



The World Bank

Procurement Policy Review Feedback Summary

Date: September 17 and 18, 2012

Venue: Beijing, China

Total Number of Participants: 45

Overview and General Reactions

Two half-day consultation sessions on the Bank's procurement policy review was conducted on September 17 and 18 in Beijing. Officials of line ministries, staff of implementing agencies, suppliers, contractors and consultants with experience competing for contracts in Bank financed projects, staff from procurement agents and academicians and researchers in the field of public procurement and a representative from the China Resident mission of the AsDB were invited to share their views.

Mr. Klaus Rohland, the World Bank Country Director for China, gave the opening remarks highlighting the fact that as a major player in world trade and one of the Bank's major clients it was important for participants from China to provide the Bank with suggestions on how the Bank could modernize and simplify its procurement policy to make it more responsive to the needs of the client countries.

Mr. Mo Xiaolong, Director, Technical Assistance Division of the International Relations Department of the Ministry of Finance, China, welcomed the opportunity offered by the Bank for implementers for Bank financed projects and industry in China to contribute in crafting and shaping the development of a proposal for a new policy framework and guiding principles for revisions to the Bank's procurement policies.

Mr. Bernard Becq, the Bank's Chief Procurement Policy Officer who is leading the review, gave an introduction of the rationale for the review and presented a summary of the Initiating Discussion Paper for the Review, the overall approach for the Review and the timeline for carrying out the review. Following the introduction, the floor was open to all participants for their questions, comments and suggestions.

General Observations:

- The initiative was welcomed by most participants. The idea of shifting from a “one-size-fits-all” policy to a “best-fit-for-purpose” policy was seen as useful and pragmatic.
- The Bank should strengthen its communications with ministries with oversight and central management functions, like the Ministry of Finance and the Ministry of Commerce, with regard to the policy gap between Bank's procurement policy and domestic policy. The Bank should respect country systems and consider aligning its rules and regulations with domestic ones.
- Explicit criteria for determination of responsiveness/non responsiveness and material and non material deviation should be specified in the issued bidding documents. The definitions for major deviations and responsiveness are very general, leading to subjective interpretation and disputes and complaints during evaluation. The principle of contract award to the lowest evaluated responsive bidder makes it difficult to reject a bidder with an abnormally low price bid. Although the standard bidding documents for works have some provisions for clarifying with the bidder, analyzing the bidder's rates and carrying out postqualification prior to the recommendation for the award of contract, the problem persists. There is some evidence that such bidders with abnormally low bid prices do not perform and frequently make claims during contract execution leading to delays and huge cost overruns. The Bank should consider introducing other award criteria, in addition to lowest cost, to address the concern of awarding contracts to unqualified bidders.
- Procurement methods and procedures should meet project needs and procedures should not be complex. Small value contracts in scattered locations and to be implemented by county/township/village level PIUs with low capacity should focus on results and adopt more simple procurement methods and procedures with minimum record keeping requirements.
- The debarment list should cover non-performing contractors as well as bidders in breach of procurement procedures. The Bank should recognize domestic debarment including debarment for non performance.
- Hiring research institutes and individual consultants affiliated with line ministries is necessary in some tasks, but in breach of Bank's eligibility and conflict of interest requirements. The Bank should be more flexible in handling such cases and should take the country context into account. It was suggested that the Bank may wish to adopt the same approach as AsDB in acting as the implementing agency responsible for the selection process, and sign and supervise the contract with the selected research institute or individual consultant.
- Using e-procurement in Bank financed projects will enhance efficiency, transparency and effectiveness.

- The current policy is procedure focused rather than result focused.
- The Bank has made great contributions to international public procurement practice. The Bank's procedures such as its ICB procedures are a global standard as the procedures are properly defined and documented. It is suggested that the Bank continues to lead public procurement practice, such as unifying the definitions and procedures of some new procurement methods, such as framework agreements, e-auction etc., which are defined differently by different countries or industries in the world.
- The Bank should not only focus on prior review, providing comments on deviations from the Bank's procurement policies and procedures and carrying out procurement post reviews. The Bank should consider assisting the Borrower to improve its capacity in project and contract management and day to day project implementation and contract supervision. Capacity building including training may be also provided to bid evaluators, local procurement supervision/monitoring agencies etc. in respect of the Bank procurement policies, SBDs, use of national model bidding documents bid evaluation, handling complaints etc.
- The Bank Procurement Guidelines have many more restrictive provisions than flexible ones. For rural projects, or projects implemented by county or even village level implementing agencies, flexibility should be considered during the project design and preparation. More attention should be paid to designing the procurement arrangements to fit the envisaged project delivery mechanism, proper packaging of contracts rather than the current focus on procedures. For such projects there should be more focus on results, capacity building and learn-by- doing rather than building in excessive risk mitigations measures.
- The size of contracts in Bank- financed projects are smaller than in the past. The level of competition is very high and this often attracts unqualified bidders who in the past did not compete for the larger contracts. These unqualified bidders often win the contract by offering very low prices, but try to recover profits by seeking compensation and adjustment of rates, making claims, requesting for variations, performing poor quality work and by corruption.
- It was suggested that the Bank may help the Borrower to set up a public procurement platform financed by the Bank, which allows the government agencies, procurement agents, contractors, suppliers and consultants etc, to visit, and can be used to publish and monitor the procurement plan, advertise the initiation for bids, issue the bidding document, submission of bids, evaluation of bids, publication of awards etc., to ensure transparency.
- It was suggested instead of the current practice where procurement agents are hired using domestic procedures and paid exclusively from counterpart funds, procurement agents for Bank-financed projects are hired by following the Bank selection procedures and financed from the Bank loan.
- It was suggested that adequate attention should be given to contract packaging during project preparation. The market situation of likely bidders should inform the packaging and sizing of contracts, taking into consideration the availability and capacity of bidders including large firms, small and medium sized firms, and the capacity of the implementing agency to procure and supervise multiple contracts.
- The Bank may wish to reconsider its policy on language under ICB procedures (para 2.15 and footnote 39 of *Procurement*

Guidelines, January 2011 version). Current Bank policy stipulates that in addition to preparing ICB bidding documents in English, French or Spanish the Borrower may also issue the document in the Borrower's national language. The policy also stipulates that in case of any discrepancy between the translation in the national language and the English, French, or Spanish, the latter shall prevail. In China, the source document for the technical requirements including the specifications is Chinese. The English translations are often inaccurate and therefore it would be appropriate to stipulate that in case of any discrepancy the source document (i.e the Chinese) shall prevail since invariably the bidders are Chinese and submit their bids in Chinese.

- Delays in payment to service providers (i.e. contractors, suppliers and consultants) by particular PIUs in Bank- financed projects are prevalent. While the Bank is not a party to the contract, and the contract has dispute resolution mechanisms, the Bank should monitor payments under contracts financed by the Bank and use its influence to ensure that PIUs do not unduly delay payments to service providers.
- It was recognized that some suggestions can already be addressed within the existing Bank policy. Guidance should also be provided to Bank staff and Borrower staff to apply the existing flexibilities within the current policies. More detailed guidance and training on preliminary examination of bids and bid evaluation will be required.
- Several comments were made praising the Bank's procurement policies, but also acknowledging the issues in implementation.

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?

- Policy alignment between Bank's rules and regulations with domestic ones.
- Policy design to prevent lower-than-cost bidding (abnormally low bids).
- Simplify procedures and reduce requirements for private sector borrowing through financial intermediaries. Private sector finds it difficult to meet current requirements for collateral.
- Setup bidder performance appraisal support system/credibility system which should be publicized and shared with Borrowers on the Bank's external website. This will enable implementing agencies ensure that only quality bidders with good performance are selected.
- Strengthen monitoring and supervision by building the capacity of the borrowers.

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?

	<ul style="list-style-type: none"> • Using e-procurement to enhance efficiency and effectiveness. • Flexible procurement procedures when handling small value contracts, CDD projects, etc. • More flexibility could be given in using direct contracting or direct negotiations in some special circumstances, such as limited supplier base, such as turbine generators, and limited number of qualified contractors e.g. large hydropower or dam works and use of same contractor/supplier for subsequent phases under the same project when the previous phase is completed by competitive bidding. • More use of BOT and PPP in Bank financed projects.
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"> • Include non-performing contractors/suppliers/consultants in debarment list. • Set-up an integrated anti-corruption system for use during evaluation and contract execution. • Provide training on project monitoring and supervision and contract management rather than procurement procedures only. • Strengthen and use country systems for monitoring, supervision and audit.
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?	
	<ul style="list-style-type: none"> • Policy design for small scale and micro-scale projects. • Capacity building of sub-national level PIUs.
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?	
	<ul style="list-style-type: none"> • More decentralization and delegation of procurement review and decision making authority to the country office. • Use of e-procurement in Bank financed procurement.
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?	
	<ul style="list-style-type: none"> • Regular communication mechanism should be set up with the Borrower, including the government authorities, the project implementing agencies, procurement agents or other industries. • Policy alignment between Bank's requirements and domestic requirements, especially the evaluation criteria and finality of decision of the bid evaluation committee and domestic approval authorities. • Respect and use of country systems for procurement. e.g. recognition of decisions which arise from the use of the country's bid challenge system.
7. What suggestions do you have to monitor and evaluate the Bank's Procurement policies and assess their impact and effectiveness?	

	<ul style="list-style-type: none">• No specific comments.
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?	
	<ul style="list-style-type: none">• More result focused rather than procedure focused.• Policy design for small sized contracts and CDD type projects.