



# ICED

Infrastructure & Cities for Economic Development

## ***Inclusivity in Procurement: Entry Points in the Project Cycle***

### ***A General Guidance Note***

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# ***Inclusivity in Procurement - Entry Points in the Project Cycle***

## **I. Purpose and Objectives**

1. This Guidance Note is intended to provide a brief overview of ways in which inclusivity, including Gender and Social Inclusion (GESI), can be introduced into a typical project cycle in multilateral development banks (MDBs) as good practice. This Guidance includes actions, approaches and options that could be integrated at key stages of the project cycle and refers to relevant practices followed by various MDBs.

2. A typical project cycle followed by MDBs comprises the customary stream of multilateral activities, from country programs and preliminary assessment through loan/grant approval to award of contracts and supervision, project completion and project post-evaluation. "Inclusion" covers several groups, essentially ensuring that there is no discrimination based on, among others, age gender, race, disability, belief or religion, and sexual orientation in the procurement of goods, services and works. Procurement decisions are based on obtaining the value for money, taking into account factors such as price, quality, delivery, and service, and possibly but not necessarily, inclusion as a sustainability factor may be relevant in determining value for money with maximizing social returns on investments as a development objective.

3. There are several entry points for embedding inclusion in the project cycle, some requiring close understanding of country socioeconomic situations, others a deeper assessment of project-specific circumstances. In any event, while the theoretical construct underpinning the introduction of the inclusivity theme remains largely the same, the application of thematic principles is dependent on the specific conditions in which a project is developed, and the type of stakeholders involved. Hence, it is essential to understand that procurement becomes a bespoke arrangement. General approaches may be identified, but specific clauses must reflect project circumstances.

4. It is with that approach in mind that this Guidance Note looks at the key stages of project development and implementation, and where in the project cycle there are opportunities to reflect thematic concerns in procedural adaptations from a procurement perspective.

## **II. The Project Cycle**

5. As with most multilaterals, the project cycle begins with country programming for its member countries in which economic growth scenarios are set out, the socioeconomic conditions analyzed, sector priorities established, and project-loan possibilities are established as part of a Country Strategy. After discussions with the member countries, the cycle then goes through a Fact-Finding for a project or program that has been agreed as an investment opportunity for the bank. At this stage, Environment and Gender issues are among the general risks that are identified; for the latter, tools such as the CDB Gender Marker,<sup>1</sup> which together with the Gender Guidance Notes, provides very useful tools to ensure that the theme is treated adequately in project development.

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<sup>1</sup> "The Gender Marker is a key accountability mechanism and incentive for staff to mainstream gender throughout the project cycle ... required by the Gender Equality Policy and Operational Strategy of the Bank ..." *Approval of New Gender Markers: Background for the Development of a New Gender Marker System*. 14 March 2017.

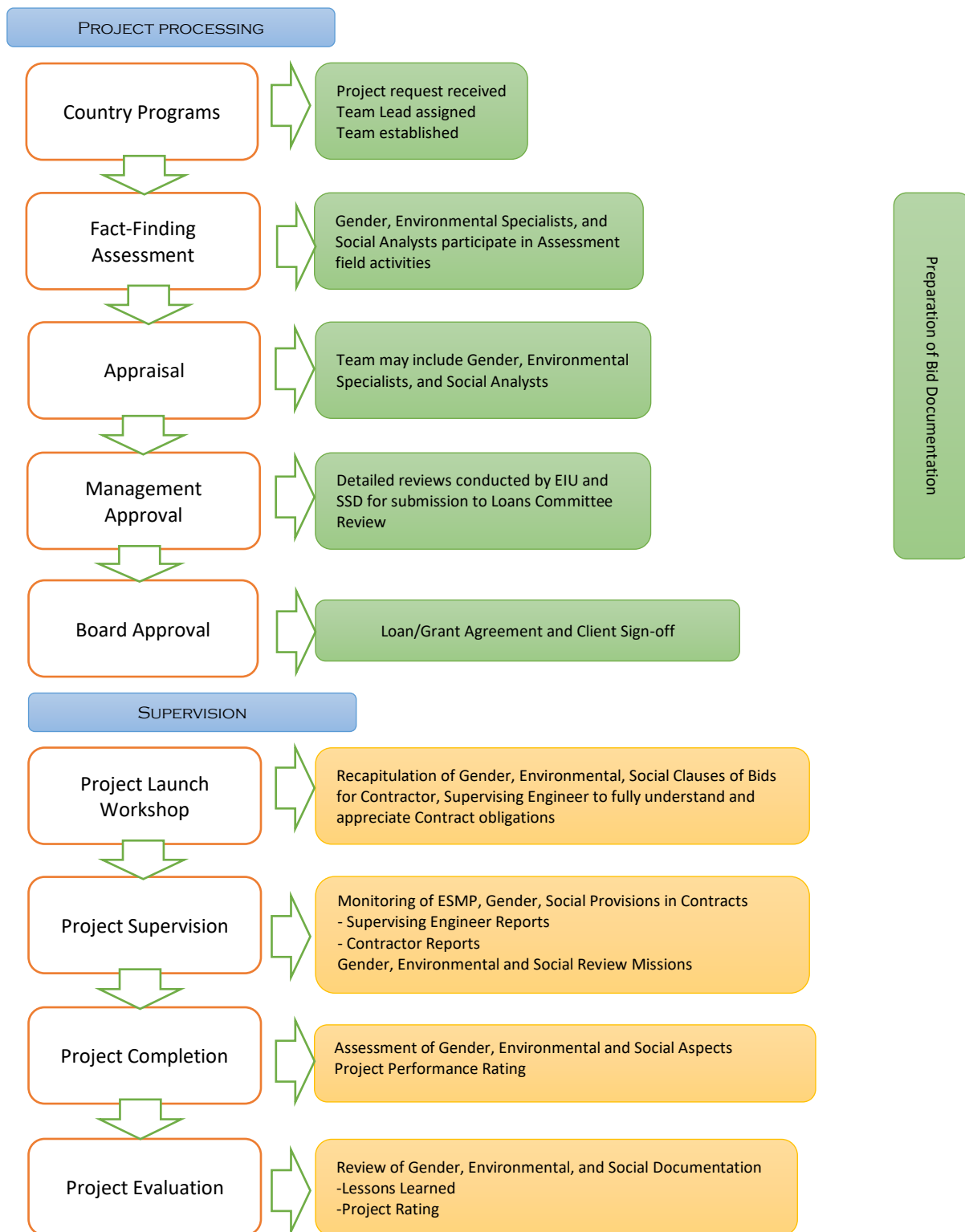
6. Project-associated procurement processes are generally initiated in parallel with the Fact Finding stage. This may include feasibility or updates to detailed design or detailed design itself, which requires close understanding of scope of the project. An Environmental and Social Impact Assessment (ESIA) may be available for the activity; if not, this, too, must be initiated to properly assess project-induced impacts. Terms of Reference (TORs) are then written for those activities, together with TORs for project design and preparation of tender documentation, as well as for construction supervision consultants.

7. Project development then moves along two parallel streams, one focusing on loan/grant documentation based on, among others, economic and financial analyses, institutional capacities, thematic perspectives (environment, social development, GESI, ethnic minorities, etc.), loan/grant conditions and disbursement arrangements, the other on procurement documentation for consultants and contractors – business opportunities announcements, expressions of interest, requests for proposals, invitations to bid, bid evaluation. At this stage, specific plans are developed, and if relevant inclusiveness plans, depending on the type and degree of impacts, such as resettlement plans, gender action plans, indigenous/ethnic minorities development plan, and wildlife management plans. One of key documents that relate to contractor obligations is the Environmental and Social Management Plan (ESMP) that customarily forms a key part of the ESIA or Initial Environmental Examination (IEE).

8. After approval of the Fact Finding assessment, loan/grant documentation goes into the final stages of Appraisal, where project scope and loan/grant conditions are agreed by the member countries concerned, and Quality at Entry determined by the MBD, which form the basis of project documentation and recommendations signed off by the appropriate MDB authority. In parallel, procurement documentation is essentially completed, with bids evaluated and both MDB and recipient concurrences obtained on contract conditions.

9. With the necessary approval of the loan/grant in place, and any conditions of effectivity achieved, contracts can be awarded and the project then moves toward performance of the Specifications. In the Supervision stage, the key elements of successful implementation lie in close monitoring of operational and thematic aspects, with regular and detailed reporting, and where appropriate, prompt initiation of any corrective actions that may be needed. Some of the activities, such as resettlement plans, have their own monitoring (internal and external) arrangements, while others, such as the ESMP, are subsumed in contractor obligations - but all require specialist review, analyses and inputs to the project team. Finally, on the completion of the project, an immediate assessment is made as part of project completion, after which formal project post-evaluation may be conducted to elicit lessons of experience.

**Figure 1. The Project Cycle - Entry Points for Gender Equality and Social Inclusion**



### III. Key Entry Points for Inclusivity

10. Projects originate at the country programming stage, at which thematic studies are generally carried out to not only understand country situations, but also to set the scene for project-associated actions. In parallel, there are continuing assessments of procurement regimes that allow agencies to understand, and adapt where necessary, to any changes that may be needed, whether in harmonization with development partners or closer alignment between the MDB and its member country policies and procedures. In anticipation of contract performance, there should also be an assessment of institutional capabilities as well as the legal, regulatory and procedural frameworks available to be able to implement development interventions successfully.

11. The table below identifies some issues and actions related to inclusivity at the upstream country programming stage.

Entry Point	Issue	Challenge	Action	Responsibility
Strategy and Program	Country Priorities	Inclusivity and gender sensitivities not addressed in country strategies, national programs, or at agency level	Conduct inclusion and gender country studies to Identify key areas of potential support in an MDB's priority sectors  Offer technical assistance to support special studies	Country Teams that include Gender Specialists, Social Development Specialists
	Thematic Priorities	Member countries to realize importance of inclusion and commit to supporting themes	Establish commitments through dialog with member countries	Country Teams that include Gender Specialists, Social Development Specialists
	Project Priorities	Inclusion and gender issues to become integral elements in project selection	Introduce GESI as a theme in potential investment sectors and projects through dialog with member countries	Country Teams that include Gender Specialists, Social Development Specialists
			Conduct inclusivity and gender studies and initial assessments at subnational levels in anticipation of potential investments	Gender Specialists, Social Development Specialists

12. After country programming, the processing cycle is closely monitored to provide inputs that improve and strengthen project design from an inclusivity perspective, among others. The process of social inquiry may continue with studies that focus on project-specific situations to recommend approaches that are most appropriate for those conditions. Developing effective inclusion interventions may necessitate a closer understanding of labor markets, household characteristics, social dynamics and cultural mores, small business environments, constraints to women empowerment, vulnerabilities, community structures, and the like. The relevance of those issues to the project will have to be established, and

that will determine the nature and structure of any inclusion-related interventions. While many inclusivity-oriented interventions do follow their own course in a project, such as resettlement livelihood projects, civil works require contractual obligations that must be set out early in the procurement process. Schematics are shown at **Annex 1** that identifies inclusivity at various stages of the project cycle and in civil works processes.

13. This Guidance Note examines the inclusion of “secondary concerns,”<sup>2</sup> including “inclusiveness” in the procurement of contracts by MDBs in the context of the typical core procurement principles of value for money (VFM), economy, efficiency, integrity, equality and fairness and transparency.

14. While there can be reluctance to explore positive discrimination or affirmative action in procurement policy as this may conflict with obligations to provide value for money without discrimination, it is true to say that MDBs have the implicit objectives of development, and thus there should be no contradiction between accelerating the pursuit of inclusiveness and fulfilling the requirement for proper use of public funds. There is significant evidence that inclusive growth is of economic benefit, and the starting point for efforts to achieve greater inclusion is national legislation and policy.

15. In terms of understanding what actions are feasible within existing MDB processes, the first issue to be addressed in relation to any project is the question of whether inclusiveness can be incorporated as a feature in the procurement process, and if so whether it can satisfy the overarching requirement to obtain VFM. It is suggested that as part of the procurement process for a specific project, and at the project design stage, a consultant should be engaged to establish whether sustainability and VFM might potentially conflict. Although it does appear that that assessment might be applied sector-wide, projects are location-specific, and the VFM-sustainability nexus are likely to be different at each location. Outline TOR for the consultant are at **Annex 2**.

16. In addressing inclusivity during the procurement process, a table has been prepared (**Annex 3**) that identifies entry points for inclusivity at key stages, including the first entry point of project design, at which the VFM principle must be balanced against sustainability approaches. It is also suggested that a social inclusion specialist be engaged to prepare inclusivity sections, as appropriate, in the bidding documents, subject to the VFM test. Outline TOR are at **Annex 4**.

## IV. Conclusion

17. This Guidance Note is intended to provide multilaterals some practical ways to address inclusivity in its operations, particularly procurement processes, by offering thoughts on how the theme may be introduced effectively at key stages of the project cycle. An important aspect highlighted in this Note is that in cases where the definition of sustainability covers inclusivity, it has to be consistent with the MDB’s procurement objectives of ensuring VFM. Hence, as each project is location-specific, determination has to be made of whether sustainability can be introduced into a project without compromising VFM and thereby ensure that inclusivity remains an integral part of the project. A crucial point is that the introduction and determination of compatibility of inclusivity must be made at the earliest stages of a project, certainly at project design, so that the theme is a constant throughout the project cycle.

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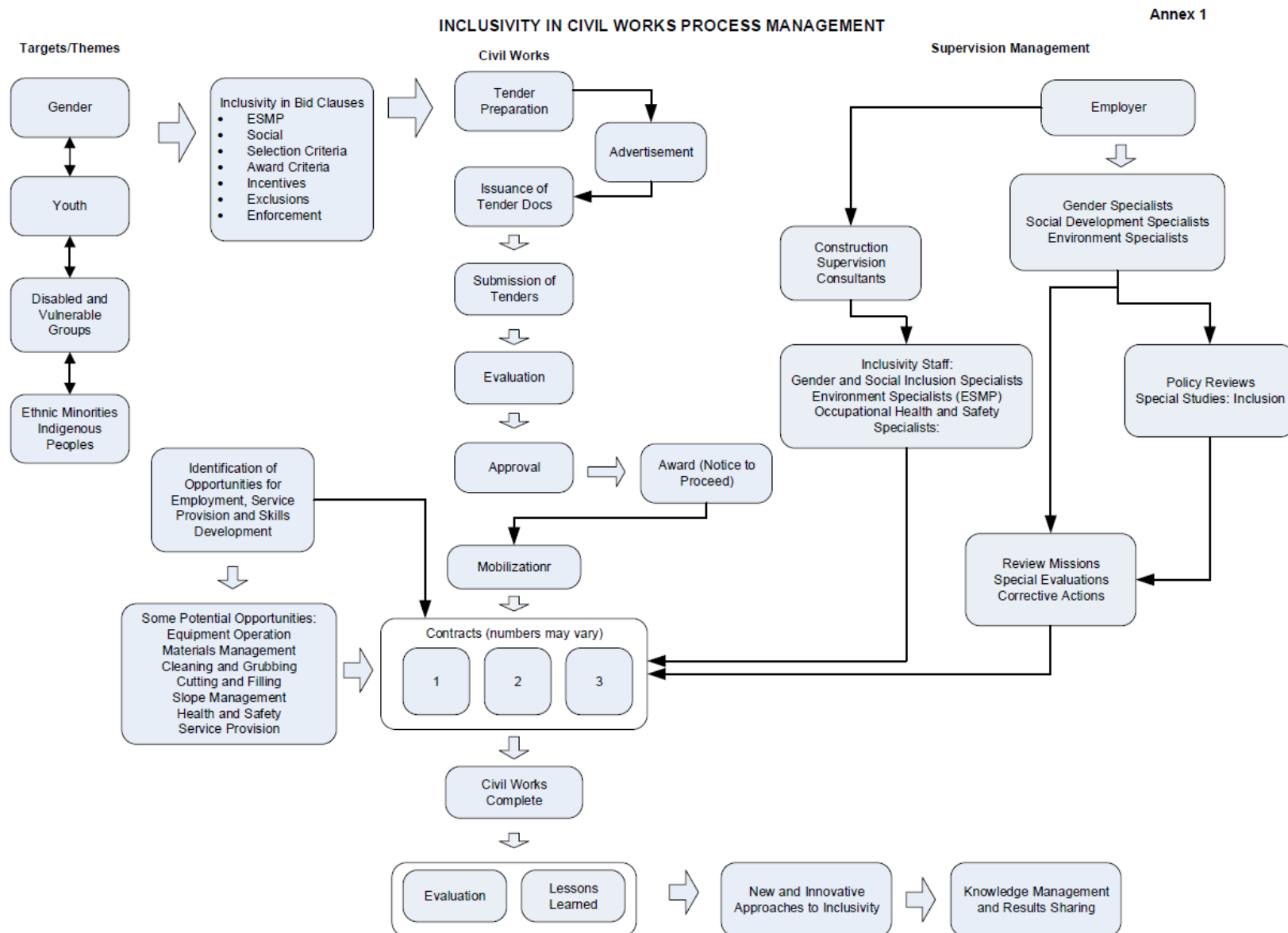
<sup>2</sup> Also referred to as “horizontal” or “collateral” policies, or “non primary” or “non vertical.”

## **V. Annexes**

1. Inclusivity in Civil Works Process Management
2. Select Outline Terms of Reference: Consultant to Analyze VFM and Sustainability Issues
3. Entry Points for Inclusivity in the Procurement Process
4. Select Outline Terms of Reference: Consultant to Prepare Tender Documentation



# Annex 1: Inclusivity in civil works process management

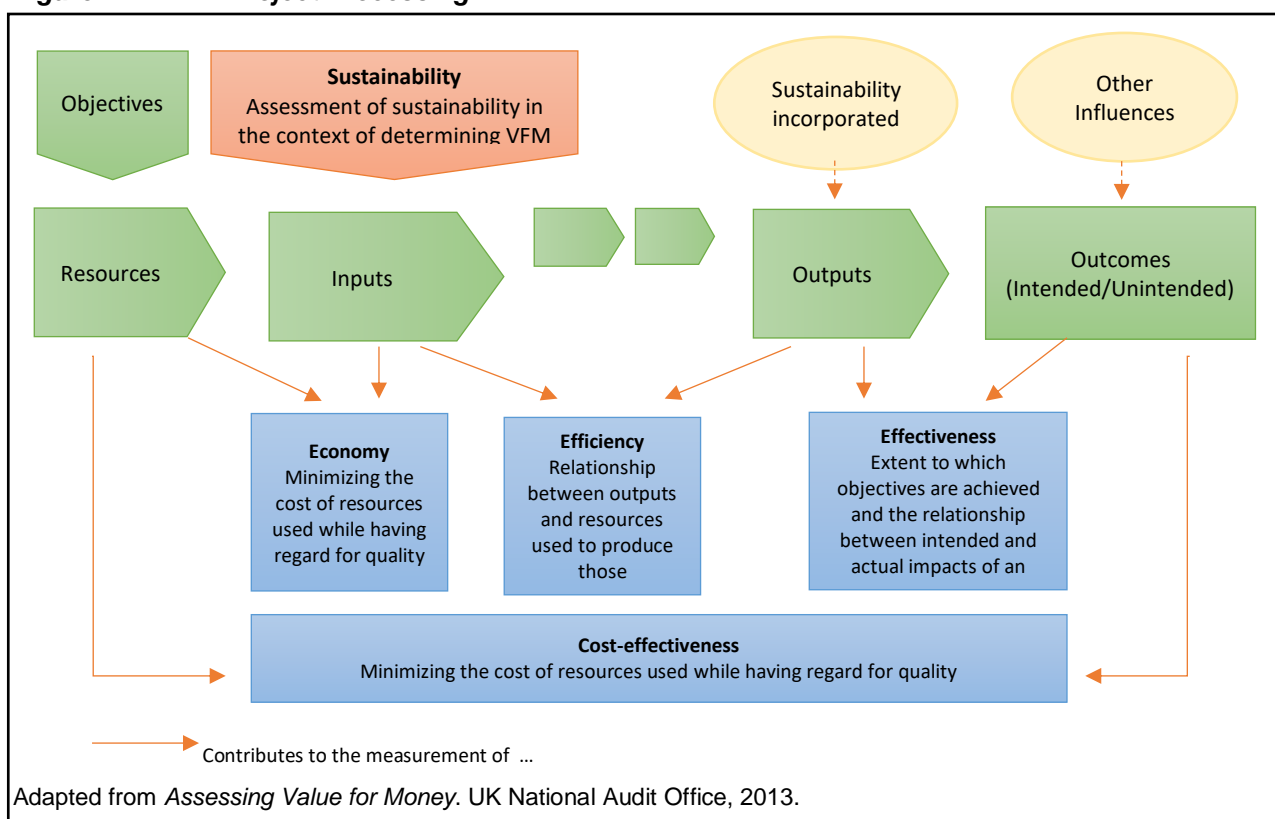


## Annex 2: Select outline Terms of Reference - Value for Money and Sustainability in Project Design

A Consultant is proposed to be engaged to establish that while following an MDB's commitment to the principle of Value for Money, the introduction of sustainability into project design does not conflict with the primary commitment.

The concept of VFM is summarized in Figure 2 below:

**Figure 2: VFM in Project Processing**



Thus, VFM rests on the three pillars of economy, efficiency and effectiveness. Economy is the price paid for providing a service at best value, taking price and quality into account. Economy also considers the impact on people as well as resources spent. Efficiency is a measure of productivity, while effectiveness measures the impact of obtaining VFM and can be quantitative (amount of effectiveness) or qualitative (the value of effectiveness).

Value for money (VFM) is a key concept in most MDB's approach to procurement. VFM is not always well defined and does not necessarily include sustainability aspects including inclusivity other than following procedures such as *Environmental and Social Review Procedures* (ESRP).

The Project design has been finalized,<sup>3</sup> and it is now necessary to determine to what extent, if at all, sustainability, which subsumes inclusivity, is in conflict with the objective of VFM. The relationship between sustainability and VFM is shown in Figure 1 above.

The Consultant is required to Review the project design to assess whether expected environmental and social benefits, including inclusivity, that constitute sustainability can be introduced without compromising the primary procurement objective of achieving value for money. To that end, the Consultant will be required to undertake, but not be limited to, the following tasks:

- a) Identify inclusivity issues in the project design;
- b) Develop a methodology for establishing a comparative analysis of sustainability/inclusivity and VFM in both quantitative (where possible) and qualitative terms;
- c) Assign values to sustainability/inclusivity and VFM aspects to enable a comparative analysis; and
- d) Present an assessment that allows decision-makers to determine whether to proceed with the project and achieve VFM while also integrating sustainability/inclusivity into the project.

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<sup>3</sup> A description of the Project and design parameters should be inserted in the TOR as an Annex.

## ***Annex 3 - Entry Points for Inclusivity in the Procurement Process***

Annex 3

### **ENTRY POINTS TO ADDRESS INCLUSIVITY IN PROCUREMENT DOCUMENTATION**

<b>Stage</b>	<b>Entry Point</b>	<b>Issue</b>	<b>Action</b>	<b>Commentary and/or Suggested Provision</b>
Decision on investment		Incorporation of sustainability into procurement decision is dependent on passing a test of compatibility with value for money.	<p>Value for Money (VFM) to be established in decision to procure.</p> <p>Decision to procure or not</p> <p>Require member countries to consider the requirements of the Environmental and Social Review Procedures</p> <p>Engage experts to assess if sustainability issues can be incorporated</p> <p>Set out in Procurement Strategy Document</p>	<p>Some MDB policies such as CDB's do not elevate 'sustainability' to policy level as it is permissive not prescriptive.</p> <p>The World Bank procurement vision is to support Borrowers to achieve value for money with integrity in developing sustainable development, which elevates 'sustainability' to a higher level of policy.</p> <p>Sustainability as a secondary consideration that may be possible in procurement. In terms of 'feasibility', the first issue to be addressed in relation to any project is whether inclusiveness can be incorporated as a feature and also satisfy the overarching requirement to obtain value for money.</p> <p>Member countries may require technical assistance to establish whether sustainable procurement is possible and apply these as secondary criteria for award (<b>Guidance Note Annex 2</b>) and in drafting the bidding documentation (<b>Guidance Note Annex 4</b>)</p>
Invitation to Bid (ITB)	Project Design	Consider the extent to which inclusivity can be made a realistic objective and whether it can be reflected in procurement processes as an encouragement or	Project designers to set out in the [.....] how the inclusion of secondary concerns will contribute to the project's development objectives and expected project outcomes.	<p>Consultants TORs</p> <p>Technical assistance: Consultant is required to work with other consultants on establishment of sustainability as a secondary consideration/criteria and drafting of ITB (<b>Guidance Note Annex 2 and Annex 4</b>)</p>

Stage	Entry Point	Issue	Action	Commentary and/or Suggested Provision
		incentive-based requirement or an obligation(s) with associated remedies for failure, e.g. liquidated damages call on performance bond	Evidence based on information from stakeholders in industry, civil society and other development agencies  Secondary concerns and ways to deal with those will be bespoke to the project and should be included in the technical specifications that form part of the contract and which are required to be performed by the contractor under the supervision of the Engineer.	
	Specifications	The bespoke sustainability requirements should be included in the Specifications for inclusion in the contract to be procured. If necessary, they can be supplemented by Particular Conditions in the contract.	Technical Assistance consultants and MDBs to work together in assessing the sustainability issues to decide what are feasible objectives and design appropriate specifications and decide if there is a need to supplement in contract conditions.	<b>Guidance Notes Annex 2 and Annex 4</b>
	Contract conditions	“Encouragement” without reward is unlikely to be successful.  Market conditions and other circumstances, may influence the feasibility of setting levels of prescription.	The Consultant instructed to consider inclusivity as a possible secondary considerations/criteria should consider to what extent the Specification should be supplemented by prescriptive contract conditions  Consideration to be given to	The inclusion of “inclusiveness” obligations in the Specifications will form part of the Contractor’s obligation to perform the Specified Works or Services. Failure to do so will amount to a breach of contract. Possible conditions:  Examples of onerous conditions: i) Contractor will be required to employ suitably qualified women, youth and persons with disabilities.

Stage	Entry Point	Issue	Action	Commentary and/or Suggested Provision
			including a provisional sum to be awarded on attainment of objectives.	<p>ii) Contractor may be required to procure services from SMEs owned by women.</p> <p>iii) Part of the works under the contract, especially labor services, may be subcontracted to women, disabled, youth, and where applicable, SMEs.</p> <p><i>“The Contractor shall engage [%] of contracts for [insert work/service] for SMEs or businesses that employ or which are owned by women or disabled or youth.”</i></p> <p><i>Standard contract terms prescribe the way in which claims should be pursued, including a possible claim against a performance guarantee.</i></p> <p><i>“The Contractor undertakes that at all times during the contract period not less than [...% (... per cent)] of its workforce in relation to the works will be persons with disabilities. In the event that the employer is satisfied that the proportion of disabled people employed by the Contractor on the [contract works] throughout a 12-month period commencing on [1 April] and ending on [31 March] exceeds [..%], the Contractor will be entitled to an enhancement payment as follows: [        ].”</i></p> <p><i>“The Contractor undertakes that at all times during the Contract period not less than [...% (... per cent)] of its workforce in relation to the works will be women.</i></p> <p><i>In the event that the Employer is satisfied that the proportion of women employed by the Contractor on the contract works throughout a</i></p>

Stage	Entry Point	Issue	Action	Commentary and/or Suggested Provision
				<p>12-month period commencing on [1 April] and ending on [31 March] exceeds [..%], the Contractor will be entitled to an enhancement payment as follows: [ ]”</p> <p>The above approaches could be made less onerous by amending them to be ‘targets’</p> <p>Obligations that are too onerous may deter interest in the project opportunity and/or lead to contract disputes.</p>
		<p>Non-onerous prescriptive conditions should be feasible</p>	<p>Wording to be included in Specifications or contract</p>	<p>Less onerous conditions: Examples i) hold stakeholder meetings ii) promote employment and service provision opportunities iii) incentives</p> <p>Draft wording is provided below to include non-onerous inclusiveness provisions in the Specification (as provided for in Pink Book General Condition 6.1 and draft wording is provided for a discretionary ‘reward’.</p> <p>The wording can only be general and bespoke provisions will have to be drafted.</p> <p><i>“The Contractor shall use his reasonable endeavours to achieve the ‘inclusiveness’ objectives as set out below [.....] where ‘reasonable’ includes holding stakeholder meetings ... etc.”</i></p> <p>To be inserted as a Particular Condition 13.5</p> <p><i>“The Provisional Sums include an amount of \$...</i></p>

Stage	Entry Point	Issue	Action	Commentary and/or Suggested Provision
				<p>for the purpose of rewarding the Contractor for success in achievement of all or part of the [inclusiveness objectives]. The Engineer shall adjust the Contract Price as he shall decide in consultation with the Contractor and the Engineer's decision shall be based on consideration of:</p> <p>a) .....  b).....  c)..... “</p>
		Equal opportunity	Ensure equal opportunity	<p>The FIDIC Pink Book includes at GC 6.24 a provision relating to non-discrimination and equal opportunity. In some circumstances it may be feasible to supplement this provision.</p> <p>Suggested provisions:</p> <p>“... the Contractor shall use reasonable endeavour to ensure that in the Contractor's employment policies and practices and in the delivery of the Specified Works and Services, attention is paid to the need to promote equality of treatment and opportunity without regard for different religions or beliefs, age, political opinions, marital status, single parentage, race, disability, sexual orientation.”</p> <p>“The Contractor shall take all reasonable steps to ensure the observance of the provision by all agents, employees, consultants and subcontractors of the Contractor”</p> <p>“Contracted services must deliver services from facilities appropriate and accessible to the Contractor in the geographical area of the contract”</p> <p>“All communications about the [specified</p>



Stage	Entry Point	Issue	Action	Commentary and/or Suggested Provision
				<p><i>works/services] must be in accessible formats for potential providers”</i></p> <p><i>“Contractors must actively engage with the local community and organisations to seek to ensure any benefits from working collaboratively can be achieved”</i></p> <p><i>“The Contractor shall publicise opportunities within the supply chain relating to the Specified Works and Services”</i></p>
		<p>Enforcement</p> <p>Compliance with inclusiveness provisions in Specifications/contract.</p>	<p>Provide technical assistance to advise on what is practical/feasible in the project specific circumstances</p>	<p>This issue should be addressed in the Specifications by defining as clearly as possible what the Contractor is required to do in order to satisfy the member country's inclusive objectives.</p> <p>The actions concerned will be drafted by the consultant advising on realistic objectives and methodology of achieving them.</p> <p>The FIDIC Pink Book (or any standard contract) will provide for the Contractor to perform the ‘Specifications’ so there is no need to re-write them in the body of the contract if they are adequately set out in the Specifications.</p> <p>If the Contractor is in breach of a contractual obligation to perform then it will be in breach of contract and this may (like other breaches will result in the standard remedies being applied in accordance with the standard contract document.</p> <p>These standard remedies (deduction, set off, damages can be supplemented by way insertion of the necessary detail in the Particular Conditions to support a liquidated damages</p>

Stage	Entry Point	Issue	Action	Commentary and/or Suggested Provision
				claim. Further examples are set out at <b>Annex 3 – Appendix 2.</b>
		<p>Monitoring</p> <p>An appropriate level of monitoring will be necessary to check that the Contractor is performing the inclusiveness requirements</p>	<p>Provide technical assistance to design appropriate monitoring with TORs for Engineer.</p> <p>Monitoring conditions should be set out in the Contract Management.</p> <p>Monitor the contractor's performance on standard equality contract conditions Take appropriate action where performance is inadequate Review performance at the end of the contract</p>	<p>"The Employer and/or the <i>Employer's Engineer and/or other agents will have the right at any time [without notice] [during normal business hours], (provided where relevant that the Employer abides by all applicable health and safety procedures and does not impede or delay progress of the works) to:</i></p> <ul style="list-style-type: none"> <li>• <i>visit the works site</i></li> <li>• <i>speak to workers including managers</i></li> <li>• <i>view and/or (at the employer's own cost) take copies of all documents which the employer believes may be relevant to assessing the contractor's compliance with its obligations under the contract, including without limitation relating to the number or proportion of women and/or disabled people engaged in the contract works and/or the number of women and/or disabled people in managerial roles</i></li> <li>• <i>assess whether there are sufficient gender separated toilets, changing rest and other facilities for workers, including disabled persons that they are maintained in a clean and safe condition, and that sufficient facilities are fully accessible for use by disabled people."</i></li> </ul>
		<p>Evaluation</p> <p>Selection criteria (to disqualify or not to disqualify)</p>	<p>Include appropriate evaluation criteria.</p> <p>As part of bid evaluation, the Bidder may be required to</p>	<p>The inclusion of secondary criteria makes the procurement procedure more complex<sup>4</sup> and non-transparent and can undermine the efficiency of the procurement process. However, the World Bank favours those.</p>

<sup>4</sup>Green Public Procurement as an Environmental Policy Instrument

Stage	Entry Point	Issue	Action	Commentary and/or Suggested Provision
		<p>Award criteria (weighting along with other price quality or functionality)</p> <p>Evaluation panels in member countries to include representatives of vulnerable groups if these are among project affected persons.</p>	<p>indicate how the objective of inclusivity will be achieved under the contract</p> <p>Request evidence of policies on inclusiveness, and application methods.</p> <p>Check that the contractor accepts the standard equality contract conditions Award the contract on the basis of the contractor's ability to meet all requirements and provide best value for money</p> <p>Evaluate the contractor's ability to meet equality requirements of the specification with appropriate weighting to the relevance of equality to the contract as a whole.</p> <p>Provide technical assistance to establish what is feasible.</p>	<p>Award criteria and evaluation mechanism have to be bespoke to the requirements of the project and designed on a case by case basis.</p> <p>Further examples of criteria are at <b>Annex 3 - Appendix 1</b></p> <p>A summary of the World Bank enhancements to its Standard Procurement Documents (Works), Standard Bidding Documents (Works) and Consulting Services for supervising engineers is at <b>Annex 3 – Appendix 3</b></p>
		<p>Preferences could be considered as a means of increasing the possibility of achieving the inclusiveness objectives</p>	<p>Consider preferences at the design stage.</p> <p>Assess preferences as a possibility in terms of what is feasible in the market (addressed by technical assistance).</p>	<p>Preferences (for example)</p> <ul style="list-style-type: none"> <li>i) Percentage of contracts set aside for SMEs</li> <li>ii) Businesses that employ or who are owned by women or disabled or youth</li> </ul> <p>Preference for businesses that have and demonstrated application of gender equality and diversity policies</p>

Stage	Entry Point	Issue	Action	Commentary and/or Suggested Provision
	Knowledge sharing	Collecting data and lessons and sharing	Member countries to collect data on inclusiveness initiatives and results and share with governments, private sector, civil society, bilaterals and MDBs	<p>The reporting obligations in the Specification should include bespoke data collection and reporting obligations to be monitored by the Engineer.</p> <p>The MDB may set up data base and share, including:</p> <p>Lists of relevant groups</p> <p>Local suppliers/providers to supply information on gender, disabled, youth balance.</p> <p>This information could also be collected as part of the bidding process by making it a requirement in the bid to respond to the data request.</p>

## Appendix 1: Evaluation criteria

### Equal opportunity

Ask standard equality questions to check:

- = compliance with the [applicable standard/regulation] or equivalent
- = observance of the Equality and Human Rights Commission code of practice or equivalent
- = past performance on equality
- = equality policy

Where relevant check that contractors:

- = will comply with the MDB/Member Country on the institution's behalf
- = can tailor their provisions to meet different needs

Bidders to be asked to:

- Confirm the proportion of their workforce [overall/for this kind of work] who are disabled
- Confirm the proportion of the proposed workforce for this project who are disabled
- Confirm the proportion of their workforce [overall/for this kind of work] who are women
- Confirm the proportion of the proposed workforce for this project who are women
- Provide their health and safety policy
- Provide their policy on safeguarding of women/disabled people/vulnerable adults
- Confirm that no persons under the age of ..... will be employed
- Provide details of employer's liability insurance policy
- Provide details of public liability insurance policy/any other relevant policies
- Confirm that bidder will be able to provide a third party guarantee/bond where required by employer at cost of contractor
- Provide certification of compliance with health and safety on previous x projects within last y years
- Provide any certification of compliance with any local law requirements on employment of women
- Provide any certification of compliance with any local law requirements on employment of disabled people

Incident/criterion in relation to the contractor or any proposed subcontractor	Points to be added to or deducted from tenderer's score in respect of each incident/criterion
Within the [three] years prior to the deadline for	Deduct _ point(s) in respect of

submission of bids, suspension or termination or calling of performance security of a [civil works] contract by an employer for reasons related to the non-compliance with any environmental or social requirements including without limitation sexual exploitation and abuse, gender-based violence, health or safety requirements or safeguarding.	each incident
Within the [three] years prior to the deadline for submission of bids, a finding by any court or tribunal that the organisation was in breach of any law(s) against discrimination.	Deduct _ point(s) in respect of each incident
Within the [three] years prior to the deadline for submission of bids, a finding by any court or tribunal that the organisation was in breach of any law(s) in relation to protection of the environment.	Deduct _ point(s) in respect of each incident
At the time of submission of its tender, the proportion of the contractor's workforce for the contract works who are female.	<ul style="list-style-type: none"> <li>• If proportion is more than _%, add _ points</li> <li>• If proportion is more than _%, add _ points</li> <li>• If proportion is more than _%, add _ points</li> </ul> <p>Note: points (if any) will only be added in respect of the highest percentage score.</p>
At the time of submission of its tender, the proportion of the contractor's workforce for the contract works who are disabled. [Amend wording as appropriate to link to a definition of disabled/persons with disabilities]	<ul style="list-style-type: none"> <li>• If proportion is more than _%, add _ points</li> <li>• If proportion is more than _%, add _ points</li> <li>• If proportion is more than _%, add _ points</li> </ul> <p>Note: points (if any) will only be added in respect of the highest percentage score.</p>
Similar clauses in relation to age/ethnicity/religion/other criteria?	
Similar clauses in relation to managerial level employees [to be defined]?	
At the time of submission of its tender, the proportion of the contractor's workforce for the contract works who have received training in [proposed contractor's policy on xyz] within the last [12 months]	<ul style="list-style-type: none"> <li>• If proportion is more than _%, add _ points</li> <li>• If proportion is more than _%, add _ points</li> <li>• If proportion is more than _%, add _ points</li> </ul> <p>Note: points (if any) will only be added in respect of the highest percentage score.</p>
At the time of submission of its tender, the contractor's workforce for the contract works includes a designated [full-time] [social and gender specialist covering inclusion and an environmental specialist to cover management]	Add _ point(s) or proportionate number for part-time role
At the time of submission of its tender, the contractor's workforce for the contract works includes a designated [full-time] [monitoring and evaluation specialist who will report regularly to the contractor's management on compliance with	Add _ point(s) or proportionate number for part-time role

obligations under the contract]	
Establishment by contractor of all necessary accommodation and welfare facilities for contractor's personnel including appropriate facilities for all disabled personnel.	Add maximum of _ points

## Appendix 2: Liquidated damages

### ***Option 1: Specified sum, one payment***

[If [EVENT OF DEFAULT BY PARTY 2], [Party 2] shall pay [Party 1], as liquidated damages, £[AMOUNT].

**OR**

### ***Option 2: Specified sum, periodic payments***

If [EVENT OF DEFAULT BY PARTY 2], [Party 2] shall pay [Party 1], as liquidated damages, £[AMOUNT] for each [day's **OR** [PERIOD]'s] [delay **OR** default], [up to a maximum of £[AMOUNT]].

**OR**

### ***Option 3: Percentage, one payment***

If [EVENT OF DEFAULT BY PARTY 2], [Party 2] shall pay [Party 1], as liquidated damages, [PERCENTAGE]% of [PARTY 1'S PAYMENTS TO PARTY 2].

**OR**

### ***Option 4: Percentage, periodic payments***

If [EVENT OF DEFAULT BY PARTY 2], [Party 2] shall pay [Party 1], as liquidated damages, [PERCENTAGE]% of [PARTY 1'S PAYMENTS TO PARTY 2] for each [day's **OR** [PERIOD]'s] [delay **OR** default], [up to a maximum of [[100]% **OR** £[AMOUNT]].]

[[Party 2] shall pay these liquidated damages on demand or [Party 1] may deduct them from its payments to [Party 2].]

[The liquidated damages payable under this clause **Error! Reference source not found.** shall accrue from [EVENT OF DEFAULT BY PARTY 2] and shall continue until the earlier of:

[COMPLETION] by Party 2; or

termination of this agreement by Party 1.

This clause 0 is without prejudice to the right of Party 1 to claim general damages arising out of [EVENT OF DEFAULT BY PARTY 2].]

[The parties confirm that these liquidated damages are reasonable and proportionate to protect [Party 1's legitimate interest in performance] **OR** [NATURE OF INTEREST PROTECTED].]



## Appendix 3: Summary of Environmental, Social, Health and Safety (ESHS) Enhancements

### Standard Procurement Documents (SPDs) & Standard Bidding Documents (SBDs)

Note: The following ESHS enhancements shall be applicable for all new works contracts for which the relevant SBD/SPD listed below are used. "New contracts" in this context means contracts for which the bidding documents/request for proposal documents have not yet been issued.

#### The World Bank

#### Summary of Environmental, Social, Health and Safety (ESHS) Enhancements

ESHS Enhancements have been made to the following procurement documents:

#### Standard Procurement Documents (SPD) Works

1. [Prequalification Document](#) - Works
2. [Request for Bids - After Prequalification](#)
3. [Request for Bids - Without Prequalification](#)
4. [Request for Bids - Small Works One-Envelope Bidding Process](#)
5. [Request for Bids - Small Works Two-Envelope Bidding Process](#)
6. [Request for Bids - Output and Performance-Based Road Contracts](#)

#### Standard Bidding Documents (SBD) Works

7. [Prequalification Document - Works](#)
8. SBD Small Works
9. SBD Works
10. SBD Output and Performance-Based Road Contracts

#### Consulting Services

11. Request for Proposals (RFP) Consulting Services 2015 (for supervising engineer)
12. RFP Consulting Services 2016 (for supervising engineer)

## Summary of key enhancements

The following table summarizes the key enhancements that have been reflected in the SBDs and SPDs listed above.

#	Subject	Enhancement/s
1	<b>Declaration of contract suspension or termination</b>	<ul style="list-style-type: none"> <li>Applicants/Bidders/Proposers are now required to make a declaration listing any civil works contracts that have been suspended or terminated by an employer and/or performance security called by an employer, for ESHS reason/s. This information will be used to inform enhanced due diligence.</li> </ul>
2	<b>Strengthened specifications/ employer's requirements</b>	<ul style="list-style-type: none"> <li>The Employer is required to set out clearly the minimum expectations of ESHS performance from the outset, to ensure that all Bidders/Proposers are aware of the ESHS requirements.</li> </ul>
3	<b>Workers' ESHS Code of Conduct</b>	<ul style="list-style-type: none"> <li>Bidders/Proposers are now required to submit, as part of their Bid/Proposal, an ESHS Code of Conduct that will apply to their employees and sub-contractors, and details of how it will be enforced.</li> <li>The suitability of the Code of Conduct can be assessed and discussed as part of the Bid/Proposal evaluation and negotiations.</li> <li>The successful Bidder/Proposer is required to implement the agreed Code of Conduct upon contract award.</li> </ul>
4	<b>Contractor's ESHS Management Strategy and Implementation Plans</b>	<ul style="list-style-type: none"> <li>Bidders/Proposers are now required to submit, as part of their Bid/Proposal, ESHS Management Strategies and Implementation Plans required to manage the key ESHS risks of the project.</li> <li>The suitability of these strategies and plans can be assessed as part of the Bid/Proposal evaluation, and discussed during pre-contract discussions, as appropriate.</li> <li>These strategies and plans will become part of the Contractor's Environmental and Social Management Plan (C-ESMP).</li> <li>Particular Conditions of Contract now include provisions relating to the (C-ESMP), e.g.: <ul style="list-style-type: none"> <li>a requirement that the Contractor shall not commence any Works unless the Engineer is satisfied that appropriate measures are in place to address ESHS risks and impacts;</li> </ul> </li> </ul>

#	Subject	Enhancement/s
		<ul style="list-style-type: none"> <li>- at a minimum, the Contractor shall apply the plans and ESHS Code of Conduct, submitted as part of the Bid/Proposal, from contract award onwards.</li> </ul>
5	<b>ESHS Performance Security</b>	<ul style="list-style-type: none"> <li>• The successful Bidder/Proposer is now required to provide, in addition to the standard Performance Security, an ESHS Performance Security (the sum of the two “demand” bank guarantees, normally not to exceed 10% of the contract price).</li> <li>• The ESHS performance security is in the form of a “demand” bank guarantee.”</li> <li>• The application of this provision is at the Borrower’s discretion. It is recommended for contracts where there is significant ESHS risks as advised by Social/Environmental specialist/s.</li> </ul>
6	<b>ESHS Provisional Sum</b>	<ul style="list-style-type: none"> <li>• An additional provisional sum, specifically for ESHS outcomes, may be included in the Request for Bids/Proposals documents, and eventual contract. Normally, the payment for the delivery of ESHS requirements shall be a subsidiary obligation of the Contractor covered under the prices quoted for other Bill of Quantity/price items.</li> </ul>
7	<b>Key Personnel ESHS</b>	<ul style="list-style-type: none"> <li>• Bidders/Proposers are now required to demonstrate that they have suitably qualified ESHS specialists among their Key Personnel.</li> <li>• Key Personnel must be named in the Bid/Proposal, and in the contract.</li> <li>• The quality of the proposed Key Personnel (including ESHS specialists) will be assessed during the evaluation of Bids/Proposals.</li> <li>• The Contractor shall require the Employer’s consent to substitute or replace any Key Personnel.</li> <li>• The Engineer may require the removal of Personnel if they undertake behaviour which breaches the ESHS Code of Conduct, e.g. spreading communicable diseases, sexual harassment, gender-based violence, illicit activity, or crime.</li> </ul>
8	<b>ESHS Reporting</b>	<ul style="list-style-type: none"> <li>• Contracts now contain specific ESHS reporting requirements. These relate to: <ul style="list-style-type: none"> <li>- ESHS incidents requiring immediate notification</li> </ul> </li> </ul>

#	Subject	Enhancement/s
		<ul style="list-style-type: none"> <li>- ESHS metrics in regular progress reports.</li> </ul>
9	<b>ESHS considerations during contract variation</b>	<ul style="list-style-type: none"> <li>• As part of variation procedures, the Contractor shall provide relevant ESHS information to enable the Engineer to evaluate the ESHS risks and impacts.</li> </ul>
10	<b>Ability to withhold interim payment</b>	<ul style="list-style-type: none"> <li>• Contracts now contain provisions allowing interim payments to be withheld where there is a failure to perform an ESHS obligation.</li> </ul>
11	<b>ESHS considerations included in civil works Consulting Services</b>	<ul style="list-style-type: none"> <li>• The standard Request for Proposals for consulting services now include ESHS considerations to apply to the supervision of civil works.</li> </ul>

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## ***Annex 4: Select Outline Terms of Reference - Social Inclusion Expert***

### **PREPARATION OF SECTIONS ON INCLUSIVITY IN DRAFT TENDER DOCUMENTATION**

A Consultant is proposed to be engaged to prepare sections on inclusivity of the draft Tender Documents, which will be prepared in accordance with any existing Procurement Frameworks of an MDB.

These TOR for an social inclusion expert are directed only toward the incorporation of inclusivity in tender documentation and will form part of the TOR for a consultant/firm that will be responsible for the preparation of overall tender documentation.<sup>5</sup>

The Project design has been finalized,<sup>6</sup> and the following tender documentation is now required to be prepared:

- 1) Advertisement
- 2) Expression of Interest [practice to be determined, e.g., shortlisting of firms]
- 3) Request for Proposal/Invitation to Bid
- 4) Evaluation
- 5) Award
- 6) Post-evaluation

The Consultant will be required to introduce the theme of inclusivity in all tender documentation, initiated in the Advertisement. The following sections explain the term, provide examples of definitions and inclusivity clauses, and establish the relevance at each stage of the procurement process. In preparing the tender documentation, the Consultant will be guided by all relevant policies and guidance notes that cover inclusivity, such as the Environmental and Social Policy Procedures, Gender Equality Policy and Operational Strategy, Guidelines for Social Development Projects, and Strategic Plan 2015-19.

The principle of inclusivity refers to the recognition that in the bid documentation of its financing of development projects, there is no discrimination by Recipients against Suppliers, Contractors, Consultants, service providers, and all those involved in the procurement process on the basis of race, class, age, gender, ethnicity, disability, cultural norms, and religious and sexual orientation that do not adversely affect the conduct of project-related activities. Inclusivity will be demonstrated by incorporating specific interventions in a project through project components and contractual arrangements. that are consistent with competitive procurement practices in the supply of goods and services.

The Consultant will be required to undertake, but not be limited to, the following tasks:

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<sup>5</sup> The final TOR will, of course, be in the relevant formal format of the MDB and include schedules and reporting requirements.

<sup>6</sup> A description of the Project and design parameters should be inserted in the TOR as an Annex.

- a) Prepare sections of the draft Advertisement that will require interested bidders to demonstrate their familiarity with the principle of inclusivity and demonstrate to what extent they have applied that principle in previous contracts;
- b) Prepare, as determined by the MDB, sections in the call for an Expression of Interest (EOI) from firms that identifies inclusivity as a factor that will be taken into consideration in shortlisting those firms;
- c) Prepare sections in the draft Invitation to Bid (ITB) that clearly specify familiarity and experience with inclusivity that bidders will be required to demonstrate and include contract obligations that those bidders will be required to follow under the contract as part of Specifications;
- d) Set out inclusivity factors in the Evaluation Criteria for the Project;
- e) Set out inclusivity factors in the Award Criteria; and
- f) Ensure that Post-Evaluation covers adherence to inclusivity by the winning bidder.

The Deliverables will be a inclusivity clauses that will be included in the complete set of all tender documentation.

**Appendix 1** provides a suggested glossary and key definitions that the Consultant may use in writing the sections on inclusivity.

**Appendix 2** provides suggested inclusivity and environmental and social safeguards clauses that the Consultant may use or adapt to reflect the theme in the preparation of bid documentation so that bidders are fully aware of their potential obligations under contracts awarded to them.

## Appendix 1: Glossary and Key Definitions<sup>7</sup>

<b>Code of Conduct</b>	A set of obligations to which a Contractor or Sub-contractor and their Personnel commits to follow in the execution of project works financed by an MDB
<b>Compliance</b>	Adherence to an agreed Code of Conduct, Applicable Laws, Safeguards Requirements, and other policies and procedures that the MDB in question or Employers may impose as conditions of contract award and execution
<b>Discrimination</b>	<p>(i) The deliberate exclusion of groups, entities and individuals on the basis of race, color, class, age, gender, ethnicity, disability, cultural norms, political affiliation, marital status, and religious and sexual orientation, and who may nonetheless be capable of performing project activities, in the consideration of Bids/Proposals and in project management during contract execution<sup>8</sup></p> <p>(ii) Non-conformity with practices that are expressly prohibited under globally-recognized agreements and conventions to which MDBs and Recipients are parties, such as ILO 182 Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, ILO Convention 29 and Recommendation 203 on Prohibition of Forced Labour, and UN Convention on the Elimination of Discrimination Against Women, etc.</p>
<b>Gender</b>	Gender refers to the social attributes and opportunities associated with being male and female and the relationships between women and men and girls and boys, as well as the relations between women and those between men. Those attributes, opportunities and relationships are socially constructed and are learned through socialisation processes, as well as being context/ time-specific and changeable.
<b>Gender Equality</b>	Gender Equality refers to the equal rights, responsibilities, and opportunities of women, men, girls, and boys, and equal power to shape their own lives and contribute to society. It encompasses the narrower concept of <i>gender equity</i> , which primarily concerns fairness and justice regarding benefits and needs. Gender equality also refers to the transformational commitment needed to make equal rights and equal power a reality, within the human rights agenda. It requires that the interests, needs, and priorities of females and males be taken

<sup>7</sup> The Definitions are intended as suggested guidance and will need to be considered in context. Those definitions that are not ascribed to drawn/adapted from the World Bank's Minimum Standards Code of Conduct set out in World Bank's *Good Practice Note Addressing Gender Based Violence in Investment Project Financing involving Major Civil Works* (September 2018) and *Procurement Guidance: Environmental, Social, Health and Safety in Procurement*. 2018.

<sup>8</sup> Discrimination can arise, for example, in areas such as remuneration, hours of work and rest, promotion and access to training, termination of employment, occupational health and safety, or harassment. IFC. *Good Practice Note: Non-Discrimination and Equal Opportunity*. 2006.

	into consideration, in recognition of the great diversity within these groups.
<b>Gender Sensitivity</b>	Gender sensitivity is a concept that suggests a cognitive awareness of gender differences that may be reflected in policies or programs developed with consideration of gender norms, roles and inequalities and measures taken to actively address those in varying degrees, thus being gender responsive.
<b>Gender-based Violence</b>	Gender-based violence (GBV) covers any harmful act occurring in public or private that is perpetrated against a person's will and that is based on socially ascribed (i.e. gender) differences between males and females. It includes acts that inflict physical, sexual or mental harm or suffering, threats of such acts, coercion, and other deprivations of liberty.
<b>Inclusivity</b>	The principle of inclusivity refers to the recognition that in the bid documentation for financing of development projects, there is no discrimination by Recipients against Suppliers, Contractors, Consultants, service providers, and all those involved in the procurement process on the basis of race, class, age, gender, ethnicity, disability, cultural norms, and religious and sexual orientation that do not adversely affect the conduct of project-related activities. Inclusivity will be demonstrated by incorporating specific interventions in a project through project components and contractual arrangements. that are consistent with competitive procurement practices in the supply of goods and services.
<b>Minimum Standards</b>	Those standards contained in a Contractor or Sub-contractor's Code of Conduct that represent the basic principles to which they will subscribe in the execution of project works, but which do not preclude them from incorporating more environmentally and socially inclusive practices and procedures
<b>Prohibited Practices</b>	Prohibited Practices are those that exhibit discriminatory and environmentally and socially unacceptable practices. Prohibited Practices should be incorporated into bid documentation as contractual obligations.
<b>Persons with Disabilities (PWDs)</b>	Persons with disabilities are those individuals who have physical, mental, intellectual or sensory conditions which in interaction with various barriers may hinder that person's full and effective participation in society on an equal basis with others.
<b>Sexual Exploitation and Abuse</b>	Any actual or attempted abuse, through force or coercion, of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting emotionally, monetarily, socially or politically from the sexual exploitation of another.
<b>Sexual Harassment</b>	Unwelcome and unacceptable suggestive behavior and sexual advances, requests for sexual favors, and other unwanted verbal or physical conduct of a sexual nature that may take place in the workplace during the execution of project works and cause emotional or physical distress.



<b>Safeguards Requirements</b>	The mandatory requirements for an MDB-financed project works set out in relevant environmental and social review procedures
<b>Social Inclusion</b>	Social inclusion is the process of allowing or facilitating individuals or groups the opportunity for full participation in social, economic and political life and asserting their rights; the process of improving the ability, opportunity, and dignity of those disadvantaged based on their identity to take part in society
<b>Stakeholders</b>	Stakeholders comprise the entire universe of those persons participating in project development, execution and monitoring and evaluation. Stakeholders may include financing and executing agencies, national and local governments, communities, civil society organizations (including nongovernmental organizations), beneficiaries, project-affected persons, contractors, subcontractors, service providers, and the like.
<b>Trafficking in Persons</b>	The recruitment, transportation, transfer, harboring or receipt of persons, by means of force, the threat of force, other forms of coercion, abduction, fraud, deception, of the abuse of power, or of a position of vulnerability, or giving or receiving of payments or benefits to achieve the consent of a person, having control over another person, for the purpose of exploitation. Exploitation includes, at a minimum, the exploitation of the sex work of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.

## Appendix 2: Suggested Inclusivity and Environmental and Social Safeguards Clauses in Civil Works Contracts

Among the many requirements that are set out for construction contracts, the following inclusivity and environmental and social safeguards clauses may be considered for inclusion in appropriate sections of construction contract documents awarded to projects:

### Environmental and Social Safeguards Standards

The Contractor shall take all necessary measures and precautions to ensure that the execution of the Works and all associated operations are carried out in conformity with statutory and regulatory environmental and social requirements of member country governments, and good practices in the application of principles of inclusivity and environmental and social safeguards developed by international financing institutions.

The Contractor shall develop a site-specific Health, Safety and Environment (HSE) Plan that is in conformity with the statutory and regulatory requirements of the Government of \_\_, and good practices in the application of inclusivity principles and environmental and social safeguards developed by international financing institutions.

### ESMP/CESMP

The Employer's Environmental and Social Management Plan (ESMP) is intended to allow Bidders to understand what will be involved in implementing inclusivity and environmental and social mitigation measures associated with the project. This will not substitute for the Contractor's Environmental and Social Management Plan that the winning Bidder will be required to draft based on the Employer's ESMP, any relevant environmental Specifications found in the Technical Specifications, Bill of Quantities, Drawings and relevant country laws and regulations.

The Contractor shall be required to develop an Environmental and Social Management Plan (CESMP) that follows the framework ESMP shown in \_\_ of the bidding documents, with operational details for review and approval by the Engineer no later than \_\_ days after the receipt of the Notice to Proceed, [SEP] and shall comply with the Contract Specifications, of which these Environmental and Social Safeguard provisions are a part.

The Contractor(s) will be required to develop or update their CESMP(s) to comply with site-specific requirements and other measures identified in the ESIs.

The ESMP shall also include the requirements and conditions stipulated in the permits issued by the \_\_, including any Environmental Compliance Certificates that may be required.

The CESMP submitted by the Contractor shall provide a signed statement from the Contractor's Management attesting to a commitment that all environmental protection, safety and industrial health aspects of the Contract, as well as adherence to the principles in inclusivity shall be given the highest priority in the discharge of contractual obligations and certifying a commitment to the provisions specified by the ESMP as approved by the Engineer.

The Contractor's ESMP shall provide a statement attesting the firm's understanding of, and means of ensuring due compliance with, the statutory regulations relating to

construction work in member countries, specifically in regard to compliance with:

- All safety and industrial health legislation including, without limitation, the rules and regulations of individual member countries and the authorities having jurisdiction
- All current member country environmental laws and regulations - national or local – related but not necessarily limited to noise; air pollution; water contamination; solid waste disposal; liquid waste disposal; sanitary conditions (water supply, sewerage, etc.); use of explosives; and protection of public traffic

The Contractor's obligations on completion of Project Works shall include the clean-up of spillage and debris before leaving any temporary construction site, and the Contractor shall restore areas siting temporary plants to their original condition

The ESMP shall provide a commitment that the Contractor for the work shall:

- Provide subcontractors with copies of the ESMP and the ECC and incorporate provisions of the ESMP and ECC into all sub-contract documentation to ensure the compliance with the Plan at all tiers of the sub-contracting.
- Require all subcontractors to appoint a safety representative who shall be available on the Site throughout the operational period of the respective subcontract
- Ensure, as far as practicable, that employees of subcontractors of all tiers are conversant with appropriate parts of the ESMP, ECC(s) and statutory regulations.

The Contractor's ESMP shall include an organization chart identifying (by job title and by the name of the individual) the personnel to be engaged solely for social and gender issues, and environmental protection and safety. The chart and the supporting text shall identify the designated Environmental and Social Manager(s) and Health and Safety Manager(s) and identify other participants and their areas of responsibility.

The Contractor's ESMP shall certify that the Environmental and Social Manager and Health and Safety Managers

- Will be appointed and assigned duties throughout the period of the Contract entirely connected with the social, environmental and safety activities on the Site(s);
- Shall be fully fluent in English and any local languages applicable
- Shall be suitably qualified and experienced to supervise and monitor compliance with the ESMP and will, in particular but without limitation, carry out audits of the operation of the ESMP to be submitted, from time to time, to the Engineer for consent;
- Shall not be removed from the Site without the express, prior written permission of the Engineer. Within \_\_\_ days of any such removal or notice of intent of removal, replacement staff shall be nominated for the Engineers approval;
- Shall be provided with supporting staff in accordance with the staffing levels set out in the ESMP
- Will be empowered to instruct all employees of the Contractor or Subcontractors at any level to cease operations and take urgent and appropriate action to make safe the Site and prevent unsafe working practices or other infringements of the Plan or the statutory regulations;
- Shall maintain a daily Site Diary in order to comprehensively record all

relevant matters concerning Site environmental management and safety, inspections and audits, related incidents and the like. The Site Diary shall be available at all times for inspection by the Engineer. Contact information for all Health, Safety and Environment staff shall be provided in the Plan.

In siting and operating facilities and in executing the Works, the Contractor(s) shall, at all times, and to the extent possible, minimize the impact of construction activities on existing communities. Where communities are likely to be affected by major activities such as earthworks, road widening/closure/ bypassing, establishment of camps or borrows, the Contractor(s) shall liaise closely with the concerned communities and their representatives and, if so directed, shall attend additional meetings arranged by the Engineer or Employer to resolve issues and claims and minimize impacts on local communities.

The Contractor shall be responsible for any compensation due to reinstatements necessary with respect to any damage caused by the Works to areas outside the Site.

The Contractor shall take all necessary precautions to ensure that no public or private services, utilities or similar facilities are damaged or interrupted by the Works. These precautions shall include but not be limited to liaison with public and private service providers, local government units, and private owners; a condition survey of all affected services; provision of a satisfactory alternative service while the works are carried out; and reinstatement of a satisfactory permanent facility after completion of the Works in each area.

No service or utilities shall be disturbed or cut before arrangements have been made for a satisfactory alternative service, or the Contractor has obtained agreement in writing from the service provider or owner to a temporary cessation of service.

The Contractor(s) shall make the necessary arrangements, at their own expense, for water supply for construction and other purposes. Only clean water, free from deleterious materials and appropriate quality for its intended use, shall be used. In providing water, the Contractor shall ensure that the rights of and supply to existing users are not affected either in quality or timing.

The location of the work camp shall be far from residential areas as feasible and practicable. The Contractor shall provide adequate fuel for both cooking and other needs. The collection and treatment of solid wastes shall be maintained during construction. The Contractor shall prohibit illegal fishing and hunting in the vicinity of the camp. Cutting of trees shall be avoided to the extent possible and removal of vegetation shall be minimized. Water and pit latrine facilities shall be provided for the employees, segregated by gender. At completion of the project, all wreckage, rubbish or temporary works that are no longer required shall be removed or given to local residents. All temporary structures including office building, shelters and latrines shall be removed. The site shall be restored to near natural or stable conditions, including any access roads and infrastructure established for the camps. The Engineer shall report in writing that the camp has been vacated and restored to pre-project conditions before acceptance of the works.

All suitable excavated materials shall be used insofar as it practicable in constructing the Works. Surplus and unsuitable material whether from site clearance, excavations, failed cut or fill slopes, landslides, or maintenance operations, shall be known as spoil. Unless otherwise permitted by the Engineer under paragraph \_\_, all spoils shall be deposited at spoil disposal sites approved in advance by the Engineer in accordance with \_\_. The Engineer's approval of any spoil disposal site shall not in

any way relieve the Contractor(s) of responsibility, inter alia, for land acquisition, provision of temporary access, works preparatory to spoiling, management of the spoiling operation, and making good after completion of spoiling. Disposal sites should also avoid forest, cultivated land, active slope failure areas, and gullies, areas of groundwater discharge, sources of drinking or irrigation water, areas where failure of the spoil tip would endanger or harm the Works or buildings or cultivated land, and areas where permanent stabilization of the filled disposal area would be difficult.

The Contractor shall develop and implement a Social Management Plan (SMP) with four (4) constituent parts that address the issues of access and mobility during construction, gender and social inclusion, trafficking in persons (TIP), and HIV/AIDS. The SMP shall include provisions to ensure that there is no discrimination on the basis of race, class, age, gender, ethnicity, disabilities, and religious and sexual orientation that do not adversely affect the conduct of project-related activities. The Contractor shall assign resources and staff to implement and/or monitor the SMP.

The Contractor shall ensure that mitigation of negative impacts of construction related works on the project population is planned in advance. The Contractor shall:

- Address road safety issues by providing proper vehicle and pedestrian traffic management plans at project sites, both access points and internal movements.
- Provide measures in accordance with the construction schedule to avoid or minimize impacts of construction-related road closures and blocking of access to properties.
- Minimize the impact of severance of utilities such as electricity, gas, water supply and sewerage during construction.
- Inform local population(s) about the schedule of construction activities <sup>(SEP)</sup> and access route closures.
- Ensure that any physically-challenged employees of the Contractor are provided means of access and movement appropriate to their disabilities.

The Contractor shall ensure exchange of information between Contractor and the local population(s) on planned and continuing works. The Contractor will encourage employment of qualified individuals among the local population(s) in project activities, with particular focus on women, youth, and disadvantaged groups. This may include small-scale supply contracts or services, with announcement of jobs published on project information boards or other means approved by the Engineer. The dissemination of information on potential employment and service provision opportunities must consider ways in which to maximize outreach, using all forms of media that may be appropriate. Where appropriate, the Contractor will provide training to enhance the skills of employees.

The Contractor shall:

- Ensure TIP will not be tolerated on the part of employees or contract workers <sup>(SEP)</sup> and that engaging in TIP is cause for suspension or termination of employment or of the contract; accordingly, Contractor should include this provision in all sub-contracts. <sup>(L SEP)</sup>
- Raise awareness of employees, sub-contractors and workers on the issue, including providing information on the risk areas and the penalties for involvement in TIP. The Contractor shall conduct training for the Contractor's staff and sub-contractors and will report to Engineer on the number of training sessions conducted and number of participants
- Set requirements and a system to report suspicion or knowledge of incidents

of TIP to the Employer and responsible authorities, and to refer potential victims to appropriate agencies and non-government organizations. The contact information of those authorities will be made known to all workers and other participants of the awareness campaign through the distribution of leaflets and posters with the contact information where to report TIP cases.

- Coordinate in awareness-raising campaigns with national and local organizations present in the project area(s) that are actively involved in working toward the elimination of TIP.
- Ensure that labor camps, vehicle movements and community interactions are monitored, to the extent practicable, for potential TIP situations.

The Contractor shall:

- Provide a HIV/AIDS Awareness Program (preferably through an approved Service Provider) to the Contractor's Personnel and the project affected communities at construction sites as soon as practicable after the Contractor's Personnel arrive at the Site, and to repeat such HIV/AIDS Awareness Program at intervals not exceeding six months.
- Place and maintain HIV/AIDS awareness posters in areas which are highly trafficked by construction workers, or provide construction workers with a pamphlet, in languages largely understood by construction workers, which reinforce the outcomes of the HIV Awareness Program
- Encourage voluntary HIV/STD testing.
- Provide information on services concerning counseling support and care of those that are or might be infected. The Contractor shall not be required to undertake or pay for treatment or medication for personnel found to be suffering from HIV/AIDS.
- Not discriminate against any personnel who have contracted HIV/AIDS, but are fully able to carry out their assigned responsibilities
- Give any representative of the Employer and the National HIV/AIDS Authority all reasonable access to the Site in connection with the HIV Awareness Program.
- Notwithstanding the provisions of the General Conditions of Contract, and relevant sections of the ESMP, the Contractor(s) shall, throughout the duration of the Contract, include a program of education for site staff and labor and their families in respect of Sexually Transmitted Infections (STI), including HIV/AIDS and prohibitions in engaging in TIP activities.

The Contractor shall conduct Information, Education and Communication (IEC) campaigns at the project site, at least every \_\_ month, addressed to all Site staff and labor (including all the Contractor's employees, all Subcontractors and consultant's employees, and all truck drivers and crew making deliveries to site for construction activities) and to the avoidance behavior with respect to STIs in general and HIV/AIDS in particular. The content for the IEC will be based on the member country Government's directives on HIV/AIDS.

The Contractor shall, throughout the contract, liaise with the relevant member country ministries of health, and any national AIDS commission, and/or their designated local representatives or agents, in drawing up and implementing the Works' STI and HIV/AIDS program (including IEC).

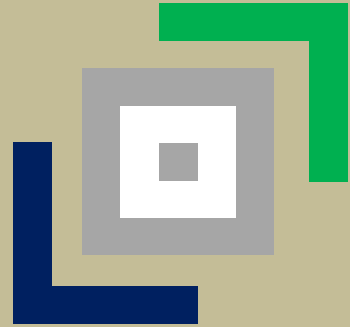
The Contractor shall subcontract NGOs/CSOs as necessary for outreach and training activities. The Contractor shall report progress and coordinate the STI/AIDS measures on Site with the national STI and HIV/AIDS program. The Contractor's Personnel will be instructed to attend the HIV Awareness Program during the course

of their employment and during their normal working hours or any period of overtime provided for in the relevant employment contracts and use all reasonable endeavors to ensure this instruction is followed.

The above provisions shall be provided free of charge to the participants and the Contractor(s) shall ensure that not only all site staff have free access to attend the IEC campaigns, but also members of adjoining communities.

The Contractor will conduct all project-related activities with due regard for special concerns that may be identified for any Indigenous Peoples or Ethnic Minorities within the area of influence of the project. The Contractor will apply any measures that are identified as associated with project-related works in any Indigenous Peoples Plan or Ethnic Minorities Development Plan prepared for the project.

The Contractor will ensure that any impacts of project-related works on physical and cultural heritage are mitigated in appropriate ways, with instances of any chance finds of archeological importance reported to the appropriate member country's department of archeology for assessment, and works stopped until clearance from relevant authorities have been obtained for resumption of works.



## Disclaimer

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