

Relevance of the GPA to EBRD

(S2.2)

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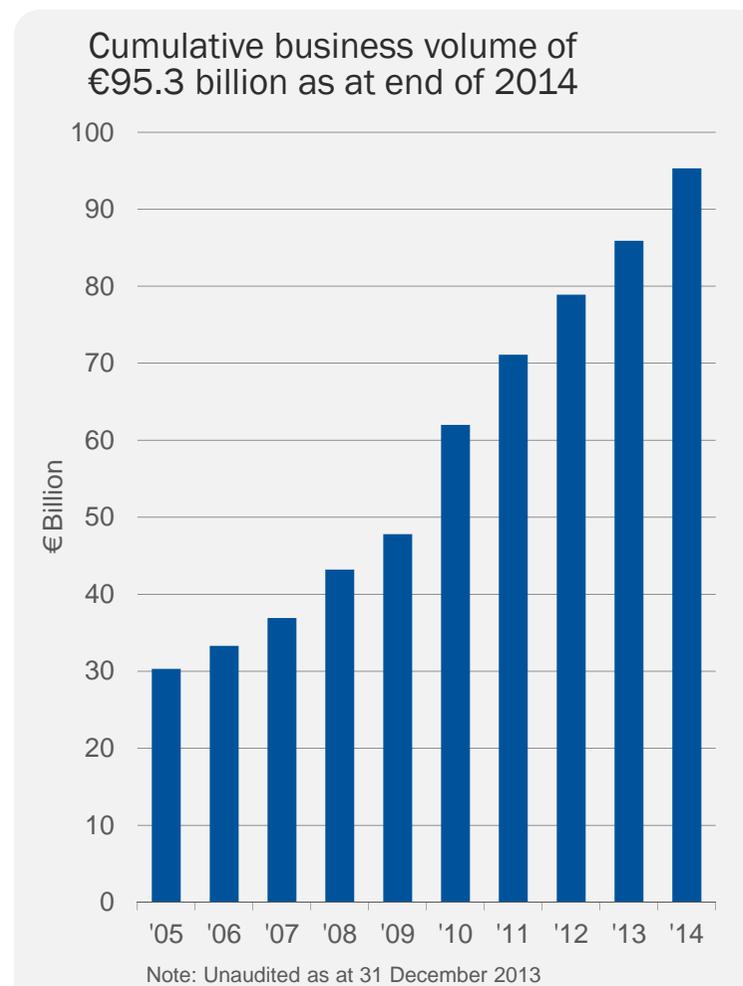
What is the EBRD?



European Bank
for Reconstruction and Development

- International financial institution, promotes transition to market economies in 35 countries from central Europe to central Asia
- In 2011, the Bank expanded its operations to include [Egypt](#), [Morocco](#), [Tunisia](#) and [Jordan](#) (Southern and Eastern Mediterranean – SEMED region)
- In 2014, the EBRD welcomed [Cyprus](#) and [Libya](#) as a recipient country and member respectively. In March 2015 Greece became a recipient country.
- Owned by 65* countries and two inter-governmental institutions
- Capital base of **€30 billion**

*Libya is yet to become a fully ratified member of the EBRD



The EBRD and its objectives

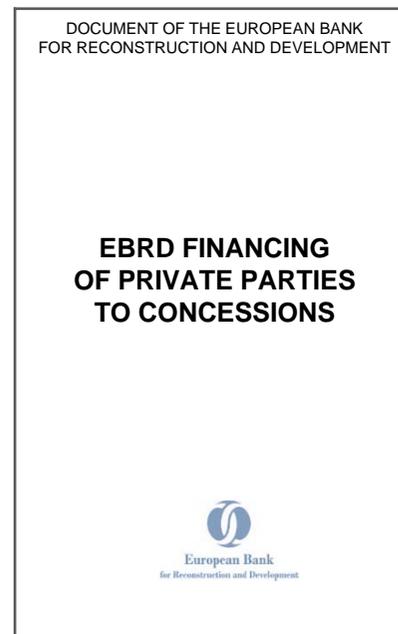
Objectives:

- To promote transition to market economies by investing mainly in the private sector
- To mobilise significant foreign direct investment
- To support privatisation, restructuring and better municipal services to improve people's lives
- To encourage environmentally sound and sustainable development

EBRD Procurement related Policies



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The EBRD Procurement Policies and Rules

2. Principles and Considerations

2.1 The “Chairman’s Report on the Agreement Establishing the European Bank for Reconstruction and Development”, Article 13, Paragraph 6, notes agreement:

“... upon completely open procurement (and not procurement open only to members) based on international tendering, where appropriate, and ... such tenders should be genuinely competitive, in line with the GATT Agreement on Government Procurement.”

Footnote: (Replaced by WTO/GPA (Government Procurement Agreement), effective by 1 January 1996)

The WTO/GPA (Government Procurement Agreement) establishes a framework of rights and obligations with respect to laws, regulations, procedures and practices regarding public procurement. The aim of the WTO/GPA is to achieve greater liberalisation and expansion of world trade by establishing transparent, fair and open procurement practices. The Bank supports the development of public procurement laws and practices within its countries of operations that are consistent with the principles of the WTO/GPA.

The EBRD Procurement Policies and Rules

2. Principles and Considerations

2.3 The Bank may periodically review with its countries of operations their procurement laws, regulations and procedures and may provide advisory services, technical assistance and training to help them reach consistency with the principles of the WTO/GPA and harmonisation with the Bank's policies and rules..

EBRD concession policy

Drafted based on the perspective of the Private sector party in a concession arrangement

Advocates open tendering procedures but is less restrictive in terms of the process

Sets out the minimum “Core criteria” to be met in order for the Bank to finance the private sector party.

Core criteria:

(i) The process for selecting the Concessionaire has demonstrated sufficient fairness, transparency and competition;

(ii) The process was free of corruption and in compliance with all applicable laws and regulations, and

(iii) The outcome in terms of the Concession Agreement itself is fair and reasonable in terms of price, quality and risk sharing in relation to market practice.

EBRD tender data supporting open competition

Public sector contracts awarded through open tendering represent 96 per cent of the number of contracts and 99 per cent of the total contract value. This excludes consultancy services contracts and alternative procurement procedures for which the Bank's open tender procedures do not apply.

The interest of firms to participate in EBRD financed tenders is high. On average in 2014, 3.9 tenders were submitted when open tendering procedures under the Bank's PP&R are applied.

Cross-border tendering in EBRD's countries of operations is at a very high level (41 per cent) and 36 per cent of all EBRD financed contracts were won by firms competing in other countries than their own during 2014.

The EBRD Procurement Function



- The key activity of the Bank’s procurement function is to support clients in the implementation of projects.
 - The Procurement Policy Department also supports countries of operations through Procurement Policy Dialogue under the umbrella of a Memorandum of understanding to achieve transition.
 - The Procurement Policy Department furthermore work in a “Joint Venture” with the Bank’s Legal Transition Team (LTT)
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Legal transition and Procurement

In 2010 EBRD conducted its first PP assessment in its countries of operations including a review of the remedies systems.

<http://www.ebrd.com/pages/research/publications/newsletters/lit102.shtml>

Currently EBRD are in the OECD working group for the revision of “MAPS” to establish a commonly accepted tool for benchmarking of country procurement systems.

In 2011 EBRD and UNCITRAL launched a joint programme involving workshops, Gap analysis and reform of the public procurement legal framework in several countries of EBRD operations. Benchmark is the UNCITRAL model law.

As a natural extension of the EBRD/UNCITRAL initiative EBRD started In 2013 to actively support countries that are committed to sign up the WTO/ GPA and now have a joint programme with the WTO to support EBRD countries in the accession to the WTO/GPA. The EBRD GPA Technical Cooperation Facility provides capacity building and country specific technical cooperation projects. In particular, the Facility support countries in overcoming any institutional, legal and trade challenges related to GPA accession they may face

Accessions to the GPA by EBRD 35 countries of operations

- GPA Parties:
Armenia, Bulgaria, Croatia, Cyprus, Greece, Estonia, Hungary, Latvia, Lithuania, Montenegro, Poland, Romania, Slovak Republic, Slovenia,
- GPA Observers:
Albania, Georgia, FYR Macedonia, Jordan, Kyrgyz Republic, Moldova, Mongolia, Russian Federation, Tajikistan, Turkey, Ukraine,

Kazakhstan has also recently committed to beginning talks to join the Government Procurement Agreement (GPA).

Note: Countries underlined are, or have been, supported by the EBRD/GPA Technical Cooperation Facility

EBRD Core Principles on an Efficient Public Procurement Framework (Macro level)

The PP legislative framework should :

- Foster accountability of public sector spending
- Ensure the integrity of the procurement process
- Provide an adequate level of transparency
- Enable competition
- Promote economy/best value for money
- Efficiency of the process
- Recognise the value of proportionality
- Be comprehensive and limit derogations to reasonable exemptions acknowledged by international instruments yet should distinguish between state and utilities public procurement
- Be stable, but flexible
- Be enforceable



PROCUREMENT AND TRANSITION IN PUBLIC SECTOR OPERATIONS (Micro level)



EBRD is directed to promote economic transition towards a well-functioning market economy through the projects in which the Bank participates.

Positive procurement transition rating requires:

- ✓ Benchmarking of the client's procurement staff and systems by a recognised professional international procurement assessment body to international best practice in procurement with an emphasis on sustainable procurement with pre-defined and verifiable targets for improvement and outcomes and leading to a visible demonstration (certification).
- ✓ Preparing and implementing an action plan leading to achievement of certification equivalent to recognised international procurement standards.
- ✓ Policy dialogue at the national institution level to introduce best practice and efforts aimed at capacity building of national authorities, with verifiable and pre-defined targets and outcome.



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Thank you for your attention!
