



The World Bank
Procurement Policy Review
Feedback Summary

Date: September 25, 2012

Venue: Hanoi, Vietnam

Total Number of Participants: 21

Overview and General Reactions

The Consultation meeting with Vietnamese Government officials on the Bank's Procurement Policy Review was held in Hanoi on September 25, 2012. Participants were representatives of the national Public Procurement Agency, line ministries, executing agencies and project management units working on projects funded by WB. The list of participants is enclosed.

Ms. Elmas Arisoy made an initial presentation on the rationale of the Review, the process to be executed, and the challenges in accommodating current trends in the Review process. The meeting was followed by open discussions and responses to the guiding questions posted for consultation.

Overall feedback

- Participants highly welcomed the review initiative and appreciated it is a timely change.
- Most of participants emphasised the challenges in implementing SOE eligibility provision due to specific circumstances of Vietnam where SOEs are key players in a number of sectors but majority of them do not satisfy the current eligibility requirements. The group strongly voiced the need to build a more flexible policy approach on SOE eligibility that better reflect country's conditions and market's context to ensure the efficiency of bidding.
- Participants recommended that the Bank's new guidelines should only cover general principles, policies and procedures which are commonly acceptable to all Borrowers' countries. Other details should be governed under country's procurement guidance notes to provide flexibility depending on specific conditions of countries, sectors, markets, risks, capacities, etc.

- Participants wished that the revised Guidelines would ensure harmonization with the procurement policies of other development partners as well as other international treaties such as TPP, WTO, etc..
- Participants expressed the view that the Bank should be more active in supporting law reform in procurement.
- Participants recognized that the Bank’s Guidelines are well-respected because they are always part of the legal agreement between the Borrower and the Bank.

Specific Feedback from Stakeholders

1. The analysis presented in the Initiating Discussion Paper captures the key issues and concerns that should be addressed in the review. Are there other challenges which the review should try to address?

- Countries are striving towards simplification of administrative procedures. The revised policy should go in line with this direction.
- The review should take into account new trends such as e-procurement, greater needs for fighting against fraud and corruption, growing tricks of bidders, etc.
- Areas of investment has been expanded to social sectors, public utility services, community development, etc. The revised policy should be adaptable to those new areas of investment, in addition to the traditional infrastructure sectors.
- There are new models of procurement such as selection of service providers, selection of O&M contractors, selection of PPP investors, etc. The guidelines should be revised to accommodate these emerging trends. Further detailed guidances from the Bank on procedures, standard bidding documents, sample forms of contracts, etc. would be highly appreciated.
- The SOE eligibility requirements in the current Guidelines are a major obstacle for many projects funded by WB and ADB in Vietnam, as in a number of sectors, the majority of strong companies in the market are state owned. The Guidelines should be revised to provide more flexibility for tackling this matter.
- Vietnam is participating in the negotiation for TPP agreement, which has one chapter on Government procurement. Another international treaty is the WTO’s Government procurement agreement. The Bank should consider this context to harmonize the Guidelines with international agreements.

2. Taking into account the new concepts of public procurement and the broader context of public sector management best

practices, what type of changes should the Bank take into consideration in modernizing its procurement policies?

- The Bank should consider setting up a reasonable benchmark of bid prices to prevent extremely high or low bids.
- The bid/proposal evaluation methods should be reviewed to keep up with the changed conditions.
- An issue highlighted by participants was the current practice of assessing bids based only on documents submitted by the bidders. Nowadays bidders have accumulated experiences in bidding and become more tricky. The documents could be cleverly presented to win the contracts but do not necessarily reflect bidders' actual capabilities. The review should take this into account and find out suitable mitigation measures. One of the recommendation is to establish a database of consultants/contractors awarded under Bank financed projects. This database would be helpful for the Borrowers to cross check the information provided by the consultants/bidders to mitigate the risks of evaluating falsifying documents. It will also serve as a good source of reference for Borrowers to seek for expression of interests from consultants.
- The revision should consider an appropriate way to manage professional liability of Consultants, as performance security is not required for consulting services. Mitigation measures to deal with frequent replacements of personnels by the consultants should also be considered.
- Provisions of the Bank's standard contracts grant Engineers the power to make decisions in various situations, however, ultimately the Borrowers have to take responsibilities to the law if the decisions are not appropriate. The review should take a look into this matter and work out a more transparent and fair solution.
- The revised Guidelines should introduce more specific penalty mechanism for dealing with violations in bidding. Responsibilities of related parties for wrong decisions in bidding and poor contract management should also be addressed.
- The revised policy should expand eligible financing expenditures to items such as land acquisition and compensation cost, taxes, appraisal costs, etc. to ease the burden of local counterpart fund.
- The difference in nature of partners, such as NGOs, should also be taken into account in the revised policy (this refers to the status of non-sovereign recipients of Bank funds such as for trust funds).

3. In light of various levels of risks and capacity among borrower agencies, how can the Bank best ensure that funds provided by the Bank are used for the purpose intended?

	<ul style="list-style-type: none"> • The Bank should establish criteria and conduct regular country/sector procurement capacity assessment. Adjust prior review thresholds based on country/sector risks and institutional capacities. • The Bank should pay closer attention to contract management to strengthen its commitments in providing fiduciary assurances.
<p>4. The Initiating Discussion paper highlights the multiplicity of demands and contexts procurement is serving today –diverse sectors, instruments, delivery mechanisms and clients with varying institutional frameworks and governance conditions. What recommendations could help the Bank best tailor its procurement requirements to meet these diverse and varying demands and needs?</p>	
	<ul style="list-style-type: none"> • The Bank’s new guidelines should only cover general principles, policies and procedures which are commonly acceptable to all Borrowers’ countries. Other details should be governed by country procurement guidance notes which is made based on specific conditions of countries, sectors, markets, etc.
<p>5. What could the Bank do to simplify and streamline its current policies and to take advantage of the potential gains offered by e-procurement and IT-based tools?</p>	
	<ul style="list-style-type: none"> • The Bank needs to promote as well as support countries to promote the use of e-procurement as a way to simplify procedures and improve efficiency, transparency.
<p>6. International consensus calls for use of country systems and harmonization among development partners. What can the Bank do to advance the use of country systems and harmonization among partners?</p>	
	<ul style="list-style-type: none"> • The harmonization of the Bank’s and the Borrower’s regulations is essential. On one hand, the Bank should further actively involve in the ongoing revision of Vietnam public procurement law to align it closer to the Bank’s policies and good international practices. On the other hand, since it is impossible to have an one size fits all, it is suggested that at the time of credit negotiation for each project, specific procurement guidance notes will be provided as annex to the Financing Agreements to provide flexibility. • It is suggested that the Bank help the Borrower to strengthen the national procurement system that is harmonized with policies of development partners. Moving to country system should be an option for the future. • The Bank is suggested to deliver training to not only staff of project executing agencies but also officials of Government agencies to disseminate understanding on the Bank’s procurement policies and procedures as well as good international practices.

7. What suggestions do you have to monitor and evaluate the Bank's Procurement policies and assess their impact and effectiveness?

- It is suggested that the Bank develop a system of criteria for evaluating the efficiency of the bidding process from multiple angles.

8. Do you have other suggestions to help the Bank develop a proposal for a new policy framework and guiding principles for revisions to the Bank's procurement policies?

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