



The World Bank

## Procurement Policy Review Feedback Summary

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**Date:** NOVEMBER 10, 2014

**Location (City, Country):** HANOI, VIETNAM

**Total Number of Participants:** 25

### **Overview and General Reactions:**

A half day consultation session with multi business stakeholders was conducted on November 10, 2014 in Hanoi. The participants were from bidder community (private and state owned companies who have participated in the Bank's financed projects or other public investment projects). The list of participants is attached.

Victoria Kwakwa, the Country Director made an opening speech, emphasizing the importance of bidder community's constructive and candid comments and suggestions for this first ever comprehensive review of the WB procurement policy and procedures. Vietnam was one of the countries consulted during the Phase 1 consultation launched in May 2012. Inputs from the Phase 1 consultations have resulted in the preparation of a Proposed New Framework on Procurement in World Bank Investment Project Financing, setting the stage for Phase 2 consultation (September – November 2014).

Elmas Arisoy, the Procurement Practice Manager, GGP-PIO made an initial presentation on the rationale of the Review, summary of feedbacks received from Clients through the first round of global consultation, the overall reform timeline, and the key proposed principles and changes to the Bank's procurement policy. The meeting was followed by open discussions and responses to the guiding questions posted for consultation, with participation of Joao N. Veiga Malta, Practice Manager, OPSOR and Acting CPO, and Martin Sterlicchi, JPA, OPSOR in WB HQ through VC connection. The Bank's Hanoi procurement team members also joined the consultations.

## General Reactions:

- Many participants attended the 1st consultation workshop held in Hanoi in September 2012. They expressed their appreciation of the progress of the World Bank's procurement policy review.
- The participants appreciated the WB's continuous contribution in public procurement reform in Vietnam. The Bank's procurement policies and guidelines has been considered as an advanced model and standard for public procurement in this country.
- The participants welcomed the Bank's effort to take more flexible approach in considering the country context, market conditions, value for money in order to have good procurement.
- The participants wished the Bank to address and tackle certain issues including Conflict of Interest, SOE eligibility, harmonization of regulations and procedures; transparency and fairness; improvement of the country capacity for both Government agencies and bidder community etc.

### Specific Feedback from Stakeholders

#### 1. How should the Bank implement support to borrower procurement capacity building and institutional strengthening?

- Capacity building is very important. The participants acknowledged the Bank's effort in organizing and delivering a lot of training activities on WB policy and good international practices in the country and suggested the Bank to do more. In addition, the Bank should support the organization of training on Government's procurement regulations, it is the fact that inconsistent application of national law still exists.
- The Bank should continue to support the strengthening of national procurement system.
- Capacity building is also needed for bidders community (contractors, suppliers, consultants), especially SMEs as they are interested in public procurement opportunities. WB should prioritize capacity building for SMEs, so that SMEs can become qualified for winning public procurement contracts.
- There need to be more specific and encouraging policy on promoting SME development.
- For project requiring specialized technical knowledge, the Bank should provide the Borrower with technical training in the related area, and employ consultants to support the Borrower.
- SOE eligibility remains a complicated issue, especially when SOEs in Vietnam are being equitized. The Bank's policy should be more specific. The Bank's related guidance notes should be disseminated to local implementing agencies at all levels to ensure correct understanding and consistent application.

## 2. How should the Bank operationalize the potential broader use of value-for-money criteria in borrower contract award decisions?

- How to control and ensure the setting of relevant bid evaluation criteria? Restrictive or excessive requirements shall limit competition or delay evaluation process. How to mitigate the risks associating with bid evaluation criteria? *The Bank team clarified that procuring agency is responsible for bidding requirements and evaluation criteria and ensuring non restrictiveness of the requirements and fairness to all bidders. The Bank does not involve in each and every step, even in prior review packages. Bidders have responsibility to raise their concerns over bidding requirements to procuring entity, with a copy to WB. The Bank will monitor complaints in more involved manner, and will continuously support the Clients to avoid restrictiveness of bidding requirements.*
- Optimal price vs lowest price? The participants fully supported the Bank's reconsideration of lowest evaluated compliant bid evaluation method. Other non-price factors should be evaluated to ensure adequate technical and financial capacity of awarded bidders.
- Some participants expected the new policy to clearly stipulate under which circumstances consulting firms who implement project preparation and Detailed Designs are eligible to participate in the procurement of other consultancy packages under the same Project such as Supervision assignments. *The Bank team responded that the new policy will consider CoI and eligibility issues by looking at the facts of each and every case; perceived CoI still needs to be considered. Consultants in particular case needs to raise concerns or findings about CoI. Procurement strategy will identify the possible COI issues upfront and help to design the projects to address such concerns and avoid problems during implementation. Bid evaluation criteria need to ensure none discrimination, no limiting competition. VFM does not change that approach, but VFM just enables the increase of dimension of criteria.*
- Given the important role PMUs play in controlling VFM, there should be in place criteria on selection/establishment of PMUs, PMU personnel must have relevant and adequate qualifications and experience to be able to manage project implementation. In reality weak capacity of many PMU staff created lots of difficulties during project and procurement implementation, especially bid evaluation. WB should use its influence in this regard. *The Bank team clarified that WB does not mandate PMU establishment for every WB financed project. PMU establishment for each project is the GoV's requirement. Project management is responsibility of the Government, WB does not want to prescribe each and every step of project implementation, but always emphasize the capacity building at project, institutional and national levels, so that GOV's capable to do good procurement not only for WB projects, but also for other public procurements.*
- Some participants raised concerns over tender collusion, and wondered if VFM criteria would help solve this problem. *The Bank team clarified that cartel/collusion exists in the market, both private and public sectors, thus with or without VFM, cartel exists. VFM would not have negative or positive impacts on this issue. In order to break up or identify evidence of cartel, other work should be done, e.g. market survey (worldwide, regionwide or nationwide).*

- Vietnamese Procurement Law 2013 expands the application of 1 stage - 2 envelopes and merit point method for procurement of goods, works and non-consulting services which should help achieve VFM. The Bank should consider this approach.
- Consultant selection: VFM criteria should include availability of key experts, and flooring price to ensure quality. This would help control the risk where a consultant passing minimum technical score offers extremely low price (half of the Client's estimation), then wins the contract.
- Procurement of goods: Should a criterion on the equipment origin be included in bid evaluation? How to reflect the coefficient of goods manufactured in developing countries vs developed countries for bid evaluation purpose? *The Bank team clarified that this type of question has been asked in many Borrower countries. WB policy does not allow the country discrimination. While country of origin shall not be a criterion for contract award, technical specifications/functional requirements should be appropriately prepared, the requirements of durability, O&M cost, after sales supporting network etc. could be subject to evaluation. VFM allows implementing agencies to score better products; life cycle cost is considered to identify added value of a particular product.*
- VFM should not only mean low price, VFM should imply quality services, quality solutions/products. In the current policy, the Bank attaches more importance on price factor. In some projects on technology solutions we participated, price weight was rather high (up to 80%). The weight of price should be variable depending on project nature. In projects with technology complexity, higher weight should be allocated for technical solutions, technology and resources, the price weight should be reduced.

### **3. How should the World Bank target its procurement staff resources to get the best results?**

The Bank procurement staff should be equipped with not only the Bank's policy and regulations, but also technical expertise in related sectors so that they are capable to appraise the cost of procurement package. In order to be qualified for this task, the Bank procurement staffs need to receive training on cost estimation in Borrower country, and in specific sectors/projects.

### **4. How and when should alternative procurement arrangements be used for procurement in Bank projects and how should they be assessed?**

- A participant suggested that WB Procurement GL should be used as a core, with modifications tailored to adapt specific contexts.
- Another participant shared that Vietnam's procurement and investment regulations are rather detailed. Currently most of Borrower agencies in Vietnam follow both the Bank's and the Government's regulations in implementing procurement activities. This practice creates a lot of difficulties for procurement officials as well as delays in project approval process. The participant recommended:
  - The Bank should use Vietnamese procurement/investment regulations for Bank financed projects

- The Bank should only monitor the key project milestones and involve in important steps such as bid evaluation criteria, bid evaluation methodology...
- The Bank should target its resources for post review, instead of prior review.

#### **5. How should sustainable procurement matters be addressed in Bank-financed contracts?**

- The Bank should set definitions on preferences for sustainable procurement
- The preference benchmarks should be applied differently depending on the Borrower's country context, in line with sustainable development policy of Borrower country (e.g. preferences for private sector in Vietnam, preferences for green energy in the countries having this energy resource)
- Preferences shall be given in the form of scoring in criteria used for evaluation of supplier, product/solution.

#### **6. How should the World Bank manage fraud and corruption issues in the procurements it finances?**

- Government of Vietnam places the importance of preventing and fighting against F&C. This is a big challenge as it is difficult to find out evidence. WB should consider various aspects of a good and efficient procurement to avoid the risk of selecting a not qualified bidder.
- It is necessary to assess capacity of both implementing agencies (I/As) and bidders, and give bonus scores for the entity with strong capacity or penalty in case of weak capacity.
- Having donors' review of procurements handled by local authorities is a good solution to address F&C issue. *The Bank team added that bidders have lots of responsibility to raise concerns or allegations to I/As and WB. Bidders should pay attention to bidding documents to find out any irregularities or restrictiveness and timely raise their findings or concerns.*
- Quality of Bidding Documents is critical for enhancing transparency and fair competition. According to the Vietnamese Procurement Law, BD is subject to appraisal by 3<sup>rd</sup> party. The WB should consider this practice. *The Bank team commented that it is not uncommon, and that some jurisdictions in the world allow this 3<sup>rd</sup> party appraisal/assessment. But it must be done systematically, ensuring that comments by 3<sup>rd</sup> party should be properly addressed.*
- Another suggestion is employing Procurement Agent specializing in handling procurement, then assigning contract management work to the I/A.
- Information disclosure: There need to be clear contact information for submission of complaints and questions during procurement process. *The Bank team clarified that the new policy include requirement on publication of procurement information, the Bank will expand and enhance information disclosure through Open Data/Open Contracting.*
- The Bank should target its resources for post review and regulate sanctions to be imposed in case F&C is discovered.

#### **7. What would be suitable procurement metrics that the Bank should use to improve performance?**

<b>8. What role should the Bank have with regard to complaints monitoring?</b>
Complaint monitoring should be a part of the Bank's post review work.
<b>9. What should be the Bank's role in contract management, and with regard to improving performance of suppliers?</b>
<ul style="list-style-type: none"> <li>• Contract management: It would be helpful to have WB's support in contract management. Due attention should be paid to managing contract implementation and extension of time (EOT) issue to ensure efficiency and economy of contract performance.</li> <li>• The Bank should focus on monitoring key milestones of contract implementation schedule, supervision of performance of bidders' commitments.</li> <li>• For small value contracts, securities (AP, Performance) should not be required.</li> <li>• Enterprises appreciate if the Bank's share knowledge and experience in enforcement and implementation of contract provisions.</li> <li>• Performance should be measured based on milestones of procurement procedures</li> </ul>
<b>10. General comments on other issues emanating from the Bank's proposals?</b>
<ul style="list-style-type: none"> <li>• PMU's performance: role of PMUs is critical for achieving VFM, how to ensure PMUs' sufficient and relevant capacity. <i>The Bank team clarified that implementation arrangements and PMU organization are the Government's responsibility, it is not procurement issue, and shall not be dealt with the Bank's Procurement Policies. However, since it relates to overall implementation arrangement, it should be addressed in dialogues between the Bank management and GoV.</i></li> <li>• The Bank should increase NCB threshold for Vietnam: Based on market condition and country context for certain industry, if local contractors are capable, NCB should be allowed. <i>The Bank team shared this viewpoint and emphasized that procurement thresholds should be different from sector to sector; instead of 1 set of thresholds, various thresholds for sectors shall be in place depending on local industry development and the country context.</i></li> <li>• Packaging plan: Small size packages should be designed to encourage small and medium enterprises in local market.</li> </ul>

