

## **JOINT POSITION PAPER ON THE WORLD BANK PROCUREMENT REVIEW**

***From: Australia, Canada, France, Germany, the Netherlands, Spain, Switzerland, and the United Kingdom***

### **Introduction**

The Procurement Review currently being undertaken by the World Bank is welcome and opportune. The environment in which the Bank operates has changed, and new concepts and methods of procurement have emerged. The World Bank needs to be able to respond to these developments through its procurement policies and implementation practice. We would therefore like to support the World Bank in this effort. In this paper we list the issues that in our view should be addressed in the Review.

#### **A) The importance of procurement for development, reflected in the World Bank's operations**

Procurement is too often viewed as an administrative process, merely causing delays in project implementation. It is, however, a development issue in its own right. **Procurement is important for development**, both from a governance (i.e. anti-corruption) perspective, and as a policy tool that helps achieve value for taxpayers' money. It therefore deserves a proper place in the organisation and policies of the World Bank and its member states.

In line with the recognition that procurement is key to development, the **role of the procurement function within the bank should be strengthened** in terms of staff numbers, seniority and skills and procurement's centrality in the organisation. How can this be done, given the current highly decentralized procurement function?

With regard to staff skills, there seems to be a shortage of **technical skills necessary to deal with procurement**. Procurement is not only a matter of rules and regulations. Technical knowledge of the works, goods or services that need to be procured is essential in being able to advise on procurement.

There are certain organisational issues that prevent procurement staff from participating fully in country teams. **Procurement staff** must be encouraged not only to fulfil the role of compliance officer but also to **advise on the best ways to structure projects** in order to achieve the best procurement outcomes. This means involving procurement staff at an

earlier stage in the World Bank project cycle. Procurement should be fully integrated into project design.

Linked to this is the possibility for the Bank to consider using an **independent tender agent** to be present locally during a bidding process, especially during the phase of evaluation and awarding, as a possible way to (1) centralise responsibility for the quality of the bid; (2) strengthen the support provided in World Bank procurement procedures; (3) provide control of the procurement procedure, and, finally, (4) facilitate complaints management.

**Capacity building** in procurement has so far received insufficient attention. Resources for capacity building could come from a variety of sources. First, countries could pay for capacity building in procurement themselves, as part of the loan or as a fee-based service. This would increase ownership and commitment on the borrower's side. Second, the World Bank itself could re-allocate its own available funds for TA in order to finance capacity building. Third, bilateral donors could cofinance capacity building projects, either jointly or in parallel.

Finally, to improve the quality of the investments made it is not only important to look at the quality of the procurement process, but also at the quality of the bidding documents. Terms of reference with **results frameworks** containing clear indicators of quality and financial sustainability could be considered as a way of assisting in measuring the success and long-term effectiveness of the investments. Well-developed results frameworks could allow for (1) tighter contract management; (2) better reporting on the quality and lifecycle costs of a project; (3) strengthening of the local data provision and report preparation capacity and, for these reasons combined, (4) better corruption control.

## **B) Development effectiveness and value for taxpayers' money**

Since procurement is an important development policy tool which aims to achieve value for taxpayers' money, it is important to think about ways of applying it in the context of development effectiveness. Sustainability and quality issues are relevant, as is efficiency (through simplified procedures).

**Quality and value for money** are underrepresented in the studies undertaken for the Procurement Review – a missed opportunity. We hope these important and hotly debated issues will receive significant attention in the review.

To ensure tailor-made procurement, it is important to take a commercial approach and be informed about what the market has to offer. Old technology is sometimes a better fit, but lack of knowledge about what is available results in lower value for taxpayers' money. The World Bank should play a facilitating and/or advisory role in ensuring that the right thing is procured in the right situation. **Technical knowledge and continuous dialogue and partnerships with the private sector** are key in being able to determine what fits best.

We support moves to promote a larger role for quality aspects in tender procedures, including the **most economically advantageous tender (MEAT) approach**, particularly in a more advanced environment and for larger and more complex projects. We appreciate your taking into account the possible concerns about this approach, but encourage the Bank to analyse the clear possibilities and opportunities it offers and incorporate them into its review. Taking into account the heterogeneity of borrowing countries and sectors the Bank operates in, there must be ways to allow for greater consideration of quality in procurement decisions, while at the same time containing corruption. The Bank already uses some form of MEAT-approach in IT procurement. Quality is also taken into account in the procurement of consultancy services.

One of the more pressing disadvantages of a price-based method of procurement is the prevalence of **abnormally low bids (ALBs)**. ALBs often lead to poor quality and problems later in the contract implementation phase, when contractors seek to renegotiate prices. We encourage the World Bank to consider ways of addressing this challenge in a transparent way.

Bids could be designed in such a way that the size of the project and lots, as well as the admission criteria for bidders, encourage lesser known local companies to participate. This is particularly the case for **national competitive bidding (NCB)**.

In this era of performance-based lending, it is only logical to work more with methods of **performance-based procurement**. Where relevant, feasible and cost effective, competitive dialogue could be considered for use, as a means of increasing the quality of proposals, while taking capacity constraints and governance environment into account.

**Public-private partnerships (PPPs)** can be a beneficial way of financing and implementing major infrastructure works or services. They provide good opportunities to include life-cycle costs (e.g. maintenance) and quality considerations (e.g. environmental aspects) into the procurement process, transferring risks to the private sector and allowing other financing

partners to participate. PPPs should, however, only be set up under favourable legal and operational frameworks. Attention should be paid both to developing a pipeline of good projects and to strengthening legal frameworks in client countries and PPP management units. Greater cooperation with IFC, as well as earlier involvement of the procurement function in PPP processes, would be beneficial.

We also view environmental and social sustainability as elements of value for money and effectiveness and propose integrating these methods into procurement policy. We urge the World Bank, as an institution set up to promote sustainable development, to promote **environmentally and socially sustainable procurement**.

### **C) Fiduciary responsibility**

While moving towards a more flexible World Bank procurement policy, it remains important to provide the Bank with the tools and authority it needs to fulfil its fiduciary role. **There is a need to balance flexibility and efficiency with fiduciary responsibility and integrity**. In designing the new procurement control mechanisms, we encourage the Bank to give particular attention to contract management and execution, corruption and transparency. As a complement to control, the bank might consider a way of recognizing the efforts of countries who are making credible progress in improving the effective functioning of their systems.

Traditionally, the World Bank has paid little attention to **contract management**. This is also evident from the fact that the current procurement guidelines do not address the subject. However, contract management is often fully integrated into procurement processes outside the Bank. Most corruption, price increases and quality-related issues occur during implementation. On-site inspection is part and parcel of contract management and the Bank should consider appropriate ways of supporting this. One possibility to do this would be to use independent supervision engineers who could work closely with financial and institutional experts to monitor the efficiency and sustainability of the investments.

The revised GAC strategy should be guiding the Bank's efforts in tackling corruption in procurement: **integrate combating corruption** into the project design and build better corruption-resilient systems, rather than only looking at a limited number of corruption cases.

Currently, the intensity of transaction controls (prior and post reviews) depends on the risk associated with a project. Post reviews, for instance, cover a certain percentage of the

number of contracts under a World Bank project (the percentage coverage depending on the project's associated procurement risk). We welcome this risk-based approach, including when moving towards the use of country systems. We believe that in a transitional phase in which the Bank starts to allow the use of country systems, the Bank should not solely depend on the upfront broader procurement systems assessment and relinquish transaction controls. Instead, we encourage the Bank to find a **good risk-based balance between transaction control mechanisms** (following where possible countries' own rules and regulations) **and the overall upfront procurement system assessment**, without depending solely on one control mechanism.

**Transparency** is important in fighting corruption, and reinforcing transparency over the project lifecycle would contribute to reducing cost and time overruns. Therefore, any activity aimed at increasing transparency should be pursued, such as publishing spending data and using IT systems that make procurement and project data, including post review contract awards, accessible to the wider public (private sector as well as civil society organisations).

Last but not least, the World Bank and its borrowing countries must ensure that their own **procurement data** are improved and remain accessible to the public. Data should also be made more user friendly. Whether or not a country's own procurement system is used, **tender notifications for World Bank-financed international competitive bidding contracts should remain centrally accessible on the World Bank website**. This will ensure transparency for these key contracts and optimise the level playing field and international participation.

In addition, the World Bank should consider as part of the procurement review how to address the concern in particular of international bidders to have appropriate **complaints mechanisms** as a level of recourse to the World Bank. That would be of particular relevance in the context of transitions towards greater use of country systems, when applicable, and to dealing with the associated fiduciary risks. As a financier, the Bank has the ability to help resolve disputes in a more informal, amicable and faster way. Next to its active instead of reticent role, other recourse measures in the form of well-defined standard contract clauses on third party mediation and conflict resolution can be considered.

#### **D) Modularity in approach of country systems**

The World Bank should take a measured and tailor-made approach to different country situations and levels of capacity, regional trade agreements, market conditions, the

procurement environment and prevalence of corruption. One option for a differentiated approach could be to apply a greater level of guidance and control to the biggest and most complicated international contracts.

We support a **risk-based approach** which takes these elements into account and allows for a gradual approach towards country systems, different degrees of dependence on these systems, as well as different methods of procurement. The use of country systems should lead to quality improvements in procurement and should therefore be embedded in a medium term perspective. The term 'country systems' may cause confusion, as the Bank should be able to have different approaches within countries, depending on the executing agency, sector or region.

That said, decisions should not just be transaction-based: we encourage the Bank to **develop a clear framework** for assessing country systems jointly with partner governments, as an entry point for deciding which countries, executing agencies, sectors or regions could be eligible for use of country systems. Such a framework would also include a regular monitoring of these country systems in order to take stock of potential changes. Beyond facilitating diagnosis at transaction level, that would allow for a higher level of engagement in promoting quality improvements of country systems.

Flexibility is also required for better coordination and cooperation with other MDBs, regional trade agreements, the GPA, UNCITRAL and others. We would like to encourage the World Bank to harmonise as much as possible with these actors and treaties, as co-financing can be a suitable way to maximize impact of scarce resources.

Finally, it is clear that in exceptional circumstances, such as in **fragile states and small island economies**, a standard approach to procurement is not always feasible. There should therefore be room for tailor-made approaches within the overall policy. In fragile states, such approaches would not only allow for the necessary speed and simplicity but also contribute to development and stabilisation objectives.

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