Background Paper

Review of World Bank’s Procurement Policies and Procedures

USE OF PROCUREMENT COUNTRY SYSTEMS

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I. Objective

1. The objective of this paper is an attempt to define country systems and provide a quick snapshot of the Bank’s experience and approaches to the use of country systems in its investment lending operations as background for the Bank’s ongoing Procurement Policy Review. It reflects the challenges that development partners face in using country systems and the Bank’s experience in supporting public procurement reforms and capacity building. The paper highlights key lessons that can be used to establish a common starting point to assess possible options for the way forward for using country systems under the ongoing procurement policy review.

II. Improving Aid Effectiveness by Increasing Use of Country Procurement Systems

2. The idea of strengthening and using country systems came from many years of experience in development that shows that when donors bypass country systems and policies in favor of the donors’ own policies and procedures, the sustainability of their efforts are undermined along with the country’s ability to manage their own development. The use of national systems promises to alleviate the load on recipient countries of having to deal with multiple policies, in particular procurement rules; make it easier for donors to co-finance operations; and in the long run reduce the transaction costs for the countries. Most importantly, it also provides a strong incentive for countries to bring their systems to an acceptable standard and thus scale up development by improving the return on all government expenditures not just those funded by donors.

3. This concept resulted from two important milestones. The first milestone was the endorsement of the Paris Declaration on Aid Effectiveness\(^1\) in 2005 and reiterated in September 2008 in the Accra Agenda for Action that encourages donors to use country procurement systems and procedures to the maximum extent possible. Under the Paris Declaration and Accra Agenda, donors and recipient countries committed, inter alia, to work together towards improving the country procurement systems with a view to increasing reliance on national systems by donors in donor-funded projects. The second milestone was the development of the Methodology for the

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\(^1\) Paris Declaration on Aid Effectiveness - Ownership, Harmonization, Alignment, Results and Mutual Accountability – Paris, February 28-March 2, 2005
Assessment of Public Procurement Systems (MAPS)\(^2\) in 2006, by a Working Group of the OECD/DAC Procurement Joint Venture led by the World Bank that became a standard international procurement benchmarking tool used by governments and donors to assess national procurement systems. MAPS became the first and only tool that defines acceptable international procurement standards\(^3\) for a procurement system that looks at not only the traditional public procurement system (rules, regulations and institutions) but also the larger environment in which public procurement systems operate (e.g. the capacity and skills of management and procurement officers, the governance structure of the country, the investment climate, etc.), that impact the system’s performance.

### III. Defining Country Procurement Systems

4. There are many dimensions to what country procurement systems mean and options as to how to define them, with many donors having gone their own way. Some define country systems to be only the set of procurement procedures, as laid out in the country’s legal framework. This definition was used by OECD for reporting on the use of country systems for purposes of the Paris Declaration. The Bank goes further than that with several definitions in use. The first is the operational definition used for purposes of procurement reform and capacity building efforts, by and large, inherent in the MAPS. That definition sees country systems as composed of four distinct elements: the legislative framework, the institutional and managerial capacity, procurement operations and markets, and integrity and transparency. The second was the approach taken under the Use of Country Procurement Systems Piloting Program which considered a broader environment in which the procurement operations take place beyond what is mandated under the MAPS. The third is the set of procurement procedures for reporting on the use of country systems for purposes of the Paris Declaration and in its investment lending as described in paragraph 11 below.

5. A country procurement system is not a single, unitary, uniform procurement system. Rather multiple systems operate within most countries in regard to procurement. In many countries there are different legal regulations that govern procurement procedures at different levels of government, entities, and sectors. Country procurement systems are multi-dimensional: going beyond the legal framework and regulations of the country’s procurement process, the institutions managing the procurement process and the people implementing, overseeing and monitoring the procurement process are also part of the system as depicted in Figure 1 below.

\(^2\) OECD/DAC - Benchmarking and Assessment Methodology for Public Procurement Systems.

\(^3\) For example, it would be important to adjust MAPS in light of the first five years of experience with its use.
In the above depiction, the procurement regulations established by policy makers (and/or regulatory bodies) thus becomes the institutional framework within which procurement professionals implement their authorized and funded procurement programs or projects. These are further subject to controls that provide feedback to the policy makers and program management for adjustment and improvements in the whole system. It is difficult to describe the entities that carry out the various functions in each of the above boxes as they differ in size, complexity and structure from country to country and sector to sector.

6. Moreover procurement systems are related to broader national systems that deal with external controls, monitoring and oversight, contract execution, and performance. In this context, the definition ought to embrace those functions as well, which involve actors such as the auditors, the public sector entities, the courts, and other stakeholders such as the private sector, the civil society, the justice system, etc. as shown in Figure 2. There are no doubt many variations in how those institutions are set up in any country and how they interact and they can vary considerably in capacity. It is this diversity within the system that complicates the assessment of county procurement systems especially at the operation or project level which is the key concern for donors when assessing the risk of using country procurement systems.

7. Another necessary element of country system is to cover the complete procurement cycle. The procurement system ought to begin at the point when a procuring entity’s requirements are identified, budgeted and described, continues through the selection of contractors and suppliers, award of contracts, contract financing, contract performance, contract administration, payment and ends with the completion of the contract and resolution of all claims and warranties. Achieving results and value for money involves all elements of the entire procurement cycle.
8. The scope for defining country systems is vast and an agreed definition will need to set some limits as to which institutions are involved. For example, should country procurement systems be defined to be the elements or parts of the traditional public procurement system such as: policy formulation and management, rules and regulations, procurement implementation, controls and feedback as depicted in Figure 1? Or should country procurement systems include the broader environment that influences and affects the public procurement systems’ ability to accomplish its goals just like other systems that would include the public sector management, the justice system, the investment climate, and the legal, political, social, economic environments as depicted in Figure 2?

9. In constructing a workable definition of country procurement systems, the following should be further considered and discussed:

   - Country systems are: (i) multi-dimensional and go beyond the legal framework or rules and regulations per se; and (ii) not necessarily unitary in any given country and that there may be a multiplicity of systems.

   - Procurement systems should cover the complete cycle, that is, from project design to contract execution to the use of the procured asset by the state.
In practice, there may be different definitions for different purposes and the Bank should utilize whichever definition best suits the operational context. For example, for purposes of supporting procurement reform efforts in a given country, the Bank might take the larger view of country systems (Figure 2) which encompasses the systems’ operating environment.

For purposes of capacity building and institutional strengthening, the narrower definition (Figure 1) may be used. The definition to use for specific projects - as understood by the Bank—may vary even further and raises other issues of practicality and coherence with the way the Bank exercises its fiduciary mandate and assesses the capacity of the procuring entities. These differences would have to be reconciled.

IV. Use of Country Procurement Systems in Bank-Supported Operations

10. Procurement under Bank-financed Operations is always carried out by the country. Although in some instances, projects (and their procurement) are implemented by parallel project implementation units (PIU), most of the time, the Bank relies on countries’ institutions which issue, implement and control both government and donor funded projects. From that perspective, borrower systems have in fact been used to a large extent under the Bank’s current policies for decades, starting with the institutions and procedures that are used under National Competitive Bidding and other acceptable procurement methods. Over the years, the Bank has gradually increased prior review thresholds for ICB, thus further increasing its reliance on the country’s institutions. In addition, consistent with commitments made by the global development community and focus on development effectiveness, the Bank has been scaling up attention and support to public procurement. It has moved beyond what happens under individual Bank financed transactions by experimenting and adapting its lending instruments and delivery mechanisms in order to be better able to use country systems.

11. Use of Country Procurement Procedures in Sector Investment Lending. The Procurement Guidelines, applicable to all Sector Investment Lending (SIL), provide a wide range of procurement methods that are partially or fully based on the country’s practices and procedures. In addition to DPLs, which typically support a program of policy and institutional action and finance the borrower’s overall budgetary expenditures, the World Bank has increasingly relied on acceptable country procurement procedures in implementing Bank-financed operations through the use of the following procurement methods described below:

- National Competitive Bidding (NCB) is the competitive bidding procedure that uses national procurement procedures for the acquisition of goods, works, and non-consulting services which, by their nature or scope, are unlikely to attract foreign competition. As
discussed later, the Bank reviews and modifies the country’s procedures for the project only in order to align the local procedure with the Bank’s policies.  

- **Shopping** is appropriate for procuring limited quantities of readily available off-the-shelf goods or standard specification commodities of small value or simple civil works of small value when more competitive methods are not justified on the basis of cost and efficiency. Although this method does not explicitly refer to country shopping procedures, in many instances, these procedures are similar to the Bank’s requirements even though the thresholds may be different. In addition, shopping for goods may result in the direct supply by foreign suppliers without a national representative and/or not fully follow country procedures. Quotations for civil works are in that sense better embedded in national procedures.

- **Framework agreement** is a long-term agreement with suppliers, contractors and providers of non-consulting services which sets out terms and conditions under which specific procurements (call-offs) can be made throughout the term of the agreement. Framework agreement procedures applicable to the project are those of the borrowers that have been deemed acceptable by the Bank.

- **Direct Contracting** (single source) is contracting without competition that is appropriate under certain circumstances.

- **Force Account** refers to works such as construction and installation of equipment and non-consulting services carried out by the government by its own personnel and equipment.

- **Procurement in loans to finance intermediary institutions and entities**—When a loan provides funds to a financial intermediary institution or entity to be on-lent to beneficiaries for the partial financing of subprojects, procurement of goods, works, and non-consulting services is usually undertaken by the respective beneficiaries in accordance with established private sector procurement methods or commercial practices that are acceptable to the Bank.

- **Procurement under Public Private Partnership (PPP) arrangements**—Where the Bank is participating in financing the cost of a project or a contract procured under PPP arrangements, the procurement of the concessionaire and downstream procurement by the concessionaire may be done using commercial procedures that are acceptable to the Bank.

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4 In order to determine whether national procedures can be used for national competitive bidding under Bank-funded projects, staff review the country procurement procedures to make sure that they are broadly consistent with Section I of the Guidelines and are in compliance with the specific requirements of NCB described in paragraphs 3.3 and 3.4 of the same guidelines.

5 Ditto, paragraph 3.9

6 Ditto, paragraph 3.13

7 Ditto, paragraph 3.14
and are not the Bank’s. They may, or may not, rely on national rules and procedures, depending on the country and the level of its legislation in regard to PPP operations.

- **Procurement under loans guaranteed by the Bank** - If the Bank guarantees the repayment of a loan made by another lender, the goods, works, and non-consulting services financed from the loan are to be procured in accordance with procedures which meet the requirements of paragraph 1.5 of the Procurement Guidelines (i.e. in accordance with the principles of economy, efficiency, transparency, etc.).

- **Community participation in procurement** – Where it is desirable in selected project components to: (a) call for the participation of local communities and/or nongovernmental organizations (NGOs) in civil works and the delivery of non-consulting services; (b) increase the utilization of local know-how, goods, and materials; or (c) employ labor-intensive and other appropriate technologies, procurement is carried out using national procurement procedures that are acceptable to the Bank.

12. Although it is difficult to estimate with precision the share of the Bank’s financing that employs these country based procedures, the Initiating Discussion paper for the Bank’s Procurement Policy Review provides estimates for FY11: ICB constitutes about 60 percent of the total value of disbursements under SILs and less than 10 percent of the number of contracts while national procedures represent about 40 percent of the value and 90 percent of the number of such contracts. The bulk of the national procedures is likely under National Competitive Bidding (NCB) and Shopping, as the use of force account as sole source/direct contracting are explicitly approved by the Bank ex ante and Bank staff have not fully used the flexibility in the guidelines under framework agreements and maximize the use of acceptable commercial practices for private sector operations.

13. **Modifications to National Competitive Bidding Procedures.** As noted above, under NCB, borrowers are required to make adjustments in order to be in compliance with the Bank’s Guidelines. A review of financing agreements in a sample of 52 countries showed that not a single country’s procedures were acceptable without adding specific NCB provisions (that is, the changes that are required by the Bank for NCB procedures to be considered acceptable). The number of these NCB provisions in the sample varies from a low of one (e.g. Burkina Faso) to a high of 27 (e.g. Kazakhstan). On average, the sample countries have 11 NCB provisions, with the median being 9 per country. Fewer provisions allow for a wider application of country procurement procedures, such as in the case of Tanzania with only two exceptions related to Bank’s audit rights and prohibition of domestic preference to local suppliers or contractors. At the other extreme, there are countries, such as Lebanon, where the national procedures *in toto* are

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8 Ditto, paragraph 3.18
9 Ditto, paragraph 3.19
considered unacceptable to the Bank: in these cases, Bank procurement procedures and standard bidding documents are used for NCB. In the middle, there are countries such as Mongolia where detailed NCB provisions replace a significant part of national procedures. Box No. 1 lists the provisions added to NCB procedures.

**Box 1. NCB Exceptions**

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<th>Box No. 1. NCB Exceptions</th>
<th>Box No. 2. NCB Exceptions</th>
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<tbody>
<tr>
<td>The exceptions to a country’s usual national competitive bidding procedures that are frequently prescribed by the Bank include the following requirements or adjustments:</td>
<td>Foreign firms not required to associate with local partners in order to bid as a joint venture</td>
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<tr>
<td>- Use of acceptable standard bidding documents</td>
<td>Extension of bid validity for a second time only with the Bank’s consent</td>
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<td>- Public notification of bidding opportunity</td>
<td>Bidders located in the same province or city as the procuring entity not to be given preference over bidders located outside that city or province</td>
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<td>- Participation fee not to be required of bidders for the purchase of bidding documents</td>
<td>No bidder rejected on the basis of a comparison with the Borrower’s estimate and budget ceiling without the Bank’s prior concurrence</td>
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<td>- Adequate response time to prepare and submit bids</td>
<td>The Borrower to implement an effective and independent protest mechanism</td>
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<td>- Public notification of contract award</td>
<td>The Bank to declare a firm or individual ineligible to be awarded a contract financed by the Bank if it at any time it determines that the firm or individual has engaged in fraud or corruption in Bank financed contracts</td>
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<td>- No domestic preference to domestic bidders</td>
<td>Contractors to provide performance security</td>
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<td>- Bidder qualifications criteria to be specified clearly in the standard bidding documents</td>
<td>Bid submission modes defined</td>
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<td>- Foreign firms allowed eligible to bid</td>
<td>Public bid opening required</td>
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<td>- Bidding not to be restricted to pre-registered firms</td>
<td>Publication of Procurement Plans required</td>
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<td>- Award of contract to the lowest evaluated bidder</td>
<td>Conflict of interest provisions provided</td>
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<tr>
<td>- Use of merit points for evaluation of bids not allowed</td>
<td>Bid Opening and Bid Evaluation procedures provided</td>
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<tr>
<td>- Inclusion of audit rights of the Bank</td>
<td>All bidders to provide bid security</td>
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<tr>
<td>- Inclusion of conditions for participation of government owned enterprises as bidders</td>
<td>Contract modification only with Bank’s consent</td>
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<td>- Negotiation prior to contract award not allowed</td>
<td>Bids not to be invited on the basis of percentage premium or discount over the estimated cost.</td>
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<tr>
<td>- Two envelope bid opening procedure not allowed or prospective bidders may submit two envelopes provided the two envelopes are opened at the same time</td>
<td>No bidder rejected on the basis of a comparison with the Borrower’s estimate and budget ceiling without the Bank’s prior concurrence</td>
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<tr>
<td>- Splitting of contracts into small lots for purposes of promotion of the participation of small enterprises not allowed</td>
<td>Re-bidding not to be carried out without the Bank’s prior concurrence</td>
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14. In conclusion, although the Bank’s procurement policy allows reliance on country procurement procedures, in practice, there is no country without any NCB provision added by the Bank and in most countries quite a few exceptions to country procurement procedures are required. The Bank’s influence over local procurement rules is further demonstrated by two examples which have the Bank exercise an internal review process intended to be done by the national reviewing bodies:

- “a copy of the minutes of the public bid opening shall be promptly provided to all bidders and to the Association with respect to contracts subject to prior review.” [Cambodia]
- “the extension of tender validity shall be allowed once only, and for no more than 30 days, unless otherwise previously agreed in writing by the Association.” [Kenya]
If the Bank were to adopt the definition of country systems provided by OECD for carrying out the survey of meeting the targets set under the Paris Declaration, the Bank’s use of country systems would be less than what has been published given that all NCB have been counted as using country systems. In reality, as explained above, almost all NCB procurement under Bank operations involves some exceptions or provisions being added or changed while, on the other hand, other procedures contemplated in Section III of the Guidelines may indeed fully rely on national procedures.

15. **Alternative Ways to Use National Procedures.** Over the years, the Bank has devised other practices that allow wider use of country procurement procedures. These are Sector Wide Approaches (SWAs) and Output-based Aid (OBA), both of which are governed by the Bank’s usual procurement guidelines for investment lending. The Bank also developed an approach for output-based disbursement (OBD) under national procedures acceptable to the Bank. More recently, the Bank created a new financing instrument, the Program for Results (PforR), which is governed by a separate procurement policy. These are described below. There is limited information on the use of these three delivery mechanisms/instruments to gauge the procurement methods used under each.

16. **Sector Wide Approaches (SWAs)** support local government programs in a comprehensive and coordinated manner among various donors. As the name implies, a SWA is an approach, not a lending instrument and may be supported by a variety of financing instruments—in the World Bank, the most common are adaptable program loans, specific investment loans, and sector investment and maintenance loans. The policies and standards, including procurement, as applied to investment operations under SWAs, are the same as those for regular investment operations.

17. SWAs tend to rely more heavily on country/sector wide institutions (instead of especially set up Project Implementation Units (PIUs)) and on country/sector wide control mechanisms and institutions and adopt a common framework for planning, implementation, expenditure controls, and monitoring and evaluation of projects. As a result, SWAs are more closely integrated into the borrower’s public financial management system and promote a greater reliance on country systems as broadly defined. When financing is pooled among participating donors, common fiduciary (financial management, disbursement, procurement) and safeguard
procedures are typically applied to the entire pool, and ex ante assessments usually cover a much broader scope—for example, the government’s overall regulatory framework and procedures, implementation and enforcement capacity, and internal controls. Existing country procedures and systems can be used for program implementation, if the Bank is satisfied that they are consistent with the Bank’s requirements and contain adequate controls. Annual financial and procurement audits for the whole program are often used to ensure accountability, supplemented by selected ex post reviews by the Bank and other donors.

18. What distinguishes SWAps from other investment loans is that, in most cases, SWAps include a large number of low value contracts to be procured by other than the Bank’s ICB method. NCB, shopping and direct contracting are the most common methods. A review of the procurement provisions of 20 SWAps shows that, in thirteen of these, the same exceptions to the country’s local procedures were imposed by the Bank on SWAps as for NCB under regular investment loans. Moreover, when there is pooled financing among donors, the project’s operating manual, which guides implementation, contains NCB provisions that have to be acceptable to the Bank as well as other donors. In most cases, the other donors agree to use Bank’s guidelines as standards. Nevertheless, there are also examples where the Bank has devised ways to rely on country systems when its conventional approach is not feasible. This it can do by financing activities that are not procurement related, such as salaries, cash transfers and grants to beneficiaries etc., thereby getting around any procurement restrictions. The Education SWAp in India, see Box 2, is an example where simplified national procurement procedures were used.

19. **Output Based Aid (OBA)** is a results-based approach to increasing access to basic services like infrastructure, health-care, and education, for the poor. OBA is also known as “performance-based aid” or “results-based financing”. Unlike more traditional lending approaches that finance a set of inputs and activities aimed at producing a certain outcome, results-based financing links disbursements to the delivery of specific services, like connections of poor households to electricity or water systems, the delivery of basic health care or other targeted services. About 130 projects supported by the World Bank incorporate results based financing, with nearly US$4 billion in funding, and expected to reach at least 94 million beneficiaries worldwide. Funding for the projects comes from the Bank—including the Global

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10 High-value contracts financed by the Bank are normally excluded from the financing pool and are subject to the Bank’s procurement guidelines.
11 Sectorwide Approaches (SWAps) in Investment Lending, OPCS Lending Operations Information Bulletin, March 2006
12 Mozambique Agriculture, Bangladesh Primary Education- for pooled funds only, India Elementary Education, Nepal Education, Morocco Education, Brazil Family Health Program, Brazil Health Surveillance program, Ghana Health, Nepal Health, Tanzania Health, Mexico Decentralized Infrastructure Program, Poland Roads M&R Program, Brazil Bolsa Familia (Cash Transfer) Program
13 Output Based Aid Fact Sheet on the Global Partnership on Output-Based Aid Website
Partnership on Output-Based Aid (GPOBA), and other donors such as the German development bank, KfW, and governments.\footnote{14}

20. For OBA, procurement is done following the Bank’s current PPP procedures, which allow downstream procurement by a service provider using its procurement procedures if the service provider was selected in a competitive manner that is acceptable to the Bank. The exception to the foregoing is for service providers which are not selected competitively or in a manner acceptable to the Bank and hence must rely on Bank Guidelines for downstream procurement except in exceptional case outlined below.

21. According to the guidance note\footnote{15} on how to ensure compliance with the Bank’s Procurement Guidelines in operations that involve OBA, procurement of the service provider is to be done in accordance with paragraph 3.14\footnote{16} of the Procurement Guidelines. Essentially, in projects where there is no existing service provider, the service provider will be selected through open competitive bidding procedures acceptable to the Bank. The awarded service provider may use its own procedures or the Bank’s if it so chooses, to procure the goods, works, and services required to produce the outputs (referred to as “downstream procurement”). Downstream procurement carried out by the service provider is not subject to standard procurement post review but to a different M&E process as the service provider will get paid only upon verification of actual delivery of the promised outputs.

22. If, at the time the Bank considers an OBA component, the service provider is already in place (incumbent) and if the incumbent was selected through open competitive procedures acceptable to the Bank, the service provider is free to use its own procedures to procure the goods, works, and services required to produce the outputs. If it was not initially selected on a competitive basis, the incumbent will have to undertake procurement in accordance with the Bank’s ICB or LIB procedures for large value procurement and, for small value procurement, it will use other procurement methods that are acceptable to the Bank. For the selection of consultants, it will use the Bank’s Consultants Guidelines.

\footnote{14} See footnote 1 above
\footnote{15} Procurement Issues in Structuring Output-Based Aid (OBA) Operations Financed by the World Bank: Guidance to Staff, April 18, 2008.
\footnote{16} The guidance note makes reference to the 2006 Procurement Guidelines. The paragraph numbers mentioned in the guidance note have been updated to be in line with the January 2011 Procurement Guidelines.
\footnote{17} Paragraph 1.13 of the Guidelines states: “The Bank reviews the Borrower’s procurement procedures, documents, bid evaluations, award recommendations, and contracts to ensure that the procurement process is carried out in accordance with the agreed procedures. These review procedures are described in Appendix 1. The Procurement Plan approved by the Bank shall specify the extent to which these review procedures shall apply in respect of the different categories of goods and works to be financed, in whole or in part, from the Bank loan.” (NOTE- The guidance note makes reference to the 2006 Procurement Guidelines. The paragraph numbers mentioned in the guidance note have been updated to be in line with the January 2011 Procurement Guidelines.)
Further, the Bank may accept, in exceptional cases, the use of the incumbent service provider’s procurement procedures as per paragraph 3.15 of the Procurement Guidelines. Some of the provisions include the Bank making a determination that the service provider’s procurement capacity, practices and procedures are acceptable and the entity does not grant any preference or award contract to their parent or affiliates or controlling shareholders, etc. The Bank carries out post reviews to ensure that the procurement capacity, practices and procedure remain acceptable throughout the life of the project.

Program for Results (PforR) financing instrument codifies the results based financing approaches. It focuses the Bank’s support on helping member countries improve the design and implementation of government programs and directly links disbursements to development results. On an operational level, disbursements are linked to progress on monitorable performance indicators. PforR can support government programs in a diverse range of countries and sectors: for example, it can help deliver and improve the coverage of antenatal care for mothers and newborns or increase immunization coverage for children; provide sustainable water supply and sanitation services; strengthen the coverage and quality of early childhood and primary education; or reduce the number of rural households living below the poverty line.

Introduced in early 2012, the use of the new PforR instrument is still at an early stage of implementation. As of January 2013, five PforR operations have been approved and in these cases country procurement procedures apply for all procurement activities, i.e. none of those operations falls under the exclusion in regard to certain categories of procurement/contracts. These operations are: Morocco: National Initiative for Human Development Phase II (US$ 300 million); Nepal: Results-Based Bridges Improvement and Maintenance Project (US$ 60 million); Vietnam: Results-Based Rural Water Supply and Sanitation under the National Target Program (US$ 200 million); Tanzania: Second Local Government Support Project (US$ 255 million); and Uruguay: Transport Infrastructure Program (US$ 66 million). Eight PforR operations are being prepared: Bangladesh: Enabling Open Government (US$ 300 million); Ethiopia: Health MDG Support Project (US$ 100 million); India: Third Maharashtra Rural Water Supply and Sanitation Project (US$ 225 million); Indonesia: Local Government and Decentralization Project II (US$ 250 million); Kenya: National Integrated Safety Net Program (US$ 250 million); Uganda: Support to Municipal Infrastructure Development (US$ 150 million); Pakistan: Punjab Governance Reform for Service Delivery (US$ 50 million); and Brazil: Ceará (US$ 350 million).

A distinct set of procurement policies applies for PforR. Under PforR, the Bank assesses the entire procurement system of the country’s program, including the capacity to manage fraud and corruption risks. Each operation is assessed against important criteria similar to those of the current Bank procurement policy applicable to IL operations including: adoption of public advertisement of all bids; no restrictions on competition; fair and transparently applied bid evaluation criteria; acceptable conditions of contract; effective complaints mechanisms; and

Such as small scale expansion of existing systems.
strong anti-corruption measures. The assessment includes identification of key risks and leads to agreement on the actions to manage those risks, capacity building activities that the Bank will help the borrower with, including technical assistance, the key improvements in borrowers procurement performance that may be linked to disbursement and the benchmarks against which procurement performance will be monitored during implementation of the program.\textsuperscript{19}

27. The procurement rules and procedures to be followed by the borrower under PforR have to be satisfactory to the Bank. Section 1A of Schedule 2 of PforR loan agreements states: “Without limitation on the provisions of Article V of the General Conditions, the Borrower shall carry out the Program, or cause the Program to be carried out, in accordance with financial management, procurement and environmental and social management systems acceptable to the Bank ("Program Fiduciary, Environmental and Social Systems") which are designed to ensure that:(1) the loan proceeds are used for their intended purposes, with due attention to the principles of economy, efficiency, effectiveness, transparency, and accountability; and .....”. In addition, the borrower is required to apply the Bank’s Anti-Corruption Guidelines (specific to PforR operations) which, among other things, require compliance with the debarment decisions of the Bank and the Bank’s right to audit.

28. Since this new lending instrument is too recent to have a sufficient track record of implementation, analysis of how procurement has been handled is preliminary. Among the three cases reviewed (Morocco, Nepal and Vietnam), it appears that they rely significantly on the use of country procurement procedures. Programs define what processes to follow via the preparation of procurement manuals and identification of the tools to use. Capacity building actions are also laid out. A specific requirement has been to establish or reinforce complaint mechanisms at the program/sector level. It is important that the team has an overarching dialogue at the country level on the public procurement system to ensure that setting up the complaint handling mechanism specifically for the program support the efforts of the country at the national level.

29. \textit{Piloting Program for the Use of Country Procurement Systems}.\textsuperscript{20} The Paris Declaration required additional efforts from the Bank to increase its reliance on country procurement systems. As part of an effort to extend the use of country procurement systems to transactions typically let following ICB, the Board approved, in April 2008, a two-year Piloting Program for the Use of Country Systems in Procurement\textsuperscript{21}. The Piloting Program was originally intended to identify 8-10 countries with broad geographic and economic distribution, to participate as pilot countries and selected projects where the Bank would rely on the countries’ own procurement

\textsuperscript{19} Interim Guidance Note to Staff: Fiduciary Systems Assessment, June 18, 2012 paragraphs 8-9 and the PforR Brief of November 2011 on Procurement

\textsuperscript{20} First and Second Progress Reports, Strengthening Country Systems and expanding their use in Bank-supported operations: Update Report December 22, 2010.

\textsuperscript{21} The Bank amended its procurement and consultant Guidelines in 2011 to make specific provision for the Use of Country Systems as a separate procurement method under Section 3 of both guidelines.
systems in lieu of the Bank’s procurement policies. The initiative was designed to follow a three stage approach that: (a) assessed candidate countries' procurement system, using inter alia the CPARs and MAPS benchmarking tool; (b) determined equivalency of the procurement system with Bank’s policy based on a review of its laws, rules, regulations, practices and documents; and (c) assessed the capacity of the implementing agencies at the project level.

30. Although extended by one year, after three years of implementation, the program failed to meet its main objective as few countries passed the first two stages and no project was identified that could be implemented entirely using the borrower’s procurement system. Several factors contributed to the program’s failure, including un-reconciled views on the program’s objectives and weak incentives for both Bank staff and partner countries to participate and invest in the end result.

31. Yet, important lessons were learned from this experiment. First, the Piloting Program’s “all-or-nothing” approach—that is, the country’s system in toto was considered to have passed or failed the benchmark—limited the number of countries that could participate in the piloting program: only four countries, out of the starting twenty, were conditionally approved at the end of Stage II, subject to a set of corrective actions to be approved and adopted by the borrower. Second, a sequenced and measured approach to the use of country systems would be a more likely successful approach. Such an approach would be to use those well-performing segments of the borrower’s procurement system while continuing to focus efforts on improving the rest of the system and those related areas such as public administration, budgeting and financial management, as needed. Third, there would always be inconsistencies when comparing national regulations with international institutions’ procurement policies, as their respective objectives are typically trying to achieve different results. Such lessons were used to shape future initiatives on new ways to increase the Bank’s use of country systems such as the recently approved PforR lending instrument and the Bank’s ongoing review of its procurement policy.

V. Major Issues Facing the Use of Country Procurement Systems.

32. While partner countries highlight the use of country systems, particularly in regards to procurement, as one of their top priorities to increase aid effectiveness, develop sustainable capacity, and implement and account for its policies to citizens and parliament, progress in using country procurement systems has been mixed for reasons given below, not necessarily in order of importance or complexity. While some of the issues can be easily handled, others are politically driven and are more difficult to overcome.

33. **Legal and Policy Constraints for Donors:** Each donor, including the Bank, is bound by its own policy. Donors face various legal and policy barriers to using country procurement systems without imposing any specific exceptions. One major issue is the ineligible sources list maintained by most donors which means that the donor’s funds cannot be used to pay for goods, works or services from prohibited sources. For the Bank, universal procurement has been
adopted under its procurement policy for quite some time and hence this is not an issue per se anymore, except when co-financing projects with other donors which do not adhere to the same broad principle. The list of ineligible sources is donor specific and not all donors have the flexibility to waive this constraint. Moreover, many donors have a stake in the probity of the use of their funds. In the case of the Bank, its fiduciary requirement is to ensure that the funds are used for the purposes intended. Since the donors themselves are accountable to their stakeholders, donors oversee and monitor, to varying degrees, the implementation of projects and programs they support.

34. **Common Understanding of Country Systems:** At present, there is no universal standard for public procurement, and no common understanding among donors of what the term “country systems” means. As a result, different donors have adopted different policies to assess the acceptability of country systems that have “de facto” produced different standards for acceptance of country systems.

- The definition of country systems in the Paris Declaration, which sets quantitative goals in terms of percentages of external aid flows that use national procurement systems, was not clear. This has contributed to the difficulty donors and countries have had in monitoring progress in the use of country systems. Paragraph 17 of the Declaration specifies that donors will “use a country’s own institutions and systems, where these provide assurance that aid will be used for agreed purposes, increases aid effectiveness by strengthening the partner country’s sustainable capacity to develop, implement and account for its policies to its citizens and parliament”. It further provides the following definition: “Country Systems and procedures typically include, but are not restricted to, national arrangements and procedures for public financial management, accounting, auditing, procurement, results frameworks and monitoring.”

- When it came to the actual measuring of the Declaration’s Indicator 5b on the use of country procurement systems, the following definition was used: “Donors use national procurement procedures when the funds they provide for the implementation of projects and programs are managed according to the national procurement procedures as they were established in the general legislation and implemented by government. The use of national procurement procedures means that donors do not make additional, or special, requirements on governments for the procurement of works, goods and services”\(^{22}\). This definition focuses on procedures while other elements of the system and the environment are not mentioned.

- The end result is that each donor is carrying out its own assessments, hence burdening the national institutions with the cost and time involved in these exercises. Moreover, different donors working on the same country are accepting the system to different extents and asking for different adjustments as a condition to using additional segments or elements of it. This continues to confuse countries and does not decrease transaction costs as intended by the Paris Declaration. Under the pressure to show

progress on the use of country procurement systems donors may use elements of a system haphazardly (i.e. accepting price comparison rules while rejecting open competitive bidding or accepting open tendering for procurement that is likely to interest national bidders only and not likely to attract foreign bidders). Thus, the initial intention of harmonizing the criteria and alleviating the burden on countries is being lost, reverting very much to the initial situation that this initiative tried to address and the use of different rules for different donors.

35. **Countries’ Interests in Using Country Systems Vary.** While in theory any borrower would welcome the reasons for using their country systems, namely national ownership, capacity-building, cost reduction and aid/development effectiveness, in practice not many have been lining up to use country systems as defined under the current policy specially if there are requirements to reform their systems. Countries where the Bank’s financing is a small percentage of Government’s spending have opted to use the Bank’s guidelines for the few investment lending operations that are financed by the Bank. This is a choice that is being made by not only middle income countries, as one may think, but also a growing number of developing countries that now have access to commercial financing. The move towards use of country systems is not purely a technical decision but one driven by borrowers.

36. **Assessment Tools:** The present approach by the Bank and some other donors in using CPARs, MAPs and other diagnostic tools to assess country procurement systems focuses on the structure of the systems (laws, institutions, etc.) and not enough on its performance. The same can be said of the Public Expenditure Framework Assessment (PEFA), introduced in 2003 and designed to examine a country’s entire public financial management system. It includes only one indicator (PI-19) that gives a rough measure of quality of the entire procurement system. This is consistent with the view of many experts in public procurement who see that the problem in not the rules per se but the way that they are applied. There is a concern that even with a good structure and proper regulations the system could still operate inefficiently and be unable to improve service delivery. The possible causes of inefficiency can be due to a number of factors in the larger environment in which public procurement systems operate: poor management, unskilled procurement officers, excessive focus on process, corruption, poorly designed controls, inadequate justice system, poor investment climate, etc. Addressing the general lack of capability or inadequate system operation needs to extend the current assessment tools beyond rules and regulations to a broader environment. Since the existing tools do not measure the performance of the system, donors have had to seek creative ways in their approach to assess capacity at the implementing agencies levels. This parallels the call for more focus on results and less on rules and compliance for the sake of compliance.

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23 This is not to say that there are not cases where Borrowers prefer to use the Bank’s guidelines especially for complex, high value and risky transactions for which they believe that the Bank’s guidelines and prior reviews are better suited than their national procedures and controls.
VI. Bank’s Support to Strengthening Country Procurement Systems

36. **Role of the Bank.** Capacity building in the context of public procurement is what makes institutions work in line with the legal and institutional framework and produce expected results. Regardless of whether or not the Bank shifts its policy to the use of country systems, capacity building remains critical for development effectiveness. In the past 20 years, the World Bank has played a major role in catalyzing the efforts of multilateral organizations, development partners, private sector representatives, and some developing countries to establish a dialogue among regional economic organizations, member countries, and development partners on public procurement. This has included efforts to promote legal and institutional reforms, establish open and transparent procurement systems with due attention to the principles of economy, efficiency, effectiveness, transparency and accountability, establish anticorruption agencies and electronic procurement systems, and launch initiatives to build the capacity of both contracting authorities and oversight and judicial institutions. The role of the Bank has been decisive in promoting capacity development and modernization of the procurement systems in the developing world as described in more detail below. The development of the diagnostic tools, the provision of the technical support and the maintenance of constant dialogue with governments have been instrumental in building capacity. In the mid-1990s, many governments launched public procurement reforms to align their procurement systems with the modern concepts. The multilateral development banks and particularly the World Bank considered procurement reforms as a key item in their country dialogue and strategy and were instrumental in supporting such reforms.

38. **Support through Analytical and Advisory Work.** About 158 assessments classified as Economic and Sector Work (ESW) were carried out between FY00 and FY10 in about 120 countries (of which 5 were Integrated Fiduciary Assessments (IFAs) and 39 were Analytical and Advisory Assistance (AAA) studies; see Figure 1 below), mobilizing about US$13.5 million of Bank administrative resources (of which US$0.8 million was funded under trust funds) or an average of US$1.2 million in average per year. The Bank has used the Country Procurement Assessment Report (CPAR) since the 1990s to assess the quality of country procurement systems and to make recommendations for reforms. Starting in 2000, the Bank began systematically conducting CPARs, offering a diagnosis and a series of recommendations that were usually agreed with the client country government. Since FY04 the number of CPARs the Bank was conducting had declined drastically from about 22 to 2 per year as the Bank shifted its focus to updating the existing assessments and providing guidance to implement recommendations and moving towards a more integrated diagnostics of public procurement and financial managements systems. Assessment of procurement systems became part of other diagnostic tools such as Public Expenditure Management and Financial Accountability Report (PEMFAR), Country

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24 For more details on how the Bank supports countries in strengthening their national systems, see the Bank’s Guidance Note, entitled: “Supporting Countries in Enhancing the Performance of their Public Procurement Systems”, OPSOR, forthcoming.
Financial Accountability Assessment (CFAA), the Public Expenditure and Financial Accountability (PEFA), or other (AAA) issues papers such as Country Operation Procurement Reviews\textsuperscript{25}, and Financial Accountability Assessment (FAA). In many member countries these diagnostic reports are often the only comprehensive source of analysis of country procurement systems.

39. At the same time, the Bank, as an active member of the OECD/DAC Task Force on Procurement (successor of the Joint Venture co-chaired by the World Bank), participated in the implementation and support to the use of the Methodology for Assessing Procurement Systems (MAPs) tool. While MAPs can complement CPARs in assessing four main elements of a procurement system: (a) the legal framework; (b) the institutional structure to administer procurement; (c) the interface with the markets; and (d) the system’s controls and integrity features, many have been carried out as stand-alone assessments. World-wide public procurement practitioners recognize these tools as a comprehensive way to assess country procurement systems and in recent years the Bank, other international financing institutions, and many countries have used them extensively as the first step in modernizing country procurement systems.

Figure 3: Number of Procurement ESW in the past 10 Years

40. **Support through Lending and Technical Assistance.** In most Regions, this upfront analytical work paved the way to direct support by the Bank for procurement reforms and capacity building using various financing instruments including project funds, Development Policy Operations (DPOs) and Institutional Development Fund (IDF) grants. Procurement reforms and the strengthening of country procurement systems became an integral part of

\textsuperscript{25}Country Operation Procurement Reviews are conducted when the Government does not want to be a party to the CPAR.
Country Partnership Strategies (CPS) in most countries. From FY01-11, the Bank has supported procurement capacity building through components under 176 public sector management (PSM) projects, 212 DPOs and 54 Institutional Development Funds (IDFs). The amounts dedicated to procurement components were around US$176.0 million for the PSM projects, $30 billion for DPOs which had theme “Public Expenditure, Financial Management and Procurement” and $27 million under IDFs. The Bank’s support to capacity building in public procurement for member countries include the costs of dialogue, diagnostics/assessments, organization of forums, preparation and supervision of financial and technical support to procurement reforms, and delivery of procurement training. It is estimated that over the past decade the Bank has allocated about US$131 million from its variable administrative budget to support improvement of and capacity building in national procurement systems. Adding to that number the salary cost of Bank procurement staff involved in such activities, estimated at about US$20 million over the decade, yields an aggregate amount of about US$151 million.

Figure 4 – Amounts of Investment and Development Policy Lending Including a Public Expenditure, Financial Management or Procurement Component

Support through IDF grants have represented the single greatest dedicated source of funding to support capacity building in procurement since 2001. They have focused on helping countries improve their procurement systems by, for example, modernizing the legal and regulatory frameworks through the preparation and adoption of new procurement laws and standard documentation; reorganizing institutions by decentralizing procurement and eliminating conflict of interest situations; establishing procurement regulatory authorities and independent reviews of

26 But there is no direct link between the DPOs amounts and procurement measures.
27 These are grants, funded out of the Bank’s administrative budget, made by the World Bank for use by its clients to improve the respective institutional capacity in core areas: public financial management, procurement, results management/monitoring and evaluation, and legal/judicial reforms.
complaints; providing technical assistance and training programs to contracting authorities; and developing overall control mechanisms and promoting the use of procurement audits (see Figure 3). The decline in the number of IDF Grants coincided with the introduction of the UCS piloting program and the increase of DPOs with specific actions on procurement.

**Figure 5- Number of IDF Grants for Public Procurement Capacity Building, by FY**

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**VII. Conclusions**

41. This background paper for the Bank’s Procurement Policy Review provides a quick snapshot of the Bank’s experiences and approaches to the use of country systems. It shows that:

- The Bank has put considerable effort over the past fifteen or more years in understanding borrowers’ procurement systems and processes and in building that capacity using a variety of means. It has accumulated knowledge about how these systems work in about 100 plus countries, each system with its own variations. It has further worked with development partners on ways to assess country systems.

- These efforts have used a number of different tools and approaches, especially IDFVs and CPARs, along with ESW. Yet, that investment in understanding country systems more recently has waned, even while support via direct lending has increased (see below), and may need to be revitalized. Some of the instruments used, e.g. MAPs, PEFAs, may also need to be taken to the next level.

- A major vehicle for supporting reform of local procurement systems, especially in recent years, continues to be DPOs which have tended to concentrate on improving the legal
framework for country systems but are now increasingly focusing on other dimensions of country systems.

- The Bank has further experimented and innovated in the use of country systems under its investment lending. Some of these ways—e.g. PforR—advance, albeit gradually, the use of different dimensions of country systems. Some have involved ingenious ways to use *de facto* country systems, while remaining within the Bank’s overall procurement policy. However, in other cases, the attempts seem to have only led to the replication of the Bank’s Guidelines in the local context and have not advanced the use of country systems.

- At the same time, the Bank’s use of country systems as reported under the Paris Declaration may have overstated the real use. Using OECD’s strict definition of the use of country systems—that is, the application of local procurement procedures without any modification—the use of NCB cannot be counted as using country systems since the Bank requires exceptions or provisions to be added, this despite the fact that other methods may be more truly relying on country systems (e.g. CDD, some PPPs or FILs).

- The Piloting Program for the Use of Country Systems in Procurement did not work out as planned and did not realize its goal of using country systems for any Bank supported project. However, there were several lessons learned that can now be applied in the Procurement Policy Review such as:
  - Countries do not have a single national procurement system but rather multiple systems operating at different levels;
  - The all-or-nothing approach does not work, systems operate at different levels of efficiency and effectiveness;
  - National regulations will always be different from international institutions’ procurement regulations as their respective objectives are different;
  - Moving towards country systems is resource-intensive, both in terms of staff time and costs to improve country capacity;
  - Moving towards country systems is borrower driven; and
  - The Bank will need to reform its organizational and operating structures to be sufficiently flexible to perform its oversight and monitor functions over diverse implementing structures and procurement systems.

- Finally, the Bank is very committed to using country systems and is now in a position to use the above lessons and its accumulated knowledge and experience to work with other donors and development partners in articulating and operationalizing definitions of country systems, in harmonizing approaches to assessing those systems, capacity building, and carrying out risk assessments, and in finding solutions towards mutually agreed goals.