

Section V. Eligible Countries

Eligibility for the Provision of Goods, Works and Related Services in Bank-financed Procurement

A. Provision at Paragraph 1.6 of the Bank's Rules and Procedures for Procurement of Goods and Works

1.6 The African Development Fund permits firms and individuals from all countries to offer goods, works and services for ADF funded project. However, the proceeds of any Financing undertaken in the operations of the African Development Bank and the Nigeria Trust Fund shall be used for procurement of goods and works, including the related services, provided by bidders from Eligible¹ Countries.² Any conditions for participation shall be limited to those that are essential to ensure the firm's capability to fulfil the contract in question. In the case of ADB and NTF, bidders from non-Member Countries offering goods, works and related services (including transportation and insurance) are not eligible even if they offer these from Eligible Member Countries. Any waiver to this rule will be in accordance with the Articles 17(1) (d) of the Agreement Establishing the African Development Bank and 4.1 of the Agreement Establishing the Nigeria Trust Fund.

B. Provision at Appendix 4 of the Bank's Rules and Procedures for Procurement of Goods and Works

Overview

1. The eligibility criteria for participation in the supply of goods, works and related services, to be procured through the ADB and NTF Financing, derive from the requirements of the Agreement Establishing the African Development Bank, Article 17.1.d, and the Agreement Establishing the Nigeria Trust Fund, Article 4.1. The foregoing requirements basically prescribe two types of eligibility criteria:

The eligibility of the bidder;

The eligibility of the goods, works and related services.

Eligibility of the Bidder

2. The eligibility of the bidder shall be based on nationality, in accordance with the following rules:

¹ Refer to Appendix 4 for additional information on Eligibility.

² "Eligible Countries" shall mean: (a) in the case of the African Development Bank and the Nigeria trust Fund, the Member Countries of the African Development Bank.

- (a) Natural Persons: A natural person is eligible if he or she is a national of a Member Country of the Bank, or a State Participant of the Fund. Where a person has more than one nationality, such a person shall be eligible if the nationality indicated in his or her bid is that of a Member Country of the Bank, or a State Participant of the Fund.
- (b) Corporations: A corporation is eligible if it satisfies the following criteria:
 - 1. it is incorporated in a country that is a Member of the Bank, or State Participant of the Fund;
 - 2. it is a national of a country that is a Member of the Bank, or State Participant of the Fund, as determined by the law of its place of incorporation;
 - 3. it has its principal place of business in a country that is a Member of the Bank, or State Participant of the Fund.
- (c) Joint Ventures and Associations: An unincorporated joint venture, partnership, or association, shall be eligible if at least 60% of its individual, or corporate members, satisfy the eligibility requirement for individuals or corporations.

Eligibility of the Goods, Works and Related Services

- 3. In order to be eligible, the goods to be procured must have been mined, grown, or produced, in the form in which they are purchased, in an Eligible Member Country.
- 4. For works contracts, which may include civil works, plant construction, or turnkey contracts, the contractor must satisfy the nationality criteria of eligibility, either as a natural person, or corporation, or joint venture and association. Labour, equipment, and materials needed for carrying out the works contract, shall be supplied from Eligible Member Countries.
- 5. For contracts, which have been awarded on the basis of Cost, Insurance and Freight (CIF), or Carriage and Insurance Paid (CIP), bidders shall be free to arrange for ocean and other transportation, and the related insurance, from any Eligible Member Country. On the other hand, where goods are shipped on FOB basis, and the Bank has agreed to finance transportation and insurance separately, which are arranged by the purchaser, under a separate contract, the Bank shall be satisfied that the services are supplied from Eligible Member Countries.

C. Eligible Countries

The Last Mile connectivity Project is financed by the African Development Fund. Therefore the African Development Fund permits firms and individuals from all countries to offer goods, works and services for the Last Mile connectivity Project funded by ADF.