

PROCUREMENT OF THE ASIAN INFRASTRUCTURE INVESTMENT BANK: FIVE LEGAL ISSUES

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ABSTRACT

Each multilateral development bank (hereinafter “MDB”) has its own procurement policy regulating procurement in projects financed by it. This article aims to investigate those key institutional arrangements, in and out of an MDB procurement policy, that tend to impact the core procurement principles and standards in the policy. The topics addressed in this article are the impact of the non-resident Board system of the Asian Infrastructure Investment Bank (hereinafter “AIIB”) on procurement, compared with the executive Board of the traditional MDBs; the role of trust funds in MDB-financed procurement; state-owned enterprises (SOEs) as private entities in MDB-funded procurement; the choice of alternative procurement arrangements; and procurement-related complaints and disputes. The methods of investigating these issues include references to the law and practice of the World Bank, other MDBs, and the World Trade Organization (WTO). This article not only describes what these methods are regarding these issues, but also suggests what should be done to optimize MDB procurement results. There is a special focus on the procurement law of the China-led AIIB throughout the discussion.

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