regard to the needs of the less developed members of the region.”*

Figure 1: Real GDP growth in 2018



Importantly as stated in their annual report, regional economic growth was almost 2%, up from 1.7% in 2017 with all but two of their member countries reported economic growth in 2018. The agreement with FIDIC therefore help members access a growing region and markets at a time of wider international uncertainty.

Source: CDB

The CDB currently list their functions as^{iv}:

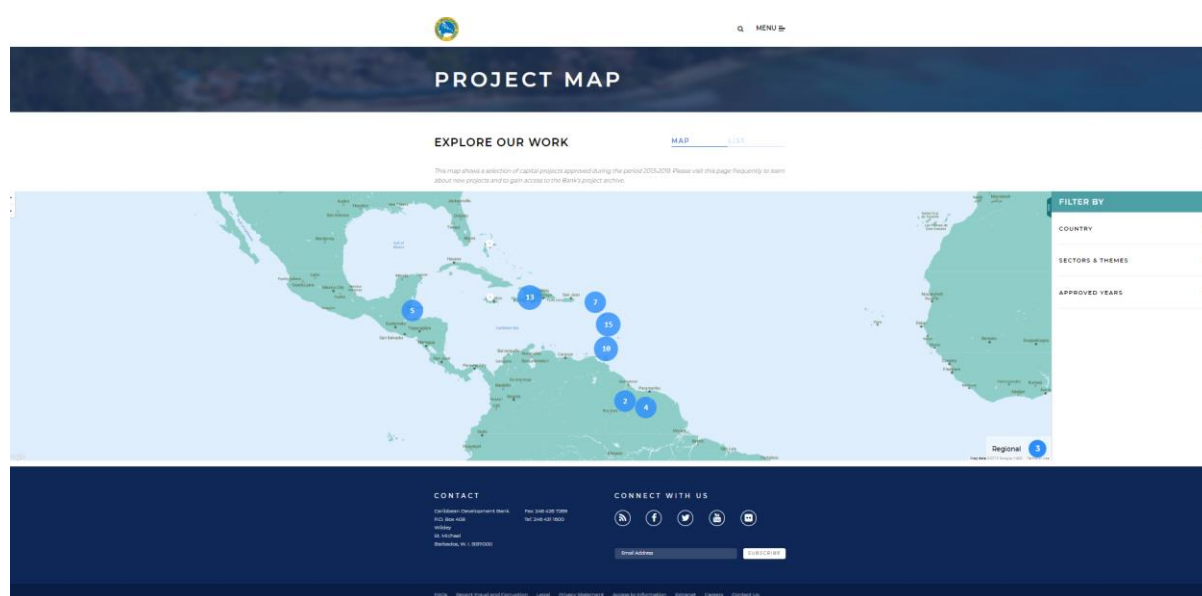
- Assist – countries to optimise their resources
- Mobilise – financial resources for regional development
- Promote – investment in the region
- Support – institutions and capital markets
- Provide – technical assistance to members

Understanding more about the CDB projects

The CDB has tools on its website to help companies in understand the types of projects they engage with, their geographical spread and a current and historic project pipeline^v.

Below we have provided a short summary for members on the value of the projects listed within the CDB projects portal which runs from 2016-2019 as well as some figures demonstrating the extent of the coverage across the geographical region in which it operates.

Figure: 2 – CDB – projects portal



Source: CDB

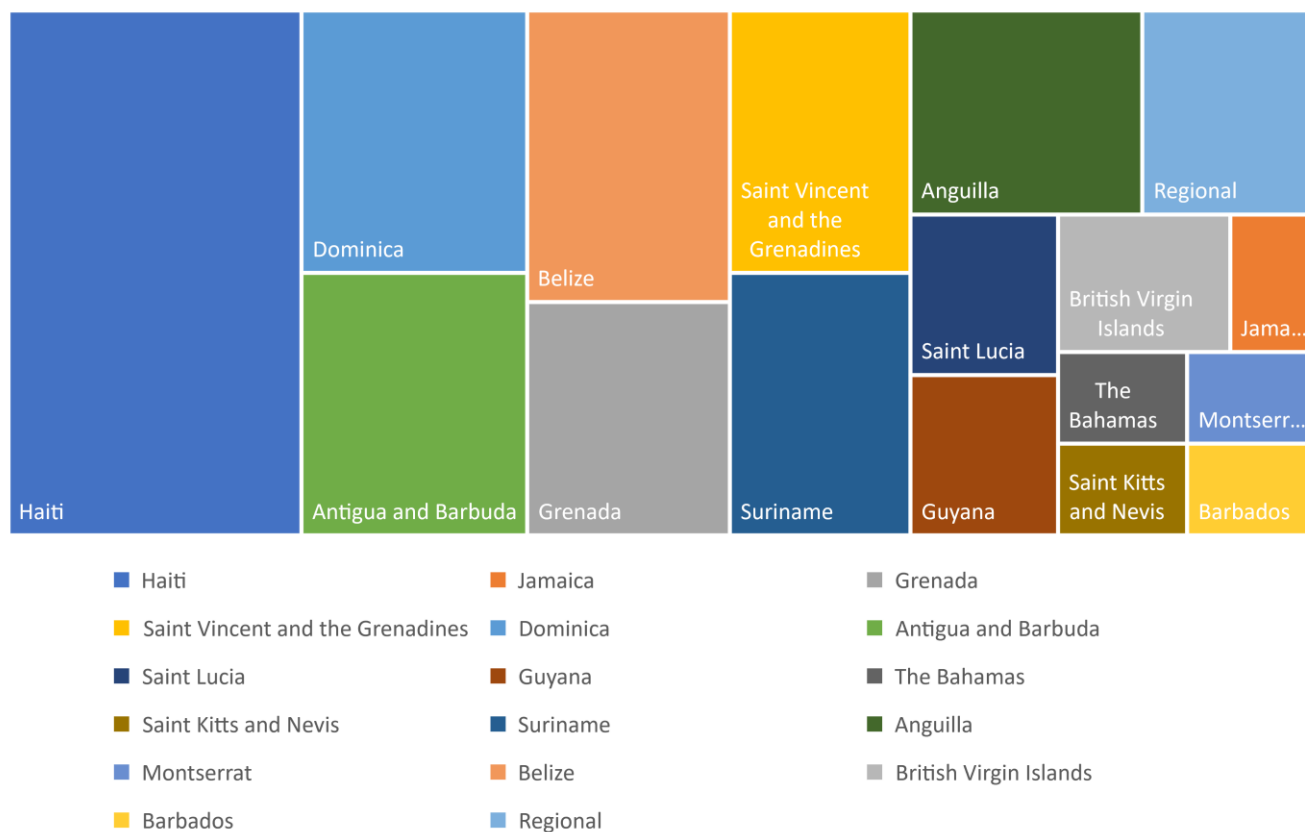
Figures 2 (above) and Figure 3 (next page) help to provide members with an outline of the spread of projects across the region in which the CDB operate and these have plotted and mapped historical sovereign guarantee projects.

Since 2016 the CDB projects have totalled in excess of \$685m making them a significant investor in the region.

The CDB through these projects assists its borrowing member countries to optimise the use of their resources, develop their economies, and expand production and trade.

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 and expertise such as engineers to ensure that projects can be delivered in a sustainable manner.

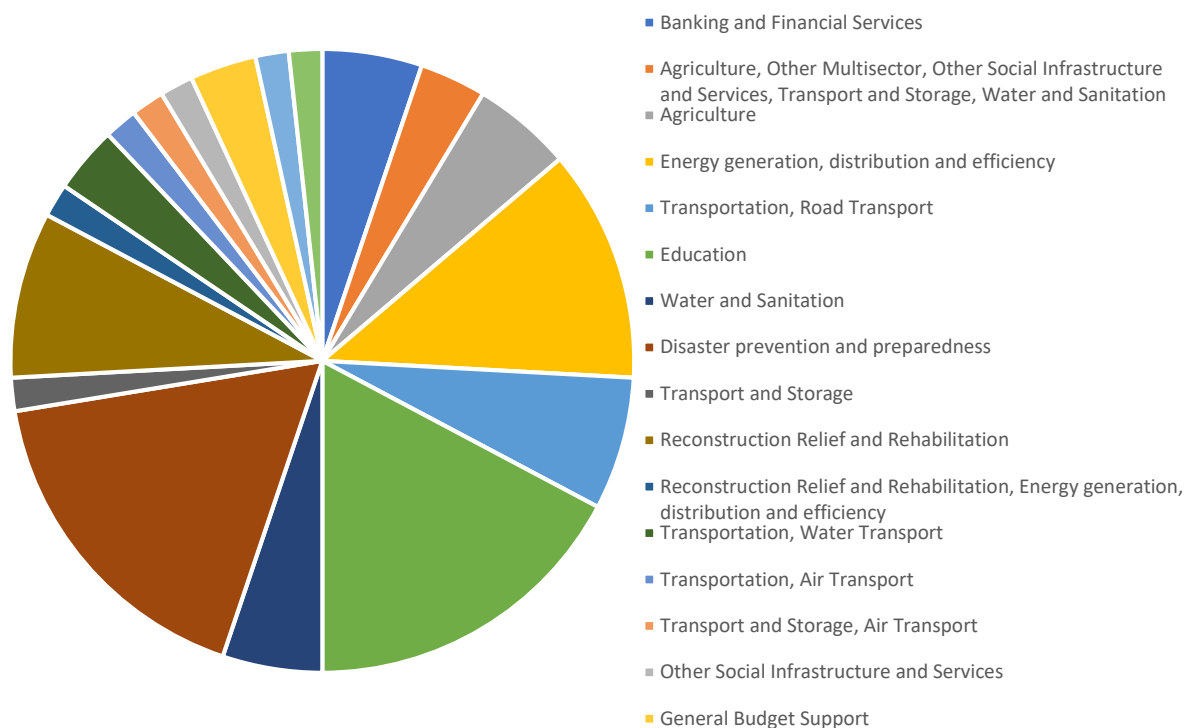
Figure: 3 – CDB – number of historical sovereign guarantee projects by region



Source: CDB

Given the banks goals and objectives it is also possible to look at the sectors these historical projects cover. As with the other multinational development banks, the CDB's projects cover a wide number of areas in which FIDIC members operate. The agreement between FIDIC and the CDB therefore has the potential to put a significant number of projects onto the well-respected FIDIC contracts.

Figure: 4 – CDB – number of projects by sector

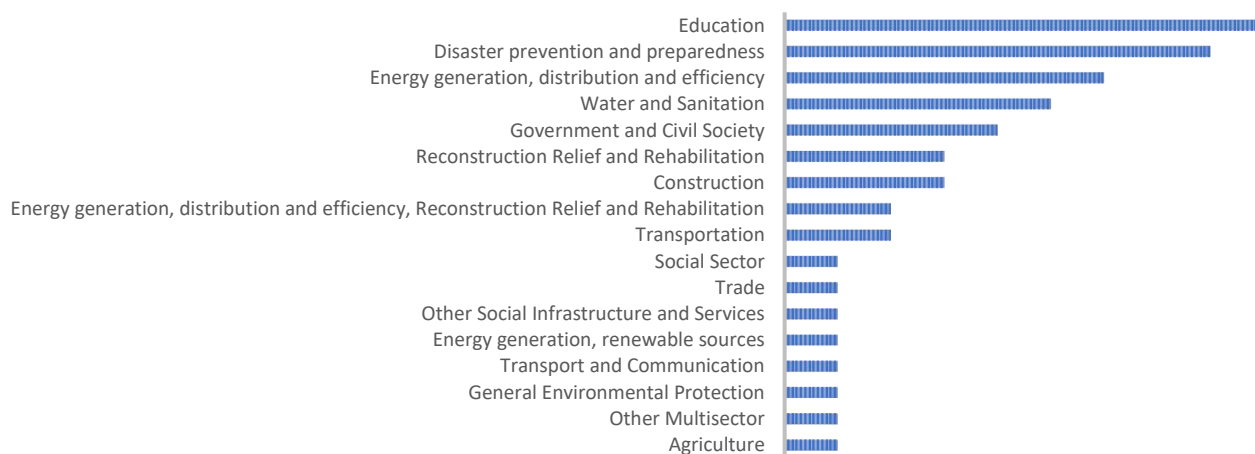


Source: CDB

The current CDB project pipeline

Whilst historical projects show the extent of the CDB activity and the scale of its investments in the last few years, this briefing note will now outline for members the potential opportunities that are in the pipeline. As can be seen from Figure 5 below there are currently 50 projects in the CDB’s pipeline across a variety of sectors, with education, disaster recovery and energy being the main areas of investment.

Figure: 5 – CDB – project pipeline number of projects by sector



Source: CDB

The CDB 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 CDB 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 CDB has a projects notices area where the current list of projects out to tender as can be accessed.

- Procurement notices page^{vi} ([click here](#))
- Contract awards^{vii} ([click here](#))
- Policies and strategies^{viii} ([click here](#))

Figure: 6 – CDB – Procurement notices portal

General Procurement Notices

This page lists general procurement opportunities that are currently available. [Click here to view Other Procurement Notices.](#)

PROJECT NAME	SECTORS & THEMES	COUNTRY
Constitution River Flood Mitigation Project	Disaster prevention and preparedness	Barbados
Developing a Maritime Security Strategy for the Regional Security System	Social Sector	Regional

The CDB and how it interacts with consultants and procurement

As part of its engagement with various consultants and engineer the CDB 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 CDB and its member countries and the aim to instil best practice.

As part of this process you are required to register^{ix} on their portal to enable you to engage in their processes.

- Register of Consultants ([click here](#))

CDB guidance

While the specific rules and procedures to be followed for engaging consultants depend on the circumstances The CDB outline five main considerations in the guidance^x on CDB's policy on the selection process:

- The need for high-quality services
- The need for economy and efficiency
- The need to give all eligible and qualified consultants an opportunity to compete in providing the services financed by CDB
- Its interest in encouraging the development and use of national consultants in the borrowing member countries of CDB
- The need for transparency in the selection process

The document also outlines the approach that is taken towards hiring certain types of consultants including:

- UN agencies
- Use of NGOs
- Procurement agents
- Inspection agents
- Banks
- Auditors
- Service delivery contractors

When developing projects, CDB reviews the request for proposal, the evaluation of proposals, award recommendations, and contract to ensure that the process is carried out in accordance with agreed procedures, as required in the Financing Agreement and further elaborated in the Procurement Plan^{xi}.

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.

Information on consultant services including items such as a brief description of the nature of services, timing etc are included in a General Procurement Notice and publication usually occur^{4s} via the CDB website and the United Nations Development Business (UNDB) Online.

Consultants are advised to should ensure that they submit a fully responsive proposal including all the supporting documents with emphasis on the accuracy of curricula vitae (CV) of key experts.

These CVs signed by the consultants and the individuals and dated. Importantly members should note that noncompliance with important requirements will result in rejection of the proposal as such members are urged to review the CDB guidance in full using the reference provided as part of this report. Once the proposals are received and opened, consultants are not permitted to change the substance including the key experts submitted as part of the proposal. The same also applies for the financial proposals etc.

Similar to other multilateral development banks if at any time in the selection process the CDB concludes that the agreed procedures were not followed in any substantial respect it can declare misprocurement.

Importantly for members is understanding that the responsibility for the implementation of the project, and therefore for the payment of consulting services under the project, rests solely with the Recipient. The CDB whilst reviewing and ensuring the project is in line with its procedures is not the entity that is procuring the project/service. As such any contract is between the Recipient and the Consultant. Importantly for smaller member associations and individual consultants and engineers the CDB also has a framework in place to appoint expert consultants which is described in figure 7 below.

Figure 7: – Selection of individual consultants – process outline

As part of its guidance the CDB also outlines the process for selecting individual consultants where a person or a person from a larger firm is required due to a specific set of skill and expertise requirements. Below we broadly outline this process.

The CDB encourages advertisement for seeking expressions of interest (REOI) particularly when the Recipient:

- Does not have knowledge of experienced and qualified individuals
- Is not aware of the availability of individuals
- Where the services to be supplied are complex in nature
- Where there are potential wider benefits from having an REOI
- Or where it is mandatory under national law

It is also possible for firms to be invited to propose individual consultants. Where occurs the CDB guidance states that the EOI shall clarify that only the experience and qualifications of individuals shall be used in the selection process, and that their corporate experience shall not be taken into account. This therefore keeps the focus on the expertise of the individual.

The guidance states that the process does not require individuals to submit proposals the assessment should focus on their expertise, the nature and complexity of the assignment, local knowledge and language, culture, administrative systems and government systems.

The Recipient then negotiates a contract with the selected individual consultant or the firm reaching agreement on satisfactory terms and conditions, including reasonable fees and other expenses.

The selection of individual consultants is normally not subject to prior review. Individual consultants may be selected on a single-source basis with due justification in exceptional cases

Source: CDB

FIDIC contracts within the CDB 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”), 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

Author: 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/World 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 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. (can we justify the text below)

ⁱⁱ CBD, CDB – its purpose, role and function, accessed 11/07/2019 ([click here](#))

ⁱⁱⁱ CDB, CDB Annual Report 2018, accessed 12/07/2019 ([click here](#))

^{iv} CDB, About Us, accessed 11/07/2019 ([click here](#))

^v CDB, Project Map, accessed 11/07/2019 ([click here](#))

^{vi} CBD, General Procurement Notices, accessed 11/07/2019 ([click here](#))

^{vii} CBD, Contract awards, accessed 11/07/2019 ([click here](#))

^{viii} CDB, Policies and Strategies, accessed 17/12/2019 ([click here](#))

^{ix} CDB, Register of consultants, accessed 12/07/2019 ([click here](#))

^x CDB, Guidelines For The Selection And Engagement Of Consultants, accessed 12/07/2019 ([click here](#))

^{xi} CDB, Procurement Plans, accessed 12/07/2019 ([click here](#))