



CABEI

**Central
American Bank
for Economic
Integration**



Policy for obtaining goods, works, services and consultancies with CABEI resources

DI-52/2020

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I. INTRODUCTION

The Central American Bank for Economic Integration (CABEI) is an international multilateral development financial institution, whose resources are continuously invested in projects with an impact on development to reduce poverty and inequalities, as well as to strengthen regional integration, granting special attention to environmental sustainability and its contribution towards the strategic axes of social development, competitiveness and integration.

As part of the solutions provided by CABEI, the present Policy has been developed to promote the effective integration of markets by means of using common policies in the member countries in order to ensure that the procurement of goods, works, services and consultancies is carried out efficiently and effectively, while contributing to the achievement of the Bank's objectives.

II. OBJECTIVE

Establish the guidelines that must be met by the Borrowers/Beneficiaries of CABEI for the procurement of goods, works, services and consultancies that are required for the execution of operations.

III. SCOPE

This Policy, as well as its complementary regulations, are applicable to operations financed by CABEI totally or partially with its own resources, in which procurement procedures are managed by third parties, as well as for operations that are approved with funds from third parties managed by CABEI (trust funds), in which it is so determined in the trust fund agreement, regardless of its denomination.

IV. ABBREVIATIONS AND TERMS

- CABEI or Bank: Central American Bank for Economic Integration.
- CEIA: Internal Executive Procurement Committee. (Spanish acronym)
- CGA: Procurement Management Committee. (Spanish acronym)
- GPP: General Procurement Plan.

V. RELATED DOCUMENTATION

- Norms for the Application of the Policy for obtaining Goods, Works, Services and Consultancies with CABEI resources

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VI. DEFINITIONS

- **Operation:** For the purposes of this Policy and the procedures for which its implementation is regulated, this term shall be used to refer indistinctively to projects, to refundable or non-refundable cooperation or technical assistance, programs, special operations or other financing modalities provided by CABEI as an “Operation” that is framed within the scope of the Policy.
- **Borrower/Beneficiary:** This term shall be used to refer indistinctively to all Borrowers and Beneficiaries that are framed in the scope of this Policy including, when relevant, to executing agencies related to such operations.

VII. DEVELOPMENT

CHAPTER I - GENERAL PROVISIONS AND PRINCIPLES

Article 1. Objective. To determine the guidelines that must be met by CABEI Borrowers/Beneficiaries for the procurement of goods, works, services and consultancies, that are required for the execution of projects, programs, technical cooperation projects and other operations through loans, financial cooperation, technical cooperation, special operation and any other financing modality approved by CABEI, which are financed with its own funds or with funds from external sources that the Bank is managing.

Article 2. Application of the Provisions. The provisions contained in this Policy shall apply, considering, in each case, the sector to which the financing corresponds and without prejudice to the provisions of Article 5.

When the financing of an operation is granted jointly with another institution, each one will independently apply the provisions that govern or regulate the procurement processes. However, when possible, CABEI will seek to apply its provisions.

In cases where an international credit organization finances the majority of the execution of an operation in parallel to CABEI, all procurement processes may observe the application of the norms applied by that organization, provided that they respect principles similar to those established in this Policy and that its application is recommended by the CABEI Procurement Management Committee.

Notwithstanding the foregoing, and when it is deemed convenient by the financial entities of an operation, they may, by mutual agreement, and independently of the amount of their participation, define the preferential application of procurement policies and regulations of a specialized entity or organization acceptable to CABEI, for which it will have the recommendation of the Procurement Management Committee.

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In all cases, in operations where CABEI methods and modes are applied, procurement 100% financed with local counterparty resources must comply with the provisions established in national legislation, except in cases duly justified and authorized by the Procurement Unit

Article 3. Legal Relations. Legal relations between CABEI and its Borrowers/Beneficiaries will be governed by the respective contracts or agreements, which will establish the application of the norms and procedures for CABEI procurement, as well as specific regulations on procurement procedures deemed necessary.

The legal relations between the Borrower/Beneficiary and the bidders and future suppliers of goods, works, services and consultancies to be acquired for the execution of the Operation will be determined in the bidding or competition documents and in the resulting contracts.

In this sense, no supplier or entity related to such procurement may derive rights or demand payments from CABEI as a result of these bidding, contest or contract processes.

Article 4. Responsibility. The responsibility for the execution and administration of the Operations lies with the Borrowers/Beneficiaries, including the entire procurement process, including the preparation of documents related to the bidding or contest, the award, contracting, administration, execution and termination of the resulting contracts.

CABEI, for its part, is responsible for ensuring compliance with its procurement norms and procedures, for which it will exercise its right to give its non-objection and supervise the procurement processes.

The Borrower/Beneficiary is responsible for selecting the most convenient bid, understood as the offer presented by a bidder which, having met all the prequalification requirements, meets all the technical conditions and, in addition, offers the best economic conditions.

The Borrower/Beneficiary must clearly establish in the bidding or contest documents the factors that, in addition to the price, will be taken into account in the evaluation process of the technical and economic bids.

Article 5. National Legislation. When due to limitations related to the legal system of the country where the operation is executed, the Borrower/Beneficiary requests that national legislation be applied in substitution of this Policy, in order to demonstrate the non-applicability of this Policy, the respective opinion will be attached with the statement of the competent authority or body in the country and the recommendation of the Procurement Management Committee. Likewise, the norms on procurement that will govern the operation will be established in the financing approval resolution.

The Borrower/Beneficiary of the operation may apply, in a supplementary manner, the formal requirements or procedural details contemplated in the national legislation of the country where the operation is executed only in those cases in which said requirements are not included in this Policy or in CABEI procedures, and that its application does not contradict the basic principles or rules of economy and efficiency that must be respected in the procurement of goods, works, services and consultancies with CABEI resources.

Article 6. Provisions of External Sources. When external sources of financing establish the mandatory use of their procurement policies, procedures or special methods of procurement or regulations on the origin of the contracting and consulting companies, as well as on the goods and services to be incorporated in the operations and said provisions are acceptable to CABEI, it will be mandatory for the Borrower/Beneficiary to comply with said provisions.

Article 7. Basic Principles of Procurement Processes. CABEI recognizes and accepts the following as basic principles applicable to procurement processes: integrity, transparency, competition, equality, due process and publicity.

7.1. The principle of integrity implies that all those involved in the process must observe legal, ethical and integral behavior in all related activities, avoiding the occurrence of prohibited practices and reporting them in case they occur.

7.2. The principle of transparency recognizes that access to information regarding a bidding or contest must be open to all bidders simultaneously, from the beginning of the process until its termination.

7.3. The purpose of the principle of competition is to ensure the participation of the greatest number of qualified bidders so that the Borrowers/Beneficiaries can obtain the best conditions that the market can offer.

7.4. In order for there to be effective competition and without prejudice to the provisions of article 15, bidders must be considered equal. This principle implies avoiding any type of preference or discrimination that favors or harms some to the detriment or benefit of others.

7.5. The principle of due process involves establishing in the procurement processes and provided for in national legislation procedures, which allow a wide discussion of disputes and enable bidders to contest and present their respective defense.

7.6. The aim of publicity is to obtain the widest possible participation of bidders and to notify interested parties in advance about possible procurement that will take place due to operations financed by CABEI for works, goods, services or consultancies.

Article 8. Prohibited Practices. CABEI requires from the Borrowers/Beneficiaries and all individuals or legal entities that participate or provide services in projects or operations, whether in their capacity as bidders, borrowers, executing agency, coordinators, project supervisors, contractors, subcontractors, consultants, suppliers, beneficiaries of donations (and all officials, employees, representatives and agents), as well as any other type of analogous relationship, the following:

- a. Observe the highest ethical standards in all stages of the procurement process or in the execution of a contract.
- b. Refrain from performing any act or action that is framed or can be categorized as a Prohibited Practice.
- c. Report to CABEI, using the Reporting Channel or other reporting mechanism available to CABEI*, any act suspected of constituting a Prohibited Practice of which it has knowledge or has been informed.

*Report mechanisms are available at www.bcie.org.

In accordance with best practices, the following are considered prohibited practices:

- a. Corrupt Practice: Consists in offering, giving, receiving or requesting, directly or indirectly, something of value to unduly influence the actions of another party.
- b. Coercive Practice: Consists in harming or causing damage, or threatening to harm or cause damage, directly or indirectly, to any party or their property to improperly influence the actions of a party.
- c. Fraudulent Practice: Any fact or omission, including the misrepresentation of facts and circumstances, that deliberately or negligently deceives or attempts to deceive any party to obtain a financial or other benefit, own or from a third party, or to evade an obligation in favor of another party.
- d. Collusive Practice: Agreement made between two or more parties with the intent of reaching an undue purpose or unduly influencing the actions of another party.
- e. Obstructive Practice: Involves: (a) deliberately destroying, falsifying, altering or concealing material evidence for an investigation, or making false statements in investigations, in order to prevent an investigation into allegations of corrupt, fraudulent, coercive or collusive practices and/or threatening, harassing or intimidating any of the parties to prevent them from disclosing knowledge they have about issues relevant to the investigation or preventing the investigation from proceeding or (b) intentionally carrying out an action to physically prevent the exercise of contractual rights of audit and access to the information held by CABEI.

Article 9. Supervision. CABEI will supervise the procurement processes that are executed within the framework of the operations financed totally or partially with its resources in order to ensure compliance with the provisions established in this Policy.

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The documentation related to procurement processes in all its stages must be complete and available for the supervision of CABEI up to one (1) year after the definitive acceptance or reception of each stage or, as the case may be, of the end date of project execution. The Borrower/Beneficiary must provide CABEI's supervision with all the information at its request.

Article 10. Disclosure of Financing Approved by CABEI. CABEI will require that the Borrowers/Beneficiaries disclose, by their own means, the information related to the approved operations. Likewise, CABEI will disclose such approvals on its website or in any other established means.

CHAPTER II - GENERAL PROVISIONS FOR PROCUREMENT

Article 11. Procedures. The procurement of goods, works, services and consultancies related to Operations financed with CABEI resources must be carried out only through contracts with natural or legal persons qualified by the Borrower/Beneficiary and will be selected through the contracting procedures established in this Policy and its Norms for Application, which allow an adequate selection at market prices, whose costs are in accordance with the needs of the Operation. The foregoing shall not apply to procurement referred to in Articles 20 and 21 of this Policy.

Article 12. General Procurement Plan. The Borrower/Beneficiary must present, for the prior non-objection of CABEI through the Representation office or technical area responsible and before its realization, the description of the procedures applicable to the General Procurement Plan that will regulate the procurement of the goods, works, services and consultancies necessary to execute the operation.

For the proper management of procurement in the operation and in accordance with the particular characteristics thereof, the General Procurement Plan must consider the level of risk according to the nature and complexity of the procurement contemplated therein.

During the execution of an operation, with the prior non-objection of CABEI through the representation office or responsible technical area, the adjustments to the General Procurement Plan (GPP) that may be necessary pursuant to its execution may be carried out. The GPP must contain a projection of at least eighteen months with the procurement processes that are intended to be carried out in that period.

For all the above cases, the representation office or technical area responsible, will require the approval of the Procurement Unit for the issuance of the non-objection, taking into account the observations that are provided by said unit in this regard.

Article 13. Documents. CABEI, through the Procurement Unit, will prepare, update and make available to the Borrowers/Beneficiaries standard bidding and contest documents reflecting CABEI norms that regulate the procurement of goods, works, services and consultancies.



Based on these standard documents, the Borrower/Beneficiary will be responsible for preparing the documentation that will serve as the basis for prequalification, specific bidding and contest documents, simultaneous qualification (co-qualification) and notices for the procurement of goods, works, services and consultancies.

All final documents mentioned above must have the non-objection of CABEI through the representation office or the technical area responsible for the operation, with the support of other dependencies, for which the Borrower/Beneficiary will send copies of all of them, allowing CABEI to review them and propose, if necessary, the incorporation of its observations.

Failure to comply with these guidelines will entitle CABEI to reject participation in financing, even when this has been approved.

In the specific case of the bidding and contest documents and their amendments, the approval of the Procurement Unit must also be obtained in relation to the procedural issues established in this Policy and its Norms for Application.

Article 14. Due Process Guarantee. CABEI will require that the Borrowers/Beneficiaries of the operations in the bidding and contest documents to establish arbitration, without prejudice to other alternatives contemplated in the national legislations of the countries, as the most transparent method that enables a wide discussion of the controversies, in such a way that the bidders have the legal possibility of formulating challenges or defending themselves from those they receive, until their full resolution.

The Borrower/Beneficiary must inform CABEI about the presentation and resolution of controversies related to the application of its policies.

Article 15. Provisions for Bidders, Contractors and Consultants.

- a. In public bidding and contests for the procurement of goods, works, services or consultancies promoted in the framework of operations financed with CABEI resources, companies and firms from CABEI member and non-member countries may participate in accordance with the provisions of this Policy.

When in such biddings or contests, the most convenient bid is submitted by a bidder originating from a country that is not a CABEI member, it will be verified if in said procurement process, and within a range of above 15% of the most convenient bid when the selection is based on the price offered or below 15% when the selection is based on the qualification for the assigned scores, there are offers submitted by one or more bidders that are from member countries. If affirmative, the borrower will give the possibility to the best qualified of these to match their conditions to those of the offer selected as the most convenient.

If this negotiation fails, the borrower will proceed to make the same negotiation with the next best qualified bidder and so on until the bidders that were located within the above defined range are exhausted.

In order for a borrower to apply this guideline, they must incorporate the corresponding procedure into the bidding or contest rules in question.

- b. However, regardless of the procurement policy applied, companies or individuals may not be awarded, or be subject to extension of contracts with full or partial financing of CABEI, if they are included in the List of Prohibited Counterparts or any other CABEI list of ineligibility, nor those declared ineligible or sanctioned by the organizations recognized by CABEI for that purpose; nor those that have been declared guilty in a final judgment on issues related to prohibited practices by a competent authority, while the sanction is still in force.

Article 16. Consortiums. In international public processes for the procurement of goods, works, services and consultancies financed with CABEI resources, companies and firms from its founding member countries may participate in association with those from other countries, particularly from non-regional member countries, in order to foster the transfer of technology and knowledge to the region.

CHAPTER III - REGARDING THE PROCEDURES FOR PUBLIC SECTOR PROCUREMENT

Article 17. Procurement Prior to Financing Approval. At the request of the Borrower/Beneficiary, CABEI may recognize, with charge to the financing to be granted, the procurement of goods, works, services and consultancies carried out by the Borrower/Beneficiary of the operation prior to the approval of the financing, provided that such procurement has been carried out in a competitive manner and only through public bidding or contest processes, regardless of the stage of the process and in compliance with one of the following norms:

- a. CABEI's procurement policy and norms.
- b. The applicable national legislation on procurement in the country of the Borrower/Beneficiary.
- c. The policies and norms of other international organizations of a similar nature to CABEI.

For such effects, in relation to the above subparagraphs b and c, the Borrower/Beneficiary must submit to CABEI, for analysis and verification, all the reliable documentation demonstrating compliance with the norms applied, including non-objections, certifications and any other related documentation.

Additionally, to be recognized by CABEI, such procurement must have the following characteristics:

- 1. The procurement of goods, works, services or consultancies had been carried out by the Borrower/Beneficiary in a maximum period of eighteen (18) months prior to the approval of the financing.

2. The accumulated amount of the previous procurement does not exceed 40% of the total CABEI financing amount.

The Management Procurement Committee will issue its opinion and recommendation on such procurement in relation to compliance with the basic principles established in this Policy and in the Norms for its Application with respect to:

- a. Normative provisions applied
- b. Procedure applied

In all cases, the analysis of risks associated with the recognition of said prior procurement will be considered.

In the case that the operation is not approved, CABEI will not assume any responsibility for the anticipated procurement.

Article 18. Limits for Proceeding to a Bidding, Contest or other Procurement Modes. The following procurement ranges are defined for the procurement procedures of goods, works, services and consultancies:

Procurement mode or method	Amount limits (Thousands of U.S. dollars)		
	Goods and Services	Works	Consultancies
International Public Bidding or Contest	≥350	≥1,500	≥150
National Public Bidding or Contest	≥100 y <350	≥200 y <1,500	≥35 y <150
Application of National Legislation	>50 y <100	>50 y <200	N/A
Price or Qualifications Comparison	≤50		<35

In any of the cases indicated in this article, the Borrower/Beneficiary must have the non-objection of the representation office or technical area responsible for the operation prior to beginning the procurement process.

CHAPTER IV - OTHER PROCUREMENT PROCEDURES

Article 19. Application of other Procedures. When, due to special circumstances, the Borrower/Beneficiary deems it necessary to use a procedure that is different to that established by the procurement limit in Article 18 above, it may request CABEI to waive the application of the

provisions, provided that the procurement procedure proposed contains the basic guarantees of transparency that all procurement must meet.

The Norms for the Application of this Policy define the special circumstances that will allow the use of procedures other than those provided in the previous article. The case by case analysis will be the responsibility of the committee to which it corresponds, pursuant to the limits established in this Policy.

Article 20. Special Operations. When CABEI participates in the financing of such operations as concessions, build-operate-transfer (BOT) or build-operate-own (BOO), Public Private Partnership (PPP) or other types of participation or execution involving special or exclusive conditions or rights, CABEI in consideration of the nature of these operations may consider, negotiating or authorizing the use of other procurement procedures in accordance with the provisions of the scope of this Policy.

When the social objectives of the operation or of a component to be financed imply the participation of the beneficiary community, the strengthening of local capacities or the intensive use of labor, with the prior approval of the CGA, special procedures may be used, which should be included in the operational regulations/manual of the operation.

Article 21. Global Credit Lines. In the case of loans channeled by intermediary financial institutions destined to grant sub-loans to public sector Borrowers/Beneficiaries, the procurement will be regulated in accordance with the provisions of the contracts or agreements subscribed by the Intermediary Financial Institutions and the public-sector beneficiaries.

CHAPTER V - REGARDING THE CONFORMATION OF THE COMMITTEES

Article 22. Executive Bidding or Contest Committee. As the person responsible for the operation, the Borrower/Beneficiary will appoint an executive committee for the bidding or contest. This committee will be presided over by a coordinator who will be in charge of all technical and procedural aspects related to procurement processes, in accordance with the provisions of the Norms for the Application of this Policy.

The Borrower/Beneficiary must responsibly select the people that will make up this committee; CABEI will not be responsible for the capacities or performance of any of its members.

Article 23. Procurement Management Committee. The Procurement Management Committee (CGA, Spanish acronym) is established as the deliberative body to analyze and resolve cases that are submitted for the implementation of this Policy and other related regulations. As well as to other procurement policies that are applicable to operations financed with CABEI's resources.

The representation offices will present the cases before this committee for its consideration.

The integration, competence, operation, attributions and responsibilities of the Procurement Management Committee shall be determined by the Executive Presidency in the corresponding regulations.

Article 24. Internal Executive Procurement Committee. The Internal Executive Procurement Committee (CEIA, Spanish acronym) is established as the deliberative body to provide follow-up and compliance of CABEI's procurement policies, regulations and procedures.

The integration, competence, operation, attributions and responsibilities of the Internal Executive Procurement Committee shall be determined by the Executive Presidency in the corresponding regulations.

CHAPTER VI - REGARDING THE PROCEDURES FOR PRIVATE SECTOR PROCUREMENT

Article 25. Application of Policies to the Private Sector. In accordance with CABEI's policies, private companies are considered those that do not have government participation in their capital or those in which this is less than 50% of their capital.

The private sector must apply CABEI's policies on the appropriate use of approved resources in its financings, applying rules of economy and efficiency in procurement.

Article 26. Private Sector Procurement. Notwithstanding the provisions of article 25 above, CABEI allows the Borrowers/Beneficiaries of the private sector to use the different procurement procedures indicated in this Policy and its Norms for Application, which conform in their modes to the market practices for the type of procurement in question.

In any case, the private sector Borrowers/Beneficiaries must use procurement methods that ensure adequate selection at market prices and whose costs are appropriate to the needs of the operation, all of which will be supervised by CABEI through the representation office or technical area responsible.

In the event of prior procurement submitted by the possible Borrower/Beneficiary to be recognized as a counterparty contribution, the representation office or technical area responsible for the operation may evaluate and determine the value of the contribution and its possible recognition within the operation's Global Investment Plan.

Article 27. Conflict of Interests. The awards made by private sector Borrowers/Beneficiaries must have been negotiated in an impartial manner while taking into account their own financial interests and the purposes for which the financing was approved by CABEI.

When a shareholder of the Borrower/Beneficiary is also the contractor, they must present documentation to the representation office or the technical area responsible for the operation that demonstrates that the costs of the procurement in question approximate those estimated in the

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budget and those of the market and that the conditions of the respective contract are equitable and reasonable.

Article 28. Global Credit Lines. In the case of loans channeled by intermediary financial institutions intended to grant sub-loans to beneficiaries of the private sector, such as small and medium-sized enterprises, procurement under these sub-loans will be the responsibility of the Borrowers/Beneficiaries themselves, following the market practices used by the private sector.

CHAPTER VII - REGARDING THE DISCLOSURE OF PROCUREMENT FOR OPERATIONS FINANCED BY CABEI

Article 29. Project Cycle Software. CABEI will maintain updated information in the Project Cycle software, which will be fed with the information gathered in each of the representation offices and by the technical areas at the headquarters, under the coordination of the Public Sector Manager or its equivalent.

The system will enable CABEI to identify the financing requirements of the Borrowers/Beneficiaries and to follow up on the different operations that it intends to finance; in addition, it will provide CABEI with the current developmental state of the operations in their different stages.

Article 30. Disclosure of Procurement for Operations Financed by CABEI. Based on the information contained in the software application supporting the Project Cycle, CABEI will provide information regarding the biddings and contests that are held within the framework of the approved operations.

This disclosure will be made in the manner that is regulated in the procedures issued for that purpose by the CABEI Administration and through publication by different means, including electronic means.

Based on the information contained in the Project Cycle application software, CABEI will directly inform all its member countries about the procurement processes that are carried out within the framework of the financed operations.

CHAPTER VIII - REGARDING PROHIBITIONS AND SANCTIONS

Article 31. Non-compliance with this Policy and CABEI Procedures. CABEI reserves the right to refrain from financing any procurement of goods, works, services and consultancies when, in its judgment, in the corresponding procurement procedures the provisions of this Policy or the procedures that CABEI approves on the subject have not been complied with.

In addition, CABEI may declare a contract ineligible for financing if it concludes that the opinion or non-objection was issued on the basis of incomplete, inaccurate or misleading information provided by the Borrower/Beneficiary.

Article 32. Conflict of Interest Prohibitions. To guarantee the transparency of CABEI operations and that there is no conflict of interest, the following persons may not participate directly or indirectly in the supply of goods, execution of works, services or consultancies for operations financed with CABEI resources:

- a. CABEI officials or employees.
- b. The spouses and relatives of all said officials or employees up to the fourth degree of consanguinity or second of affinity, inclusive.
- c. In public sector financing, all individuals with family or business ties with the representatives of the Borrower/Beneficiary or its executing organization up to the second degree of consanguinity or second degree of affinity, inclusive.

The prohibition contained in paragraphs b and c above will not operate when the persons named therein prove that they had been dedicated, in a habitual manner, to carrying out the business activity object of the respective contracting, at least two years before the occurrence of the supposition of inhibition.

In any case, in the event of an official or employee directly or indirectly related to any operation financed with CABEI resources, it will be their obligation to excuse themselves from participating in all types of negotiations, meetings or internal or external discussions in which any decision related to such operation will be made.

Article 33. Procedures for Prohibited Practice Complaints. When complaints are received in the Reporting Channel or other means acceptable to CABEI, related to prohibited practices that occur during the processes of procurement of goods, works, services and consultancies or during the execution of a contract related to operations that are totally or partially financed by CABEI, it will proceed pursuant to its internal policies related to the subject.

In any case, and notwithstanding the sanctions imposed by the authorities of the country of the Borrower/Beneficiary, CABEI reserves the right to request the suspension of the contracting processes or the execution of the contract or contracts resulting therefrom, regardless of the state they are in. If CABEI requests the suspension of the contracting process or the execution of the contract (s) and this does not happen, it reserves the right not to finance the contract (s) resulting from those processes.