

DOCUMENT OF THE INTER-AMERICAN DEVELOPMENT BANK

BRAZIL

COUNTRY STRATEGY UPDATE

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ELECTRONIC LINK

1. [Report for Acceptance of the Use of Brazil's Country Procurement System](#)

ABBREVIATIONS

BCS-BR	The Bank's country strategy with Brazil
CSU	Country Strategy Update
IDB	Inter-American Development Bank
SFAB	Brazil's Federal Procurement System
SLTI	Secretaria de Logística e Tecnologia da Informação [Logistics and Information Technology Secretariat]

I. BACKGROUND

A. Introduction

- 1.1 The Bank's country strategy with Brazil 2012-2014 (BCS-BR) (document GN-2662-1), approved by the Bank's Board of Executive Directors on 9 May 2012, identifies the priority sectors agreed upon between the Government of Brazil and the Bank, and establishes six strategic objectives: (i) stimulate social and productive inclusion; (ii) improve the condition of the country's infrastructure; (iii) promote the development of sustainable cities; (iv) improve the institutional capacity of public entities; (v) increase the sustainable management of natural resources and climate change mitigation and adaptation actions; and (vi) promote development through the private sector.
- 1.2 The BCS-BR also establishes increased use of the country systems for both financial management and procurement as an important outcome. Specifically, paragraph 5.5 of the BCS-BR states that the Bank, in conjunction with the Ministry of Planning, Budget and Management, has started to implement the Guide for Acceptance of the Use of Country Procurement Systems (the "Guide") (document GN-2538-6) to analyze the procurement system at the federal level, with a view to defining procurement and contracting modalities that can be used in the operations it finances in Brazil.
- 1.3 From May 2012 (the effective date of the BCS-BR) to November 2012, the Bank conducted an analysis of application of the Guide with the collaboration of the Logistics and Information Technology Secretariat (SLTI) of the Ministry of Planning, Budget and Management. The findings of that analysis, described in the Report for Acceptance of the Use of Brazil's Country Procurement System (the "Report") (see electronic link), approved by the Operations Policy Committee of Management (document OP-981), shows that Brazil possesses a Public Procurement and Contracting System at its federal level that is very robust in regulatory and management terms. It also has a modern and efficient electronic system called ComprasNet, which is used to conduct most procurements of goods, services, and works required by the public administration. Thus, Bank-financed procurements can reasonably be expected to be conducted properly under this system.
- 1.4 The purpose of this Country Strategy Update (CSU), therefore, is to present the conclusions resulting from application of the Guide to Brazil's Federal Procurement System (SFAB), and to recommend that the Bank's Board of Executive Directors approve advanced use of the SFAB as an exception to the methods provided in the policies for the procurement of goods and works financed by the Bank and policies for the selection and contracting of consultants financed by the Bank (documents GN-2349-9 and GN-2350-9, respectively), as described in document OP-981. This CSU entails no change to the content of the rest of the BCS-BR, including the Results Matrix and Development Effectiveness Matrix.

B. Strategy for strengthening and use of country systems

- 1.5 The analysis and recommendation procedure described in paragraph 1.4 follows the basic principles of the Strategy for Strengthening and Use of Country Systems (the “Country Systems Strategy”) (document GN-2538), inasmuch as the process of validating country fiduciary systems and determining whether to use them is an integral part of the country strategy formulation cycle. In addition, the Country Systems Strategy stipulates that all new Bank operations will follow the recommendations of the country strategies and country programming documents with respect to partial or full use of country fiduciary systems.
- 1.6 Paragraph 2.22 of the Guide establishes that “[t]he Management decisions on use of Procurement Systems will be included in the Country Strategy, or in its updates, for approval by the Bank’s Board of Executive Directors. In such case, the Board will be requested to approve the use of a System or Subsystem through a waiver to the methods set forth in the Bank’s Procurement Policies.”

**II. REQUEST FOR APPROVAL OF ADVANCED USE OF THE
COUNTRY PROCUREMENT SYSTEM**

- 2.1 Based on the foregoing, and as a result of the process indicated in the Guide and the technical analysis described in the Bank’s Report, Management recommends that the Board of Executive Directors approve, pursuant to this CSU, as an exception to the methods provided in the policies for the procurement of goods and works financed by the Bank and for the selection and contracting of consultants financed by the Bank, advanced use¹ of the SFAB for Bank-financed operations negotiated subsequent to the entry into effect of this CSU, as well as for projects in execution when so requested by the Government of Brazil, under the terms described below and detailed in the Report.

¹ According to the Guide approved by the Board of Executive Directors, advanced use of a country procurement system corresponds to its full use, or use of the vast majority of all its components and methods, in contracts for amounts up to the threshold set by the Bank for the use of international competitive bidding in the respective country in procurements of works (for reference, US\$25 million in Brazil), goods and services (for reference, US\$5 million in Brazil), and its equivalent for consulting services (for reference, US\$1 million in Brazil). Bank policies GN-2349-9 and GN-2350-9 will apply for amounts exceeding these thresholds.

- 2.2 As established in the “Scope” section of the Report, advanced use of the SFAB will apply to all contracts for operations executed by the agencies included in it² and for amounts up to the limit set by the Bank³ for the use of international competitive bidding in Brazil in the policies for the procurement of goods and works and for the selection and contracting of consultants. The Bank policies apply above these amounts. Certain very specific aspects will remain outside the scope of use of the SFAB.⁴ Furthermore, Section 1 of the Bank policies (documents GN-2349-9 and GN-2350-9) and the appendices thereto will continue apply in any case.
- 2.3 The entry into effect of use of the SFAB in Bank-financed operations will be subject to: (i) formal signature of an agreement between the Bank and the government under the terms described in this document and detailed in the Report; and (ii) verification by the Bank that the strengthening initiatives agreed upon with the Government, as described in Section 5 of the Report and summarized in the following section, have been implemented. The measures to be adopted in compliance with the implementation and monitoring provisions of the Guide are described in Section 6 of the Report.

III. RISKS AND STRENGTHENING INITIATIVES

- 3.1 The risks of using the SFAB are not high, since it complies with the vast majority of international practices and meets the specific requirements established in the Guide. Nevertheless, in those very specific cases where partial compliance with best practices was identified, the Bank has agreed with the Government of Brazil on the scope of use of the system described in the previous section, as well as on two strengthening initiatives, to be implemented prior to initiating use of the SFAB in Bank-financed operations: (i) design of a plan to improve quality control skills in procurement; and (ii) a proposal to better govern the suspension of bidding processes as a result of protests.

² Brazilian federal government agencies and entities falling within the scope of application of Laws 8666/1993 and 10520/2002. Specifically, this approval encompasses all entities that are part of the federal government, as well as dependent agencies under the federal government’s direct administration. Validation of use of the SFAB does not include states, the federal district, municípios, public and semipublic enterprises, and public entities subject to private law, since no such validation was requested, and they are governed by a special set of provisions. Likewise excluded from this recommendation, as not part of the Government’s request and by express provision of the applicable law, are contracts entered into under the differential public procurement system created for the Rio Olympic Games, the FIFA World Cup, and other related events (Law 12462/2011, regulated by Decree 7581/2011),² as well as armed forces contracts and contracts for the maintenance, repair, and manufacture of operational means of war.

³ See footnote 1.

⁴ Three aspects will remain outside the scope of use of the SFAB: (i) use of price bands; (ii) the local registration requirement to submit bids; (iii) for arbitration, the regulations issued by the SLTI for Bank-financed operations will establish that the bidding documents include arbitration clauses equivalent to those set forth in the standard bidding documents used for international competitive bidding.

- 3.2 In the event of a material change in the parameters under which use of the SFAB in Bank-financed operations has been approved, such use will be suspended until Bank determines whether or not such changes entail a modification to the system's consistency with international best practices, in accordance with Section 2.14 of the Guide.