



Guidance
Note on
Advanced
Contracting and
Retroactive Financing
for Islamic Development
Bank financed Procurements

January 2019

This Guidance Note is intended to complement the Guidelines for Procurement of Goods and Works and related services and for the Procurement of Consultant Services under Islamic Development Bank Financing, approved by the Board of Executive Directors (BED) of the Islamic Development Bank, and published September 2018. This document may be used and reproduced for non-commercial purposes. Any commercial use, including without limitation reselling, charging to access, redistribute, or for derivative Works such as unofficial translations based on these documents is not allowed.

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Common Abbreviations and Defined Terms

Common abbreviations and defined terms that are used in these Guidelines. Defined terms are written using capital letters.

Abbreviation / term	Full terminology / definition
BED	Board of Executive Directors
Beneficiary	A Beneficiary is the recipient of IsDB Project Financing. This term includes any entity involved in the implementation of an IsDB financed project on behalf of the Beneficiary.
Bid	An offer, by a Bidder, in response to a Request for Bids, to provide the required Goods, and/or Works and/or related services.
Bidder	A Firm that submits a Bid for the provision of Goods and/or Works and/or related Services
Consultant	A Consultant Firm or Individual Consultant that provides Consultant Services. A Consultant is independent of both the Beneficiary and IsDB.
Consultant Service(s)	Consultant Services are those intellectual services delivered by a Consultant Firm or an Individual Consultant. Consultant Services are normally of a professional, expert or advisory nature. Consultant Services are governed by these Guidelines.
Goods	A category of procurement that includes, for example: consumables, equipment, machinery, vehicles commodities, raw materials or industrial plant. The term may also include related services, such as: transportation, insurance, installation, commissioning, training or initial maintenance.
IsDB	Islamic Development Bank
MC	Member Country
Non-Consulting Services:	Services which are not Consulting Services. Non-Consulting Services are normally Bid and contracted based on performance of measurable outputs, and for which performance standards can be clearly identified and consistently applied. Examples include: drilling, aerial photography, satellite imagery, mapping, and similar operations.
Prequalification	The shortlisting process, which can be used prior to inviting Request for Bids in the procurement of Goods, Works and related services.
Procurement	The function of planning for, and sourcing Goods, Works, Non-Consulting Services, and/or Consulting Services to meet required objectives.
Procurement Documents	A generic term used in these Guidelines to cover all Procurement Documents issued by the Beneficiary. It includes:

COMMON ABBREVIATIONS AND DEFINED TERMS

Abbreviation / term	Full terminology / definition
	GPN, SPN, EOI, REOI, Prequalification document, RFB and RFP, including any addenda.
PPR	Project Procurement
SBDs	Standard Bidding Documents
Standard Bidding Documents	Standardised procurement documents issued by IsDB to be used by Beneficiaries for IsDB financed projects. These include IsDB's standard documents for, e.g.: GPN, SPN, Prequalification, LOI, RFB and RFP.
Works	A category of procurement that refers to construction, repair, rehabilitation, demolition, restoration, maintenance of civil work structures, and related services such as transportation, insurance, installation, commissioning, and training.

Contents

Section 1 - Introduction	1
Section 2 – Advanced Contracting	3
2.1 Background.....	3
2.2 Circumstances of Use	3
2.3 Safeguards	3
Section 3 - Retroactive Financing	5
3.1 Background.....	5
3.2 Purpose.....	5
3.3 Uses of Retroactive Financing	6
3.4 Limitations of Retroactive Financing.....	6
3.5 Control Measures	7
3.6 Exceptions	7
Annex I. IsDB Member Countries	9

Section 1 - Introduction

This Guidance Note relates to Advanced Contracting and Retroactive Financing.

In IsDB financed procurement, Advanced Contracting is when the Beneficiary starts the procurement process before the Financing Agreement has been signed. Retroactive Financing is the backdated reimbursement of eligible expenditure from IsDB out of Project Finance to a Beneficiary as part of a IsDB financed project.

In making a payment to a Firm, Supplier or Contractor (including sub-Contractors) or Individual of an eligible expenditure, the Beneficiary does so entirely at its own risk and without commitment on the part of IsDB to provide Retroactive Financing.

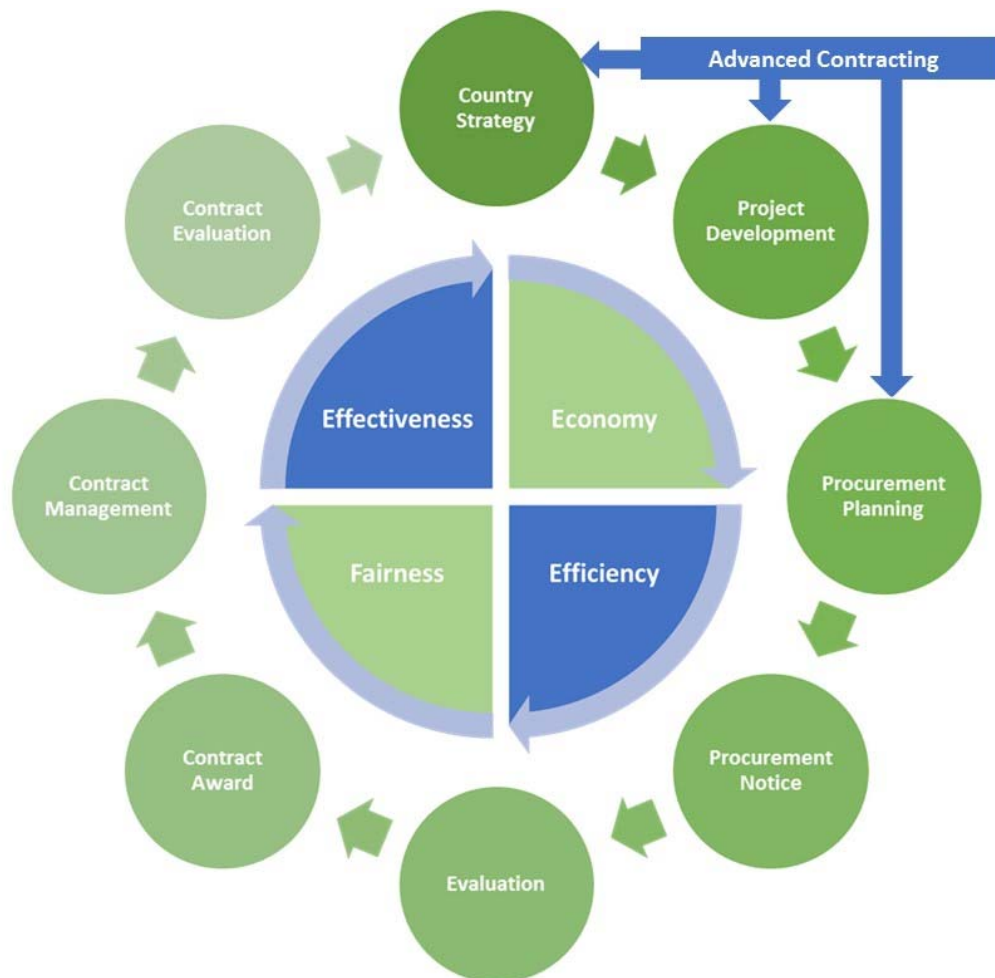


Figure I – Procurement Cycle

IsDB recognizes that the IsDB project cycle, as detailed in the figure above, can take considerable time before funds are distributed to the Beneficiary. Delays to disbursement particularly affect

projects, which have a significant likelihood of approval by IsDB, but cannot start implementation because of the lack of certainty over funding during the appraisal process. Retroactive Financing may be provided to overcome such difficulties in accordance with IsDB Guidelines for Retroactive Financing and Opening of Imprest Account for Quick Disbursement in Projects¹ in IsDB Member Countries (MC).

This Guidance Note provides more information on the guidelines for Retroactive Financing and how the procedure applies to the procurement of Goods, Works and related Services under IsDB Project Financing.

¹ <http://www.tagtenders.com/UploadFiles/Disbursement%20Manual.pdf>

Section 2 – Advanced Contracting

2.1 Background

The Beneficiary can proceed with the initial steps of the procurement process before signing the Finance Agreement for the project. In such cases, the procurement guidelines, including advertising, must comply with IsDB's Guidelines for the procurement of Goods, Works and related services under IsDB Project Financing for the eventual contracts to be eligible for IsDB Financing.

A Beneficiary undertakes such Advanced Contracting at its own risk, and any concurrence by IsDB with the procedures, documentation, or proposal for award does not commit IsDB to provide Financing for the project. If the contract is signed, reimbursement by IsDB of any payments made by the Beneficiary under the contract prior to signing of the Financing Agreement is referred to as Retroactive Financing and is only permitted within the limits specified in the Financing Agreement and as detailed in Section 3.

2.2 Circumstances of Use

In certain circumstances, to accelerate project implementation or in situations of emergency, the Beneficiary may, with IsDB no objection, proceed with the procurement process and contract award prior to the signing of the Financing Agreement.

In such cases, the Beneficiary must follow the Guidelines for the procurement of Goods, Works and related services under IsDB Project Financing Guidelines and IsDB will apply its normal review procedures. The Beneficiary undertakes such Advanced Contracting at its own risk and any concurrence by IsDB regarding the procedures and/or contract award does not commit IsDB to provide the Project Financing for the contract(s) in question.

2.3 Safeguards

When a Beneficiary requests to proceed with Advanced Contracting the following safeguards apply.

- Advanced Contracting is undertaken at its own risk and does not commit IsDB in any way to approve the Financing for the project;
- Procurements under Advanced Contracting must have been carried out according to IsDB's Procurement Guidelines, if it is to be eligible for IsDB Financing; and
- Announcements, in the case of Advanced Contracting, must indicate that the Beneficiary has applied for Financing from IsDB, and that disbursement, in respect of any contracts signed, will be subject to approval of the Financing.

Section 3 - Retroactive Financing

3.1 Background

IsDB does not normally finance any expenditure incurred prior to the approval of the project. However, in very exceptional circumstances, financing may be considered subject to the requirements of the Guidelines. This procedure is called Retroactive Financing. Retroactive Financing shall normally be restricted to expenditures incurred and paid for by the Beneficiary six (6) months before the expected date of signing the Financing Agreement. However, in cases where the project objectives, project design and implementation arrangements have been worked out, this period may be extended up to twelve (12) months before signing the Financing Agreement.

Retroactive Financing should not normally exceed ten percent (10%) of the total project cost. In cases of an emergency, IsDB may consider Retroactive Financing of up to twenty percent (20%) for expenditures incurred within four (4) months prior to the expected date of signing the Financing Agreement.

3.2 Purpose

The purpose of Retroactive Financing is to facilitate the efficient and prompt execution of IsDB financed projects. Retroactive Financing is only to be used in exceptional circumstances and the Beneficiary must provide an appropriate justification for its use and get IsDB approval.

There are different reasons why Retroactive Financing could be used, some of the justifications are listed below:

- Early project start-up;
- Avoidance of gaps between sequential projects, for example in repeater projects;
- Maintenance of momentum achieved during project preparation; and
- Prevention of delays.

Retroactive Financing permits a Beneficiary, entirely at its sole option and without commitment of IsDB, to proceed with the procurement of Goods, Works and related services, before the signing of the Finance Agreement. However, the Beneficiary does this at their own risk and there is no guarantee that IsDB will provide the finance retrospectively. And under no circumstances shall Retroactive Financing exceed ten percent (10%) of the total project cost.

In large projects, Beneficiaries frequently begin the process of contracting some project components prior to project approval by IsDB, taking steps that are important for project execution, but which are not Advanced Contracting in the strict sense of the term. Such steps are usually related to the prequalification of Firms, Suppliers or Contractors, calls for Bids, and the opening and examination of Bids. These processes, which the Beneficiary must begin early to ensure that a project will be ready to proceed when the loan is approved, are also subject to the

safeguards established below regarding procedures for their acceptance and information requirements.

- Retroactive Financing to be paid from the loan will only extend to expenses incurred during the eighteen (18) months prior to the date on which the loan is approved. Recognition of Expenditures as chargeable to the local contribution will only include expenses incurred during the 18 months prior to the date on which the loan is approved.
- IsDB will not provide Retroactive Financing or recognize expenses incurred prior to the project's official entry into the project pipeline, normally the date of approval. Exceptions could be granted for Advanced Contracting undertaken before these time periods based on specific circumstances if, in addition, the Beneficiary complied with the Guidelines for the Procurement under IsDB Project Financing.
- All expenditures incurred by the Beneficiary after the date on which the project is approved are eligible for Retroactive Financing if they satisfy requirements substantially like the requirements in the loan agreement.

3.3 Uses of Retroactive Financing

The use of Retroactive Financing is restricted to certain activities and types of expenditure related to the project which include:

- Reinvestment work such as feasibility studies, engineering and architectural work;
- Preliminary physical work, such as access roads;
- Seasonal work, such as crop planting or construction, which unless taken at a time of year could delay the start of the project, by a year or more;
- Activities that require a long lead time and where significant economies are possible;
- Office equipment such as photocopiers, faxes, personal computers and other office equipment;
- Electricity and gas, required to supply power to the project; and
- Any other item/s deemed essential at the pre-operating stage of a project.

3.4 Limitations of Retroactive Financing

Retroactive Financing is restricted to expenditure incurred and paid for by the Beneficiary between the date of appraisal and the date of effectiveness of the project, unless otherwise agreed with IsDB. However, in cases where the project objectives, design, implementation arrangements, and conditionalities are worked out at the pre-appraisal stage, Retroactive Financing may be provided for expenditure incurred and paid by the Beneficiary between the appraisal stage and the date of effectiveness of the project.

In emergency circumstances, to deal quickly and effectively with the situation such as natural disaster and its aftermath, IsDB's response will reflect the nature of each emergency and IsDB shall consider the Beneficiary's justification for Retroactive Financing on a case by case basis. For

these operations, IsDB may agree Retroactive Financing up to twenty percent (20%) of the loan amount for expenditure incurred within the four (4) months prior to the expected date of signing the Financing Agreement, but after the occurrence of the emergency.

3.5 Control Measures

When Retroactive Financing is used by a Beneficiary it is important that there is the right control measure in place, therefore the following control measures apply to Retroactive Financing.

- Procurement and the use of Consultants shall be processed and cleared as if the Financing Agreement has been signed already;
- Procurement actions taken in the expectation of Retroactive Financing shall be at the Beneficiaries risk and do not commit IsDB to agree to finance the project;
- Disbursement shall be made to meet the expenditure on approved items and shall be supported by adequate documentation in accordance with the provision of the agreement;
- Documentation requirements shall be the same as those for disbursement of expenditures incurred after signing the Financing Agreement; and
- The pre-appraisal or appraisal reports shall state the:
 - Amount of Retroactive Financing;
 - Percentage of the project cost being retroactively financed;
 - Period that is being retroactivity financed;
 - Nature of the Goods, Works or related services being retroactively financed; and
 - Justification for the Retroactive Financing.

3.6 Exceptions

There is some flexibility in the application of IsDB's Guidelines for Retroactive Financing, particularly in emergency recovery operations, however, such exceptions shall require IsDB President approval and will be looked at on a case by case basis by IsDB.

Annex I. IsDB Member Countries

The Islamic Development Bank is made up of fifty-seven (57) Member Countries.

- Afghanistan
- Albania
- Algeria
- Azerbaijan
- Bahrain
- Bangladesh
- Benin
- Brunei
- Burkina Faso
- Cameroon
- Chad
- Comoros
- Cote D'Ivoire
- Djibouti
- Egypt
- Gabon
- Gambia
- Guinea
- Guinea Bissau
- Guyana
- Indonesia
- Iran
- Iraq
- Jordan
- Kazakhstan
- Kuwait
- Kyrgyz Republic
- Lebanon
- Libya
- Malaysia
- Maldives
- Mali
- Mauritania
- Morocco
- Mozambique
- Niger
- Nigeria
- Oman
- Pakistan
- Palestine
- Qatar
- Saudi Arabia
- Senegal
- Sierra Leone
- Somalia
- Sudan
- Suriname
- Syria
- Tajikistan
- Togo
- Tunisia
- Turkey
- Turkmenistan
- Uganda
- United Arab Emirates
- Uzbekistan
- Yemen



For any additional information, such as Standard Bidding Documents (SBDs), Guidance, training materials and briefing, please see

www.isdb.org/procurement

