

Report on Asian Development Bank Reform Progress

Consistent with Section 2126 of the Full-Year Continuing Appropriations Act, 2011 (P.L. 112-10), the Department of the Treasury is providing the following report describing the manner in which the Asian Development Bank (AsDB) is making substantial progress in the following areas.

(1) Implementing procurement guidelines that maximize international competitive bidding in accordance with sound procurement practices, including transparency, competition, and cost-effective results for Borrowers.

As noted in the previous report, the AsDB's Procurement Guidelines provide for maximizing the use of international competitive bidding in the projects that it funds, including through: (1) strong international advertising requirements, (2) endorsement and use of open competition in the contracting process; and (3) mandatory use of publicly available standard bidding documents for international competitive bidding.

In 2012, 72 percent of AsDB-financed procurement budget expenditures were subject to international competitive bidding. Over the 2009-2012 period, 91 percent of all procurement was carried out either by international competitive bidding or national competitive bidding.

Separately, the AsDB rolled-out a procurement accreditation program in 2012 to build staff procurement expertise, including by strengthening the procurement supervision capacity of Resident Missions. The program, expected to take six months to a year to complete, is rigorous, based on international standards, and includes a third-party validation process at the end. As of mid-August 2013, approximately 323 AsDB staff had completed the e-learning modules covering basic procurement and consulting policies and procedures. About 300 staff attended the follow-on workshops, and more than 120 staff members have passed the final examination. Fewer have been fully accredited given the time lag involved with the third-party validation. The program is relatively new, but it holds significant promise for the AsDB as it moves to improve the procurement capacity of its staff. In addition to further improving the procurement process, this procurement accreditation program should help attract co-financing to AsDB projects by providing assurance to co-financers of the AsDB's ability to implement complex procurements involving outside funding. Co-financing is a key objective for the AsDB as it deals with issues relating to constrained capital in this low interest rate environment.

(2) Providing greater public disclosure of loan documents, with particular attention to persons affected by AsDB projects.

As noted in the previous report, the AsDB made a number of modifications to its Public Communications Policy, which became effective in April 2012. These modifications improved upon a policy that already followed a presumption in favor of disclosing all information about AsDB-assisted operations (subject to very limited exceptions). Two specific improvements to the Policy include: 1) disclosing the majority of Board documents to the public at the time that

they are circulated to the Board for consideration¹⁷; and 2) providing assistance to member country governments and private sector clients in developing project or program communications strategies, since these are an integral part of consultation and participation by affected people and other interested stakeholders. The AsDB is increasing the capacity of its staff to address project communication issues, both through staff capacity building and the development of a staff guide on project communications. The AsDB has also committed to translating the project data sheet for preparatory technical assistance, loans, and grants into relevant languages to increase understanding and awareness of the project by affected people.

(3) Implementing best practices in domestic laws and international conventions against corruption for whistleblower and witness disclosures, and protections against retaliation for internal and lawful public disclosures by AsDB employees and others affected by AsDB operations who report illegality or other misconduct that could threaten the AsDB's mission, including best practices for legal burdens of proof; access to independent adjudicative bodies; and results that eliminate the effects of proven retaliation.

As described in the previous report, the AsDB reformed its whistleblower policy in December 2009, making it consistent with MDB best practices in anti-corruption and witness protection.

The AsDB's Office of Anticorruption and Integrity (OAI) received 240 new complaints in 2012. Of these, two complainants requested protection under the AsDB's Whistleblower and Witness Protection provisions.

In the first case, the whistleblower alleged impropriety and misconduct by other AsDB staff. Direct investigation was not possible without jeopardizing the confidentiality of the whistleblower's identity. OAI made alternative arrangements with the assistance of another department in the AsDB to conduct the investigation, allowing the case to be resolved without harm to the whistleblower. Ultimately, however, the allegations of impropriety were not substantiated.

In the second case, a whistleblower complained about procurement fraud by a non-governmental organization (NGO) in Central Asia in an AsDB-financed project. While the whistleblower requested anonymity, s/he also contacted the NGO's home government about alleged irregularities. These national authorities, in turn, disclosed the allegations, including the identity of the whistleblower, to the NGO, pursuant to their own internal procedures and laws governing access to public records. The whistleblower expressed concerns about his/her safety and security resulting from this disclosure. At the request of the whistleblower, the AsDB closed the investigation to protect him/her. The AsDB is considering whether to conduct a forensic audit of the project, but will do so only if the AsDB determines that the audit can be undertaken without risk to the whistleblower. The AsDB has indicated that it will not extend or further contract with this NGO.

¹⁷ All documents disclosed simultaneously are displayed on a dedicated web page at: <http://www.adb.org/site/disclosure/pcp-implementation/simultaneous-disclosure>

(4) Ensuring that the Investigations Office, Auditor General Office, and Evaluation Office are functionally independent, free from interference when determining the scope of investigations and audits, performing work and communicating results, and regularly report to the AsDB's board of directors and, as appropriate and in a manner consistent with such functional independence of the Investigations Office and the Auditor General Office, to the AsDB President.

As described in the last report, AsDB Management and the Board have taken steps to strengthen the independence of the Office of the Auditor General (OAG) based on recommendations made by the peer review team from the Institute of Internal Auditors. These recommendations include: improving risk assessment and documentation processes, expanding fraud-related training, and expanding the use of computer-assisted audit techniques. Further, The Office of Anticorruption and Integrity continues to report quarterly to the Audit Committee of the AsDB Board. In addition, there have been staffing changes in several key accountability roles.

(5) Requiring that each candidate for adjustment or budget support loans provide an assessment of reforms to budgetary and procurement processes to encourage transparency, including budget publication and public scrutiny, prior to loan or grant approval.

As described in the previous report, the AsDB prepares a risk assessment and risk management plan for each potential borrower prior to seeking Board approval for budget support (i.e., policy-based) loans. These assessments and plans analyze financial management systems, with particular emphasis on the strength of procurement processes and anti-corruption controls.

In addition, under the AsDB's revised Public Communications Policy (PCP), the summary risk assessment is disclosed in the country partnership strategy. The full governance risk assessment (which covers the above-mentioned risk assessment and risk management plans) is made public subject to limited exceptions in the PCP. In addition, when considering a budget support operation, the borrowing country must detail its proposed reforms and its development expenditure program in a letter to the AsDB. The AsDB includes this letter and indicative costs of the expenditure program and reforms in the report delivered to the Board for consideration.

Under the revised PCP, the AsDB now posts the Report and Recommendations of the President for each budget support loan on its website at the time of its circulation to the Board, subject to concurrence of the borrowing country. If the borrowing country does not consent to such early disclosure, the Report and Recommendation of the President will be posted on the AsDB website upon its approval by the Board.

(6) Ensuring that the AsDB's Accountability Mechanism provides transparency and protects local residents affected by AsDB projects.

As described in the previous report, the AsDB's revised Accountability Mechanism policy took effect in May 2012.

The AsDB's Office of the Special Project Facilitator (OSPF) performs a problem-solving function by assisting people who believe that they have been adversely affected by an AsDB-assisted project, regardless of whether AsDB operational policies and procedures have been violated. OSPF currently has one active case that it is seeking to resolve.

(7) Making publicly available external and internal performance and financial audits of AsDB projects on the AsDB's website.

As described in the previous report, the AsDB makes its performance assessments available through its annual Development Effectiveness Review, which is available on the AsDB's website.¹⁸

The AsDB also posts annual audited project financial statements for sovereign projects on its website, specifically the audit opinion, the financial statements, and the notes to the financial statements. The AsDB expects that these audited project financial statements will begin to be disclosed in 2014. This additional disclosure is consistent with the practice at other MDBs.

¹⁸ The Development Effectiveness Review can be accessed at:
<http://www.adb.org/documents/series/development-effectiveness-review>