

**PROCUREMENT IN WORLD BANK INVESTMENT PROJECT
FINANCE**

**PHASE II: DEVELOPING THE PROPOSED
NEW PROCUREMENT FRAMEWORK**

*The Vision: “Procurement in Bank operations supports clients to achieve value for money
with integrity in delivering sustainable development.”*

FRAMEWORK PAPER FOR CONSULTATION

July 8, 2014

ABBREVIATIONS AND ACRONYMS

AC	Audit Committee
ADM	Accountability and Decision Making Framework
CODE	Committee on Development Effectiveness
DRB	Dispute Review Board
DRE	Dispute Review Experts
EU	European Union
FCS	Fragile and Conflict-affected Situations/States
FIDIC	Fédération Internationale Des Ingénieurs-Conseils (International Federation of Consulting Engineers)
FY	Fiscal Year
GGP	Governance Global Practice
GPA	Government Procurement Agreement
ICB	International Competitive Bidding
IEG	Independent Evaluation Group
IT	Information Technology
MAPS	Methodology for Assessing Procurement Systems
MDB	Multilateral Development Bank
NCB	National Competitive Bidding
NGO	Non-Governmental Organization
OP/BP	Operational Policy/Bank Procedures
PAD	Project Appraisal Document
PEFA	Public Expenditure and Financial Accountability
PFM	Public Financial Management
PPP	Public-Private Partnership
SAI	Supreme Audit Institution
TTL	Task Team Leader
VfM	Value for Money
WTO	World Trade Organization

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PROCUREMENT IN WORLD BANK INVESTMENT PROJECT FINANCE

PHASE II: DEVELOPING THE PROPOSED NEW PROCUREMENT FRAMEWORK

EXECUTIVE SUMMARY

1. **The World Bank's Procurement Framework governs how borrowers acquire works, goods, consulting and non-consulting services under projects financed by the Bank, and what roles and responsibilities the Bank and borrowers have in that process.** Procurement has a dual role: borrower capacity building and fiduciary assurance. Bank Procurement is both a development instrument and a strategic policy tool that can support a broad range of economic and social development objectives. In line with the recommendations of the Independent Evaluation Group (IEG), the Committee on Development Effectiveness (CODE) and the Audit Committee (AC) have agreed that the Bank's procurement approach needs to be modernized. This paper proposes a new Framework for Procurement in World Bank investment project finance, developed to optimize the balance between maintaining the Bank's fiduciary assurance and simultaneously delivering positive development outcomes.

2. **The proposed new Procurement Framework would modernize the Bank's procurement approach to accommodate and better support the use of various procurement methods** in support of development outcomes. The optimum procurement approach for a particular operation will be informed by market analysis and identified through a Procurement Strategy for Development (developed by the borrower with the support of procurement, sector, and task team staff), submitted as part of the Project Appraisal Document (PAD). The Procurement Framework will support the delivery of more optimal procurement outcomes by expanding the number of approaches and methods that can be used. It will also place greater demands on Bank staff for increased professional judgment (governed by the appropriate Accountability and Decision Making Framework (ADM)) in the procurement process, and supported by clear procedures and guidance for borrowers.

3. **The CODE and Audit Committee have endorsed this paper, the Bank now seeks the views of stakeholders to inform the finalization of the new Procurement Framework.** The package of information provided includes the first drafts of the Procurement Vision Statement and Policy (Annex A), Directives (Annex B, Content Overview), Borrower's Procurement Procedures (Annex C) and Bank's Procedures (Annex D, Content Overview).¹ Stakeholder views are also sought on a range of complex issues for which it is generally accepted that modernization is required, but where views diverge on the best approach to take.

¹ Issues of consolidation and format will be addressed in the next phase. Annex F details the key changes in the Procurement Policy and the previous guidelines.

Should Bank procurement increase its support to client capacity building and institutional strengthening?

4. Stakeholders, IEG, CODE and Audit Committee have indicated a pressing need for the Bank to take a more systematic approach to support capacity building and procurement reforms in client countries. Public procurement can be a major contributor to positive economic growth, particularly by facilitating access to contract opportunities for small and medium-sized enterprises, which, as local generators of employment, help deliver shared prosperity in developing countries. Therefore, building clients' procurement capacity is essential to improved development effectiveness.

Should the Bank extend the application of value for money decision-making in contract award decisions?

5. The Bank will go beyond the current approach of selecting the lowest evaluated compliant bidder to permit the use of pre-defined non-price attributes (objective criteria), such as additional quality factors, as part of the bid evaluation process. This approach will be supported with capacity building as needed.

Ensuring integrity is critically important in World Bank procurement.

6. The governance of the procurement function in World Bank-financed operations is managed through clear and transparent lines of accountability and careful definition of the roles of responsible parties. The Bank's Anti-corruption Guidelines will continue to apply under the Procurement Framework. Management proposes to prioritize resources and attention on the highest-risk and/or highest-value procurements, identifying tailored integrity management approaches. As needed Management will increase the scope and depth of interventions such as prior reviews to include more support to up-front strategy development, post-award contract management, and performance reporting. This approach will focus integrity management and as needed increase the Bank's oversight of the largest contracts in the investment portfolio, thereby improving performance in fiduciary risk mitigation and project implementation.

Should borrowers be supported to identify and apply specific sustainable procurement criteria in Bank-financed procurement processes?²

7. It is proposed that, as agreed with the borrower, for the highest-risk and highest-value procurements, economic, environmental and social risks and opportunities can be identified as part of Bank's project risk assessment and addressed in the procurement process and included as part of the Project Appraisal Document (PAD). As agreed with the borrower, identified sustainability risks and opportunities will be turned into specific criteria to be addressed at the appropriate stage of the procurement process - augmented as appropriate with any additional criteria from the borrower's own National Policy on sustainable procurement. Examples of sustainability criteria could include energy efficiency of products, chemical waste handling,

² Page 5, paragraph 17, *Procurement in World Bank Investment Project Finance – Phase I: A Proposed New Framework*, Revised (AC2013-0013/3 – CODE 2013-0017/3) – October 29, 2013

hazardous substance management, joint venture composition, training requirements etc. See example in Annex E.

8. The Bank would support borrowers to include further sustainable procurement criteria in Bank financed contracts where there is full consistency with the borrowers own National Policy (providing it does not contravene the Bank's Policies).

Should alternative procurement arrangements be used for procurement under Bank-financed operations when appropriate?

9. The Bank will identify and agree on acceptable alternative procurement arrangements that may be used in Bank operations, for example, those of other multilateral development banks and of countries that are full members of the World Trade Organization (WTO) Government Procurement Agreement (GPA).³ The Bank is also developing an enhanced assessment methodology to assess the procurement arrangements at the level of individual entities to determine whether their procurement arrangements could be used in whole or in part in Bank financed projects. In all cases, the bidder's rights to raise complaints on the procurement process and/or integrity matters directly with the Bank are fully maintained.

Should the Bank increasingly tailor its procurement approaches to country situations as, for example, in fragile and conflict-affected states/situations (FCS)?

10. Development results must be delivered through procurement processes that are appropriate to the country's context and market conditions. Rather than having to create exceptions or special arrangements in the Procurement Framework, for example to deal with the circumstances of small economies, FCS or emergency situations, the policy has been designed from the outset to apply tailored, fit for purpose procurement approaches to any operational circumstance.

Should the Bank enhance its approach to procurement related complaints?

11. To respond to concerted demands from many stakeholders, Management envisages the Bank centrally monitoring procurement related complaints (at both the bidding stage as present and in addition, complaints related to post award activities) and providing more support to task team leaders (TTLs) and sectors, including by setting operating standards and developing measures for complaints tracking. Regarding post award complaints, the Bank's role is limited, as it is not a party to the contract; as such the Bank is examining proposals to broaden access to Dispute Review Boards (DRB), Dispute Review Experts (DRE) as well as other dispute resolution mechanisms. Arbitration will continue to be available through the contract conditions.

Should international competitive bidding (ICB) continue to be the preferred procurement arrangement for high risk and high value activities?

³ Where the category of expenditure and the implementing agency is covered by the country's GPA commitment (subject to review and World Bank acceptance of any temporary GPA transition arrangements).

12. ICB will continue to apply for activities above agreed thresholds (depending on market maturity and effectiveness), with appropriate Bank oversight (for GPA members the Bank would continue to oversee their procurement activities as necessary).

Should the Bank continue to support national competitive bidding (NCB), with the Bank's requirements for its use streamlined to issues of key importance?

13. NCB is the open competitive bidding procedure normally used for public procurement utilizing the relevant national legislation of the borrower. It is proposed that the Bank's requirements for NCB be streamlined to such issues as open advertising, universal eligibility, application of the Bank's debarment list, publication of contract award, and the right of the Bank to review.

Should the Bank focus its prior review of procurement activities on the highest-risk and/or highest-value contracts?

14. Management proposes to focus prior review resources solely on the highest-risk and/or highest-value contracts, to avoid diverting valuable staff time into low-value-added activities. Contracts that are not prior reviewed would be subject to post review on a sample basis. The Bank also proposes to make more use of countries' supreme audit institutions to undertake post-review audits as appropriate.

Does the Bank need to support better contract management and improved performance of suppliers?

15. The proposed Framework will include more clearly defined contract management roles for TTLs, Global Practice specialists, and procurement staff. It is proposed that for the highest-risk and/or highest-value contracts, procurement staff will support TTLs with an increased role in supervision. It is further proposed to begin for ICB procurement to integrate greater consideration of previous contract performance into procurement actions, focusing on safety matters. The Bank proposes to support borrowers in engaging with suppliers in strategic sectors and markets. The Bank also proposes itself to target the key suppliers to our borrowers in the contracts we finance, for strategic engagement to promote increased participation and improve overall performance.

Should the Bank implement Bank wide tracking of procurement activities and the setting of metrics to improve performance?

16. Management proposes to begin implementation of a new electronic procurement tracking and contract management system in FY15. This system will enable all prior reviewed procurement across the Bank to be systematically supported, with common data on performance and identification of any bottlenecks (for the Bank or the borrower). Data will be used to inform the setting of performance metrics that will become part of a balanced scorecard for procurement with capacity building and institutional strengthening activities.

Do the Bank's procurement skills need to be enhanced to ensure that the Bank will maintain its position of leadership on procurement and to deliver the proposals in this paper?

17. If the Bank is to maintain its global leadership in public procurement, it needs adequately resourced procurement staff that can effectively support the project teams and are equipped with modern procurement skills. An independent skills analysis of Bank procurement staff is being undertaken to analyze strengths and areas for development. Using the findings of this analysis, the Bank will be better able to allocate the best staff to support strategic projects. And to fill any skills gaps, the Bank will implement a targeted skills development program. Management envisages widening skills analysis to all procurement accredited staff (including accredited TTLs) to inform broader skills development.

18. **The proposed framework seeks to address deficiencies in the current policy that have been identified by Bank teams and borrowers.** For example, when the Bank lends through financial intermediaries to the private sector, or when it guarantees payment obligations, it is proposed that these activities will not be governed by the Procurement Framework. In addition, the Framework has captured approaches that will better support activities across the World Bank Group, particularly public-private partnerships. It is expected that this will enhance the synergies between the institutions of the World Bank and make it easier to work as one World Bank in support of borrowers.

19. **This paper seeks to navigate divergent views to create a broad consensus in the development of the final Procurement Framework.** CODE and the Audit Committee have endorsed the proposed approach, Management will now consult broadly with governments, business, non-governmental organizations, and other stakeholders to seek their input on the proposals (Annex J). Management will then finalize the Framework for Procurement in World Bank Investment Project Finance for approval in FY15.

PROCUREMENT IN WORLD BANK INVESTMENT PROJECT FINANCE

PHASE II: DEVELOPING THE PROPOSED NEW PROCUREMENT FRAMEWORK

I. INTRODUCTION

1. **This paper proposes a new Framework for procurement in World Bank investment project finance.** This Framework has been developed to optimize the balance between maintaining the Bank’s fiduciary assurance and simultaneously delivering positive development outcomes, to reflect the agreed vision: “Procurement in Bank Operations supports clients to achieve value for money with integrity in delivering sustainable development.”⁴

2. **Procurement has a dual role: client capacity building and fiduciary assurance.** Bank procurement is both a development instrument and a strategic policy tool that can support a broad range of economic and social development objectives.

3. **The CODE and Audit Committee have endorsed this paper, the Bank now seeks the views of stakeholders to inform the finalization of the new Procurement Framework.** The package of information provided includes the first drafts of the Vision Statement and Procurement Policy (Annex A), Directives (Annex B, Content Overview), Borrower’s Procurement Procedures (Annex C),⁵ Bank’s Procedures (Annex D, Content Overview) and the following questions and issues:

- Should Bank procurement increase its support to borrower capacity building and institutional strengthening?
- Should the Bank extend the application of value for money decision-making in contract award decisions?
- Ensuring integrity is critically important in World Bank procurement.
- Should borrowers be supported to identify and apply agreed sustainable procurement criteria in Bank-financed procurement processes?
- Should alternative procurement arrangements be used for procurement under Bank-financed operations, where appropriate?
- Should the Bank increasingly tailor its procurement approaches to country situations (as, for example, fragile and conflict-affected states/situations and emergency situations)?
- Should the Bank enhance its approach to procurement related complaints?
- Should international competitive bidding (ICB) continue to be the preferred procurement arrangement for the highest-risk and highest-value activities?

⁴ *Procurement in World Bank Investment Project Finance – Phase I: A Proposed New Framework*, Revised (AC2013-0013/3 – CODE 2013-0017/3) – October 29, 2013

⁵ Please note that these are drafts to inform discussion, not final versions.

- Should the Bank continue to support national competitive bidding (NCB), with the Bank's requirements for its use streamlined to issues of key importance?
- Should the Bank focus its prior review of procurement activities on the highest-risk and/or highest-value contracts?
- Does the Bank need to support better contract management and improved performance of suppliers?
- Should the Bank use Bank wide tracking of procurement activities and the setting of metrics to improve performance?
- Do the Bank's procurement skills need to be enhanced to ensure that the Bank will maintain its position of leadership on procurement and to deliver the proposals in this paper?

4. **Following CODE and the Audit Committee's endorsement, Bank staff will consult further with governments, the business sector, non-governmental organizations (NGOs), and other stakeholders to seek their input on the proposals detailed in this paper (Annex K).** Following the consultations and the receipt of further input from working groups with Executive Director Advisors, in FY15 Management will finalize the Procurement Framework and present it to the Board for approval.

A. Historic Approach

5. **For over 50 years the Bank's procurement approach has been a model of good international practice.** The approach has served the Bank well, but it has not kept pace with modern techniques. Indeed, in recent years, as procurement has matured as a profession in an environment of globalization and rapid information exchange, the Bank's procurement approach has fallen behind good international practice and needs to be modernized. The recommendations from a recent IEG study (Annex G), corroborate the need for the Bank's procurement approach to be more risk-based and to reflect new procurement modalities.

6. **The Bank's procurement portfolio is very diverse.** It covers a wide range of projects in the very different environments of some 162 countries where both borrowers and suppliers have very varied levels of capacity. To manage this diversity, the Bank has historically applied a standard approach to its procurement in the form of the Procurement Guidelines, which applies equally to all borrower countries, from the largest to the smallest, and from middle-income countries to fragile and conflict-affected situations (FCS). In today's globalized environment, that traditional standard approach is no longer the best fit for purpose; it needs to be better tailored to different operating environments and project needs.

7. **A key aspect of Bank's procurement approach has historically been Bank staff's prior review of procurement processes to ensure compliance with the Guidelines and to manage procurement-related risks.** In prior review, the procurement activity pauses at key stages while the Bank reviews in detail the procedures that have been followed; Bank staff must issue a "no objection" before the borrower can continue with the procurement process. Many stakeholders have challenged the amount of time that Bank procurement processes take and have complained about the interruption to the process that prior review represents. In

Management's view, the investment in prior review is only warranted in the highest-risk and/or highest-value contracts⁶ (such as ICB or where the procurement is for a very critical component). Its use in other contracts needs to be significantly streamlined, targeted, and more focused.

B. Approach to Reform

8. **This work was initiated with the approach paper to the review of the Bank's Procurement Policy, endorsed at a joint meeting of CODE and Audit Committee in 2012.**⁷ That paper set out the case for changing and reforming the Bank's Procurement Policy and launched the first comprehensive review of the policy since the Bank's founding. Phase I of the reform sought views and then triangulated the opinions of Bank staff, external stakeholders (Box 1), and the recommendations from the Independent Evaluation Group (IEG) report *The World Bank and Public Procurement* (see Annex G). The vast majority of these views confirmed the need to change the policy and implementation of the Bank's procurement approach.

⁶ See also IEG Findings and Conclusions #6, Annex F "Findings show that prior review instruments at best partially reflect country or project risk, and as such, could be relied on less as risk control mechanisms. There is likely to be scope to reduce the risk efficiency trade off by reducing the share of contracts that are prior reviewed and focusing prior review on the highest risk contracts."

⁷ *The World Bank's Procurement Policies and Procedures: Initiating Discussion and Approach Papers* (AC2012 0010, CODE2012-0007), February 10, 2012.

Box 1: Main Messages from the External Consultations

During the consultations, external parties suggested that the Bank's approach to procurement should have the following characteristics:

- **A robust set of principles, reflecting new concepts in public procurement**, and stressing support for development effectiveness, value for money, integrity, and sustainability.
- **Procurement methods that are context-specific, proportional, and best fit for purpose**; that allow for innovation; and that reflect modern, international good practice.
- **Greater use of clients' procurement arrangements and institutions**, with appropriate arrangements to manage associated risks throughout the whole project cycle, including Bank monitoring of contract execution, and recourse to the Bank and dispute resolution.
- Accompanying the use of client procurement arrangements, **more support for capacity building**, especially in lower-income countries, and across all actors, private business, NGOs, civil society, and public institutions.
- The **use of e-procurement** and other technologies, which allow data mining and analysis and can reduce the potential for fraud and corruption, with attendant benefits in terms of time, cost, and transparency.
- **Special attention to fragile and conflict-affected countries and small economies** with poorly developed markets, weak capacity, and limited options for economies of scale and competition.
- A **strategic approach informed by up-front analysis of markets, industry practices, and competition**, including impact on local industry.
- **Coverage of the full procurement cycle**, from design through planning, tendering, contract execution, and completion. This approach would balance compliance with specific rules during the tendering process with more attention to quality, results, and performance.
- **New thinking about the Bank's approach to fraud and corruption**, taking a holistic stance, looking at contract execution as well as tendering, integrating with local accountability institutions, and using new technologies and transparency initiatives.
- **Renewed international partnerships with standard-setters**, multilateral development banks and donors, and other relevant global organizations.
- **Clarification of the Bank's role** with respect to that of clients (borrowers) and development partners, as well as clarification of roles internally in the Bank.
- **Provision for the Bank's direct oversight of procurement processes to focus on the largest, most complex, and most innovative contracts**, and for indirect oversight to rely increasingly on country systems as well as civil society and independent observers at large.
- **Metrics to measure results on the ground**, changes to client (borrower) country capacity and professionalism, and the Bank's contribution.

9. **CODE and the Audit Committee discussed the approach paper in April 2013, and in November 2013 endorsement was given.** Management was asked to develop more detailed proposals to modernize the Bank's procurement approach and to answer to a series of questions (Annex G). In developing these proposals Bank staff have engaged widely through a variety of fora:

- Internal Advisory Group, comprising senior Bank staff such as Country Directors;
- International Advisory Group on Procurement, comprising experts in procurement from the public sector, private sector, academia, and NGO;
- Briefings to Executive Director's Advisors on subjects such as data, metrics, and Government Procurement Agreement (GPA);
- Working Groups with Executive Director's Advisors on complex matters such as policy, directives, procedures, sustainability, and complaints; and
- Heads of Procurement Working Group of the Multilateral Development Banks.

10. **It is clear that there are different views on the degree of change needed in the Bank's procurement approach.** Some stakeholders wish to maintain the status quo, while others look for a more substantive transformation. In particular, finding the right balance among the views of suppliers, the broader business community, NGOs, and borrowers, while simultaneously mitigating the financial and fiduciary risks to the Bank and delivering positive development outcomes is at the center of these proposed procurement reforms. The proposals in this paper should, therefore, be seen as a complementary, integrated package of measures, which, when taken as a whole, reflect the needs of diverse stakeholders.

II. WHAT WILL AND WILL NOT CHANGE

11. **There has been a great deal of interest in the Bank’s proposed procurement reforms, and Management has engaged significantly with stakeholders on it.** Overall, the intent is to develop a Procurement Framework with clear lines of accountability, greater clarity, and more helpful guidance that ensures closer alignment of the Bank’s procurement system with today’s increasingly complex and diverse operating environment. It is proposed that Procurement in the Bank’s principle investment financing instrument is governed by a framework that comprises a vision and Core Principles, with Policies, Directives, Procedures, and Guidance. As part of the Directives, Borrower’s Procurement Procedures contain mandatory procedures that apply to the borrower and those carrying out a World Bank-financed project. There will also be a strategy for implementation that will include internal and external skills and capacity development, and a more extensive procurement toolkit for use by both Bank professionals and borrower countries. Using the feedback received, this paper seeks to clarify the nature and degree of change proposed by articulating what will and will not change.

A. What WILL Change

12. The Bank’s Procurement Framework will be updated to include the following key elements:

- The **agreed vision** “Procurement in Bank Operations supports clients to achieve value for money with integrity in delivering sustainable development” which is the strategic foundation of the entire Framework.
- A **succinct Policy** that unequivocally states the guiding principles of the Bank’s procurement practice that is, value for money, economy, efficiency, fit for purpose, integrity, transparency, and fairness.
- Greater focus on **capacity building and institutional strengthening** of borrower’s procurement. With procurement interventions appropriately targeted to capacity building and institutional strengthening, the Bank will be better able to recognize the contribution effective public procurement can make to the growth of small and medium-sized businesses, which can help to deliver shared prosperity as important employers and wealth generators.
- A **clear distinction between the different tiers of the Procurement Framework** from the Policy to increasingly detailed information in the associated Directives, including Borrower’s Procurement Procedures, and Guidance all supported by single-point accountability and decision making.
- **Clear roles for Bank staff, borrowers, and suppliers and contractors** on procurement operations.

- Modernized **borrower’s procurement procedures**, accompanied by hands-on implementation support from Bank procurement staff as needed, particularly in low-capacity environments. The procedures will empower the use of the following:
 - Value for money decision-making, which goes beyond the current approach of accepting the lowest evaluated bid to empower the borrower to achieve optimum value for its expenditures on procurement.
 - Modern procurement methods such as competitive dialogue, negotiation, best and final offer, strategic supplier engagement etc.
 - Greater ability to recognize previous performance of suppliers in the procurement process.
- For FCS, **tailored context-specific procurement approaches** to maximize development effectiveness.
- **Recognition of, and support in using, alternative procurement arrangements**, where appropriate to recognize and support good practice.
- **Increased support to the highest-risk and highest-value activities to improve the performance of critical contracts**, with prior review of strategic contracts at more stages during the project cycle, including up-front Procurement Strategy for Development.
- To **address the wide variety and range of financial arrangements associated with PPPs**, PPPs will no longer be selected by the current, static, process-oriented approach, but by using criteria that best meet the development objectives and project outcomes acceptable to the World Bank. This will facilitate the private sector’s participation in Bank-financed PPPs across the World Bank Group.
- **Bank lending through financial intermediaries to the private sector and its guaranteeing of payment obligations**, will not be subject to the Procurement Framework. Given that both financial intermediaries and private sector sub-borrowers have an obligation to repay it is expected they will ensure that the eligible projects are carried out diligently, economically, and efficiently.
- **Streamlined prior review focusing on the highest-risk and/or highest-value contracts**. Making prior reviews far more risk-targeted will allow task team leaders (TTLs) and procurement staff to focus greater attention on strategic procurements, building borrower procurement capacity, and providing support to help borrowers maximize development impacts. The Bank will make greater use of post review (ex-post auditing) on a sample basis.
- **Identification and allocation of the Bank’s procurement staff expertise** to ensure that the best available resources support the highest-risk and highest-value contracts.

- **Adjusted thresholds for use of ICB and NCB** that are focused on specific market sectors (for example, roads, hydropower, transmission), rather than the current broad categories (e.g., Works, Goods and Services). This will enable the Bank to set more appropriate thresholds on the basis of how the supply market in a sector actually functions at the country, regional, and global levels.
- **Deployment of information technology (IT) systems** to track Bank and borrower procurement performance systematically and report on service levels/response times. IT systems will also be available to support planning and electronic tendering by borrowers (if they do not have an e-Procurement system).
- **Developing the skills of Bank procurement staff**, as needed. Independent appraisal of staff skills will inform the targeted development of individuals to equip them with the modern procurement skills they need to implement the new Procurement Framework successfully and add greater value to borrower's procurement operations.

B. What WILL NOT Change

13. **The Bank's Procurement Framework will be an all-encompassing set of Policies, Directives, Procedures, and Guidance that govern procurement in investment operations.** As part of the Directives, Borrower's Procurement Procedures will contain mandatory procedures that apply to the borrower and those carrying out a World Bank-financed project. The new Framework will update and build on approaches that have served the Bank and its borrowers well, ensuring the following key aspects:

- The Bank will **continue to provide stringent fiduciary oversight** of the procurement process, including through prior and post reviews, use of audits, and where appropriate by declaring misprocurement and exercising remedies.
- **International Competitive Bidding (ICB) remains** the preferred method for international competitive procurement,⁸ with appropriate use of the following:
 - Harmonized Standard Bidding Documents;
 - Agreed, standardized international model forms of contracts e.g. FIDIC;
 - Prior review of the borrower's procurement actions at key stages, depending on risk and/or value; and
 - Risk-based clearance procedures.
- Subject to Bank approval, national competitive bidding (NCB) will continue to use the borrower's own competitive public procurement method, evaluated against a streamlined set of criteria.

⁸ Excluding, if agreed, the use of Procurement Arrangements of members of the World Trade Organization, Government Procurement Agreement, GPA.

- The Bank will **continue to leverage entry points for agency, regional, and country procurement reforms** through its support to project-level operational procurement activities.
- The Bank will continue to **diligently manage fraud and corruption risk**.
- **Procurement-accredited Bank staff will continue to make clearance decisions** on procurement transactions to maintain due diligence, in line with the Bank's Accountability and Decision Making framework (ADM).

14. **Under the proposed Procurement Framework, the Bank remains fully committed to risk management, country procurement capacity building, and appropriate application of good practices.** The Bank remains committed to support through its procurement processes adherence to such international agreements as the United Nations Convention against Corruption and United Nations Fiduciary Principles Accord. The Bank's anticorruption guidelines will continue to apply to all Bank-financed procurement, with efforts focused on the highest-risk and/or highest-value procurements. The proposed new Framework would therefore protect the Bank's right to review documentation and activities in case of any allegations of fraud and corruption. The proposed emphasis on greater transparency, open data, contract disclosure, supplier performance management, and improved complaint monitoring will also enhance anticorruption measures.

III. PROPOSED PROCUREMENT FRAMEWORK

15. **Drawing on feedback from Executive Directors, borrowers, operational staff, IEG, Internal Audit Department, external stakeholders, NGO’s and the business community, the Bank has begun to build the new Procurement Framework.** This Framework reflects the agreed Bank wide Policy and Procedures Framework structure, with the content of the Vision Statement and Policy, Directives, Borrower’s Procurement Procedures, Banks Procedures and Guidance based on a cascading principle. The cascade moves from strategic principles in the Policy; to mandatory Directives and more detailed Procedures on how to apply the Policy, with associated Procedures containing mandatory regulations that apply to the borrower and those carrying out a World Bank financed project; and finally to Guidance on general good procurement practice, which is not mandatory.

16. **The Procurement Framework (Vision Statement, Policy, Directives, Borrower’s Procurement Procedures and Bank’s Procedures), is intended to replace the Bank’s current approach.** The content of OP 11.00, BP 11.00, and the Procurement Guidelines has been reviewed and incorporated into the draft Procurement Framework (see Annexes A, B, C and D).

17. **The Framework begins with a vision statement.** The statement is intended to set a clear direction and overarching tone for the World Bank’s role in procurement in investment project finance - focusing on the dual role of borrower capacity building and fiduciary assurance (see Annex A).

A. Procurement Policy

18. **The Policy supports the vision for Bank Procurement: “Procurement in Bank Operations supports clients to achieve value for money with integrity in delivering sustainable development.”** It prioritizes adherence to Core Principles, value for money, economy, efficiency, integrity, fit for purpose, transparency, and fairness and gives Borrowers the scope to apply more modern procurement procedures that balance risk with procurement development, design, and contract management. This is an important step toward strengthening accountability: Management will be expected to deliver the development results in a manner consistent with the principles set by the Board and in all circumstances, including those that might not have been anticipated by the procedures. Box 2 outlines the draft Policy, which is provided in full in Annex A.

Box 2. Outline of the Procurement Policy (Draft)

<i>Policy content</i>	<i>Status</i>	<i>Ref. para.</i>	<i>Comment/intent</i>
Preamble	New	1 - 4	Explains the background and application of the Procurement Framework.

Core Procurement Principles of value for money, economy, integrity, fit for purpose, efficiency, transparency, and fairness	New	5	Introduces value for money as a core principle, a key area of concern for many stakeholders. Fit for purpose replaces effectiveness as a principle in Bank Procurement Framework.
Governance; including roles and responsibilities, accountability, conflict of interest, eligibility, remedies, and complaints	New and updated	6	Provides clear policy direction on the roles of the Bank and the borrower in governance matters, with enhanced text from the existing Guidelines and new content on risk management and accountability. Provides for the Bank to delegate its fiduciary responsibilities to third parties, as appropriate.
Applicability	Updated and new	7	Simplified text from current policy; also provides for the use of alternative procurement arrangements, as appropriate, in particular when the World Bank is not the major co-financier.
Procurement Strategy for Development	New	8-9	Requires preparation of a strategy as the framework from which specific procurement actions can be taken to meet particular project needs.
Interpretation and Application	Updated	10	Building on existing text, states the responsibility and accountability of the Chief Procurement Officer to Management for formulating, updating, and interpreting the Procurement Framework.

19. **This Policy sets a modern, good practice, principles-based strategic foundation for Procurement in operations to support development effectiveness**, reflecting the direction previously endorsed by CODE and the Audit Committee. The eventual approval of the proposed Procurement Framework may require the revision of related Bank policies.

B. Procurement Directives

20. **The Procurement Directives provide instructions on applying the Policy.** They cover such issues as thresholds for prior review, use of post reviews, auditing, and the specific roles of Bank staff (see Annex B for an overview of the content that will be developed at the next stage).

21. **Executive Directors have been consistent on the need to establish clear accountability in procurement decisions and to keep clearances within the procurement function.** As a first step, an accreditation decision making process for Bank staff to be permitted to clear packages has been defined. The clearance of procurement cases will continue to be undertaken on a cascading principle, with the Chief Procurement Officer holding the highest clearance level, for high-risk and/or high-value activities.

C. Borrower's Procurement Procedures

22. As part of the Directives, Borrower's Procurement Procedures contain mandatory procedures that apply to the borrower and those carrying out a World Bank-financed project. (see Box 3 and Annex C). Several updated and new topics have been added to the procedures

to reflect new procurement modalities: competitive dialogue, negotiation, performance management, best and final offer.

Box 3. Outline of Borrower's Procurement Procedures (Draft)

<i>Procedure Content</i>	<i>Status</i>	<i>Reference para.</i>	<i>Comment/Intent</i>
Introduction			
Vision	New	1.1	Repeats vision.
Purpose	Update	1.2	The World Bank Procurement Framework is an all-compassing set of regulations that apply to Procurement in World Bank Investment Project Finance.
Procurement Framework	New	1.3 - 1.4	Explains framework structure and hierarchy.
Applicability	Updated	1.5 - 1.7	Covers the full procurement cycle. It also introduces alternative procurement arrangements, as appropriate.
Roles and Responsibilities	Updated	1.8 - 1.17	Simplified text.
Accountability	Updated	1.18 - 1.19	Simplified text, updated to reflect ADM Framework.
Eligibility	Updated	1.20	Simplified text.
Conflict of Interest	Updated	1.21 - 1.27	Standardizes the approach to conflict of interest, so that it is common to all suppliers.
Confidentiality	Updated	1.28	Simplified text common to all procurement methods.
Related Policies	Updated	1.29	Explains that this is not a standalone policy; it needs to be complemented by other Bank policies.
Procurement Strategy and Planning			
Introduction	New	2.1 - 2.3	Introduces new procurement modality, the concept of a procurement strategy, building on the existing procurement plan approach.
Operational Context	New	2.4 - 2.5	Explains that the operational context is critical in developing a procurement strategy that is fit for purpose.
Developing a Project Procurement Strategy	New	2.6 – 2.7	Introduces new procurement modality. Discusses developing the project-level procurement strategy.
Value for Money (VfM)	New	2.8 - 2.9	Introduces new procurement modality. Explains that the aim of a procurement strategy is to develop a procurement approach to achieve VfM.
Fit for Purpose	New	2.10 - 2.11	Introduces new procurement modality. Explains options to identify the most appropriate mechanism to maximize the projects development objectives.
Sustainable Procurement	New	2.12	Introduces new procurement modality. Explains that sustainability risks are

			identified and managed through the procurement process, informed by the Bank's project risk assessment and augmented by the borrower's own sustainable procurement policy.
Application of Technology (e-Procurement)	Updated	2.13 - 2.14	Describes the use of e-Procurement in Bank-financed procurement.
Procurement Plan	Updated	2.16 - 2.17	Updated requirements
Approach to Market – Procurement Methods			
Value for Money	New	3.1 - 3.2	Introduces new procurement modality. Repeats that the approach to market must deliver VfM.
Goods, Works and Non-Consulting Services			
Determining the Approach to Market	Updated	3.3	Summarizes the options available for use.
Competitive Approach to Market	Updated	3.4 - 3.10	Summarizes the competitive procurement approaches.
Non-Competitive Approach to Market	Updated	3.11 - 3.12	Summarizes the use of direct sourcing.
Other Approaches to Market	Updated	3.13 - 3.19	Explains use of community-driven development, commercial practices and public-private partnerships (PPP modified from process based approach to fit for purpose)
Approaching the Market – Approved Procurement Methods	New	3.20	Introduces a section that provides more options for each of the previous sections.
International Competitive Bidding (ICB)	Updated	3.21 - 3.24	Explains use of ICB and variants.
National Competitive Bidding (NCB)	Updated	3.25 - 3.29	Explains use of NCB and variants.
Limited Bidding	Updated	3.30 - 3.31	Simplified text.
Request for Quotations	New	3.32 - 3.33	Replaces “shopping” in the existing Bank Guidelines and broadened.
Competitive Dialogue	New	3.34 - 3.36	Introduces a new procurement modality.
Framework Agreements	Updated	3.37 - 3.39	Broadens the use of framework agreements.
e-Auction	Updated	3.40 - 3.41	Broadens the use of e-Auctions.
Non-Competitive Methods	New	3.42	Introduces a section that provides more options in non-competitive procurement.
Direct Contracting	Updated	3.43 - 3.45	Details the use of direct contracting, also known as single-source procurement.
Force Account	No change	3.46	
UN Agencies	Updated	3.47	Explains procurement from UN agencies.
Other Multilateral and Bilateral Organizations	New	3.48	Same approach as for UN agencies.

Consulting services			
Introduction	Updated	3.49 - 3.52	Introduces the use of consulting services and the link to the procurement strategy. Introduces market approaches and selection methods.
Competitive Approach to Market for Selection of Legal Entities	Updated	3.53 - 3.57	Explains different competitive market approaches.
Non-Competitive Approach to Market for Selection of Legal Entities	Updated	3.58 - 3.59	Approach to sole-source selection.
Determining the market for individual consultants	Updated	3.60	Explains competitive and non-competitive approaches for individual consultants.
Approaching the Market – Approved Procurement Methods for Legal Entities	Updated	3.61 - 3.80	Explains options to approach the market to select consultant legal entities. Shortlisting requirements modified.
Selection of Particular Types of Consultants	Updated	3.81 – 384	Approaches to select UN agencies; other multilateral and bilateral organizations; not-for-profit organizations, e.g., NGOs; banks; panel of consultants. Use of framework agreements.
Approaching the Market – Approved Methods for Individual Consultants	Updated	3.85 - 3.87	Explains use of competitive selection and sole-source selection.
Project Implementation Support Personnel and Service Delivery Contractors	Updated	3.88 - 3.89	Explains approach to procure both these types of resources.
Specific Procurement Provisions	Updated	3.90	Introduces this section.
Advance contracting and retroactive financing	No change	3.91	
Requests for expressions of interest	Updated	3.92	Approach to REOI.
Prequalification	No change	3.93	Simplified text.
Joint ventures and associations	Updated	3.94	Simplified text.
Procurement documents	Updated	3.95 - 3.98	Simplified text, explains use of ICB/other documents.
Use of electronic procurement systems	No change	3.99	
Bid/proposal preparation period	No change	3.100	
Communications	Updated	3.101-3.102	Simplified text.
Bid/proposal opening procedures	Updated	3.103	Simplified text.
Development of Evaluation Criteria and Contract Award			
Evaluation Criteria	New	4.1 – 4.7	Overview of approach to develop evaluation criteria.
Negotiation	New	4.8	Introduces new procurement modality. Provides for negotiating with bidders after bid opening and before award.

Best and final offer	New	4.9	Introduces new procurement modality. Introduces the ability to request a final offer after submitting the initial bid.
Rejection of all bids	Updated	4.10	Updated text.
Contract award criteria	Updated	4.11	Provides for VfM decisions, introduces the ability to include track record in previous Bank projects as appropriate.
Publication of award of contract	Updated	4.12	Simplified text.
Debriefing unsuccessful bidders and consultants	Updated	4.13 – 4.14	Explains bidder’s rights to a debrief, content and time frame for the debrief.
Contract Types, Conditions, Management, and Administration			
Conditions of contract considerations	Updated	5.1	Updated text.
Management and administration of contracts	New	5.2 – 5.7	Explains the importance of contract management, provides planning considerations.
Remedies, Complaints, and Commendations			
Remedies	Updated	6.1 - 6.2	Simplified text includes details on misprocurement.
Complaints	Updated	6.3 – 6.5	Simplified text, references more detailed appendix.
Commendations	New	6.6	Introduces the ability to give a commendation to a Bank procurement activity and any of its parties, introduces the prospect of Bank awards in recognition of excellent practice.

23. A further set of Bank’s Procedures will be developed that detail the Accountability and Decision Making framework for procurement activities, Annex D details the illustrative content proposed.

IV. COMPLEX ISSUES

24. **The proposed new Procurement Framework would update the existing Procurement Guidelines and include new procurement modalities.** The Procurement Framework is intended to better respond to borrower needs, reflect different market contexts, and support procurement approaches that deliver the best response from bidders. Supporting more innovative procurement requires approaches that are more dynamic and allow greater engagement with bidders, for example, methods such as competitive dialogue, negotiations, and best and final offers are not covered in the existing Procurement Guidelines. The proposed Framework provides borrowers with a wider range of procurement approaches, so that they can select the right method to drive best value for money responses from the market.

25. **The development of the proposed Procurement Framework has given rise to a number of complex issues** typically in areas where it is accepted that modernization is required, but stakeholders have very different ideas on the best approach to take. Having engaged with a wide range of stakeholders, Management has provided the first drafts of the Procurement Vision Statement and Policy (Annex A), Directives content overview (Annex B), Borrower's Procurement Procedures (Annex C) and Bank's Procedures content overview (Annex D), and is seeking views on the following key questions and issues:

Should Bank procurement increase its support to borrower capacity building and institutional strengthening?

26. **Stakeholder consultations, IEG feedback, and demands from CODE and Audit Committee have indicated a pressing need for the Bank to take a more systematic approach to support capacity building and procurement reforms in borrower countries.** The strengthening of procurement systems is proposed as a key objective, positioning Bank Procurement in a broader development context. Institutional strengthening is a critical aspect of the work of the newly created Governance Global Practice (GGP) which will ensure that capacity building is enhanced through leveraging its global, multi-disciplinary resources.

27. **The expenditure on the goods, services, and works needed to support a country is significant.** It is estimated that expenditures through public procurement can constitute 30-60% of all government expenditure. Therefore, optimizing public procurement to get the best value for money is essential to delivering development outcomes for all citizens.

28. **Public procurement can be a contributor to positive economic growth, particularly by encouraging access to contract opportunities by small and medium enterprises.** As engines of economic growth and generators of employment, small and medium-sized enterprises are vital to borrower countries' efforts to increase shared prosperity, particularly in FCS. Bank procurement could catalyze economic development by encouraging opportunities for small businesses, particularly by improving development countries' procurement systems. Opening up procurement opportunities, providing confidence to bid, and building supplier capability are all aspects of good procurement that the Bank seeks to develop with its borrowers through capacity building and institutional strengthening along with ensuring better fiduciary management and fraud and corruption management.

29. **Management envisages identifying and agreeing on a set of borrower countries to target for accelerated procurement capacity building**, subject to their agreement and support in the Country Partnership Framework. Each country's accelerated program of capacity building would continue to be supplemented with capacity strengthening at the project level. Targeted capacity-building activity can then be measured and evaluated for its effectiveness and become part of a set of qualitative and quantitative metrics (procurement balanced scorecard), in conjunction with fiduciary assurance.

30. **Management proposes to build alliances with other donors and business groups to seek support and funding to build procurement capacity in borrower countries.** Funding procurement capacity building and institutional strengthening is a major challenge, particularly in a constrained fiscal environment. Feedback indicates a consistent and clear demand to improve procurement performance globally; simply put, businesses are increasingly frustrated at the lack of capacity and commercial acumen in some jurisdictions. The Bank believes it can catalyze work and mobilize funding to address procurement capacity weaknesses, building on the strengths of the new Governance Global Practice to provide an integrated support framework to build effective public financial management.

31. **To inform agency capacity building and institutional strengthening, an enhanced procurement diagnostic tool will be developed during the next stage of the framework and applied at the request of country directors and the relevant Global Practices.** The tool will build on existing diagnostic arrangements such as Public Expenditure and Financial Accountability (PEFA) and Methodology for Assessing Procurement Systems (MAPS) and will include analysis of quantitative, qualitative, and stakeholder perception information at the sector/agency level.

Should the Bank extend the application of value for money decision-making in contract award decisions?

32. **VfM decision-making is essential to maximize the development impact of Bank-financed procurement.** In Management's view, the best value for money is determined by comparing relevant benefits and costs on a whole-of-life or life cycle basis, as appropriate. The basic purchase price alone may not always be an adequate indicator of total relevant costs. The lowest evaluated compliant bid (the Bank's current approach) does not necessarily always represent value for money; this has been a source of consistent concern to borrowers and the business community. The Bank's current approach is based on the premise that when bids meet a minimum set of requirements and costs can be fully measured, then the award is made to the compliant bidder with the lowest evaluated total cost. This approach has served the Bank and its borrowers well and works in many circumstances, but it can be restrictive in situations when it is not possible to put a fiscal cost to every criterion or where innovative or high technology solutions are required from bidders.

33. **The Bank envisages an option for borrowers to apply expanded non-price attributes to bid evaluation.** Borrowers would set minimum criteria for quality related aspects, and an additional qualitative scoring method would be available to measure further non-price qualitative aspects of the bid. The quality score of compliant bids would then be

weighted with a second scoring model for total cost (a weighted, factored total cost score), and the two combined would determine the overall best value for money proposal. This approach to VfM decision-making is common practice in many advanced jurisdictions, and the Bank proposes to draw on good practice to inform its final Borrower procedure on this subject. To ensure appropriate application of VfM decision-making, Bank staff would initially target key contracts for the use of VfM evaluation and would provide capacity-building support to borrowers in this process.

34. **Management's view is that if borrowers are to be in the best position to determine VfM when conducting a procurement process, the bidding documentation needs to specify upfront logical, clearly articulated, comprehensive, and relevant criteria.** These criteria also need to be sufficiently detailed to ensure proper identification, assessment, and comparison of the risks and benefits of all submissions on a fair and common basis over the whole procurement cycle. Specifications should also be structured so as to encourage innovation and alternative bids from suppliers where appropriate.

35. **Management envisages that tender notices and/or tender documentation issued by the borrower will also reserve the right for buyers to request a best and final offer or simultaneously negotiate with a number of bidders, as long as appropriate controls are in place.** Further, when borrowers invite the submission of alternative proposals, alternatives that improve the value of the offer in delivering development effectiveness should be evaluated. Understandably, requesting best and final offers, negotiation, and bid clarification can be seen as mechanisms that could introduce integrity risk. However, this risk can be mitigated; indeed, many countries manage negotiation and its risks very successfully. The current risk-averse approach of not fully permitting dialogue, clarification, and negotiation between buyer and seller impedes the application of modern procurement practices and best-value decisions in Bank procurement.

36. **Achievement of best VfM does not automatically result from applying rigid procurement processes.** Instead, it requires a tailored, market-focused Procurement Strategy for Development to fulfil the project development objectives as appropriate. Management envisages that, at the early stages of project development, the borrower will produce a Procurement Strategy for Development taking into account the operational context of the project where procurement will be carried out (e.g. fragile and conflict-affected situations, disaster/emergency, small economies etc.); and specific objectives of the operation, (e.g. development of domestic contracting, manufacturing and consulting industries). This strategy should be based on analysis of project/borrower needs, opportunities, risks, and market maturity. As part of the Project Appraisal Document (PAD), the Bank will work with the borrower to refine the Procurement Strategy for Development that includes details on the risks and opportunities, procurement arrangements to be used, methods of procurement, timing, contract form, approach to VfM analysis, sustainability, and any agency capacity building required to meet the required deliverables. The project-specific Procurement Strategy for Development will be augmented by activity-specific strategies as needed; for example, a project that includes consultancy, IT, and construction would require activity-specific procurement strategies tailored to each market sector. The activity strategy will be informed

by the Procurement Strategy for Development and will allow for the highest-risk and highest-value procurements in the Bank to be tailored to specific sector needs.

37. **Determining the approach to achieve VfM will be critical aspect to the production of the proposed Procurement Strategy for Development for each project.** The strategy will determine the actions the borrower will take to achieve VfM by selecting the most appropriate procurement method and techniques. The strategy will also outline any capacity building and/or technical assistance required to support the chosen procurement method and the VfM evaluation process.

Ensuring integrity is critically important in World Bank procurement.

38. **Fraud and Corruption risk will be managed, with the Bank’s Anti-corruption Guidelines continuing to apply under the Procurement Framework.** The governance of the procurement function in World Bank-financed operations is managed through clear and transparent lines of accountability and careful definition of the roles of responsible parties.

39. **Management proposes to prioritize resources and attention on the highest-risk and/or highest-value procurements.** As necessary Management will increase the scope and depth of prior review to include up-front strategy development, post-award contract management, and performance reporting. As needed the Bank may increase its support and oversight of the most significant contracts in the investment portfolio, thereby improving overall performance in fiduciary risk mitigation and project implementation. For Bank financed operations in GPA members or when utilizing National Competitive Bidding (NCB) procedures, fraud and corruption provisions will be maintained through the financing agreement and operationalized by requiring that bidders present a signed acceptance of the provisions.

Should borrowers be supported to identify and apply sustainable procurement criteria in Bank-financed procurement processes?

40. **CODE and Audit Committee endorsed sustainable development as a specific aspect of the vision for procurement in Bank operations.** In the Phase I paper endorsed at CODE and the Audit Committee, sustainable procurement was included as an intrinsic part of the principle of economy, it was also specifically defined as “the strategic procurement approach should be on a whole life basis – which generates benefits to the procuring entity and the economy, but also to society whilst minimizing damage to the environment (reflecting the confines of the borrowers own procurement policy)”⁹. Sustainability is especially relevant in such areas as construction, maintenance, and power generation, and applies to the use of scarce resources and to environmental and socioeconomic factors. See Annex E for an example of application.

⁹ See Framework paper, Phase I, “Box 2: The Meaning of ‘Economy’” for the definition of sustainable procurement.

41. **Management proposes that specific sustainability requirements should be scoped early during project preparation for the highest-risk and highest-value operations and as agreed with the borrower, included as part of the Procurement Strategy for Development.** Where appropriate Bank and borrower staff will identify specific sustainability risks and opportunities for procurements during the research and planning stages of project preparation (incorporating activity specific issues identified as part of the Bank's environmental and social risk assessment process). As agreed with the borrower, sustainability Risks and opportunities would then be addressed at the appropriate stage of the procurement process (e.g. defining specific sustainability criteria as necessary for supplier selection, specification, evaluation, performance management). The Bank would support borrowers to include other sustainable procurement criteria in Bank financed procurements where there is full consistency with the borrowers own national policy (providing it does not contravene the Bank's Policies). The application of sustainable procurement would not be a mandatory requirement for borrowers as it may have cost implications. However, the Bank proposes that borrowers apply life cycle cost decision making, which can be used to mitigate any higher upfront cost exposure and ensure delivery of optimum value for money.

42. **Management proposes to develop a comprehensive tool kit of materials to support any requested capacity building on sustainable procurement.** This tool kit will be informed by international good practice on sustainable procurement. Sustainable procurement would also be included as an aspect in the Bank's diagnostic and capacity assessment of borrower agencies. Finally, to ensure that Bank staff have the appropriate sustainability skills to support borrower demands, sustainable procurement knowledge will be integrated into the skills assessment undertaken by Bank Procurement staff, and training will be provided as needed.

Should alternative procurement arrangements be used for procurement under Bank-financed operations when appropriate?

43. **Where appropriate, the Bank will identify and agree on acceptable alternative procurement arrangements that may be used to support Bank financed operations.** Alternative procurement arrangements will be identified during project appraisal as part of the Procurement Strategy for Development, which will be incorporated in the Project Appraisal Document (PAD). Management proposes that the following standing list of alternative procurement arrangements be agreed (updated and amended as needed) for use in any procurement financed by the Bank:

- The procurement arrangements of other multilateral development banks (MDBs), subject to the conclusion of co-financing agreements by Management (Memoranda of Understanding that set out partners' agreed roles and responsibilities).
- Procurement arrangements of full members of the World Trade Organization (WTO) Government Procurement Agreement (GPA) for covered expenditures / agencies (see Annex I).

44. The use of such alternative procurement arrangements would be subject to the following conditions:

- Appropriate implementation capacity in the implementing agency;
- Open advertisement of the procurement;
- Universal eligibility, and appropriate application of the Bank’s debarment list;
- Appropriate right for the Bank to review¹⁰ (fraud and corruption provisions will be maintained through the financing agreement and operationalized by requiring that bidders present a signed acceptance). The Bank will review a sample of procurement actions/complaints and will take action as necessary (e.g., increased review (including prior review) at key stages, use of audits, and ultimately withdrawing acceptance of the alternative procurement arrangement if warranted);
- Mitigation plan in place in the event of any challenge to the Bank from the action of other parties (including application of remedies); and
- Clearance of the proposed alternative procurement arrangement by the Bank’s Chief Procurement Officer.

45. **The MDBs’ procurement approaches include some variations, but have been largely harmonized with each other.** The key challenge in concluding co-financing agreements with other MDBs (and bilaterals that are members of the GPA) is the application of ineligibility rules. Management will seek to negotiate agreement on these issues, reflecting the conditions detailed above.

46. **Reflecting previous examples of collaboration between the World Bank and other MDBs, Management proposes that when the World Bank is a minority or equal financier of an investment operation, Management should have the option to delegate procurement leadership and oversight responsibilities to a lead MDB.** When the World Bank delegates procurement leadership to another MDB, the World Bank would perform an advisory role to that MDB, with the provision that the World Bank may review the other MDB’s procurement actions as necessary. If agreed, this approach will require amending related Bank policies.

47. **The use of the procurement arrangements of WTO GPA members would also include procurements that are currently under ICB,** where the category of expenditure and implementing agency are covered. GPA members would procure high value procurements using their own procurement arrangements and contracts rather than utilizing the Bank’s ICB approach. For any contracts financed by the Bank valued at less than the agreed thresholds set in GPA, the Bank would need to satisfy itself that appropriate procurement rules and procedures (similar to those above the GPA threshold) are applied before that procurement could be undertaken. The Bank’s Procurement Framework would remain available for use in GPA members for non-covered expenditures or if it is considered the most fit for purpose arrangement to deliver a particular procurement activity.

¹⁰ In all cases, the rights of a bidder to raise complaints directly to the Bank are maintained.

48. **The Bank is working to finalize a performance assessment framework to assess procurement arrangements at the implementing entity level.** This will apply at any tier of government in a country, including, where appropriate, state-owned enterprises and will be detailed at the next phase of the framework. The assessment focuses on quantitative factors (open advertising, direct sourcing, canceled procurements, etc.), qualitative aspects (regulations, complaints handling, fit with the Bank's core procurement principles), and experiential information from stakeholders (the Bank, businesses, NGOs). Once finalized, this assessment framework will be used to analyze the procurement arrangements of specific borrower implementing agencies to determine the potential use of part or all of their procurement arrangements to administer a Bank-financed project (procurements above and/or below agreed ICB thresholds). Management proposes to engage with Executive Directors' Advisors on the framework once it has been drafted and tested. To manage accountability in these decisions, the Chief Procurement Officer will have clearance authority for any proposals to use alternative procurement arrangements.

Should the Bank increasingly tailor its procurement approaches to country situations (as, for example, in FCS)?

49. **Given the wide array of situations in which the Bank's Procurement Framework has to operate, it is critical that it can be tailored for different operating contexts such as FCS.** The Procurement Framework has been designed from the outset to be fit for purpose. The most critical applications of fit for purpose procurement are in disaster response/emergency situations and in FCS. The ability to tailor the procurement approach to the special considerations in FCS is a specific requirement from the IDA17 Deputies; it has also been a consistent message in stakeholder feedback.

50. **In an FCS or small state/economy, the Procurement Strategy for Development would identify the context-specific procurement arrangements to be applied in accordance with the Core Procurement Principles.** This fit for purpose approach will provide latitude to meet the Core Principles of the Bank's Procurement Policy in very different contexts. As there is not time in a disaster/emergency response to prepare a specific Procurement Strategy for Development (no matter how quickly it can be informed by the Bank's country-specific knowledge), a specific Procurement Directive has been identified for those situations.

51. **Depending on capacity levels, the Bank will provide implementation procurement support to the borrower, either directly or through an approved third party.** Bank procurement staff already provide a great deal of hands-on support to borrowers when needed that support is particularly important in FCS and other low-capacity environments. This approach is being mainstreamed in the new Procurement Framework with Bank staff fully empowered to provide whatever hands-on implementation support is needed to deliver. To manage accountability in these decisions, the Chief Procurement Officer will have clearance authority for the use of hands-on support in the highest risk and/or highest value procurements with approvals cascading below that for support to other procurements. Skills development efforts will aim to help Bank procurement staff build further practical, contemporary procurement skills to support borrowers even more.

Should the Bank enhance its approach to procurement related complaints?

52. **Complaints on procurement matters are generally submitted by stakeholders from the business community and their advocates and are often related to actions taken, or not taken, by borrowers during and after the procurement process.** It is important to note that the Bank is not a party to the final contract, so its role in procurement related complaints is limited to the point of contract award; following contract award, the procurement is subject to the borrower's local laws and approaches. In examining the approach to complaints monitoring and support, Management envisages the following:

- Allocating dedicated senior Bank staff to centrally **monitor complaints, track progress, and provide reporting/statistics** that may assist the Bank in determining future loans to borrowers and will also inform appropriate contract management methods for particular suppliers;
- Providing **more support to TTLs/sectors**, including setting business standards and developing measures for procurement related complaints tracking;
- Increasing **access to independent Dispute Review Boards (DRB) and Dispute Review Experts (DRE)** in Bank financed contracts;
- Including, as part of Bank project supervision, **reviews** to ensure that agreements made in the contract (e.g. to establish a Dispute Review Board) are carried out and are functioning appropriately; and
- Continuing to provide **access to arbitration in standard contracts.**

Should international competitive bidding (ICB) continue to be the preferred procurement arrangement for the highest-risk and highest-value activities?

53. **There has been a great deal of debate on the use of ICB, largely because it is the most rigid, formal and closely monitored area of Bank procurement, with numerous business interests at stake.** Bidders that succeed under the current approach and their advocates largely want to keep things unchanged, whereas some other stakeholders see ICB as a costly, overused, slow procurement method that is applied to too many activities. The advantage of the Bank's use of ICB is that it provides a structured approach to procurements, giving assurance to the business community that their bids will be treated fairly; thus in many jurisdictions it encourages participation.

54. **Management proposes that ICB remain the preferred procurement arrangement for the highest-risk and highest-value activities (that is, activities above agreed thresholds based on market conditions), with appropriate Bank oversight.** The main scenario in which the Bank would not use ICB above agreed thresholds is in the procurements led by full GPA members, whose own procurement arrangements would be used (members' procurement arrangements have already been recognized as open, transparent and fair for all GPA-covered procurements, so they are considered an acceptable alternative to ICB for those member states). When the procurement is delegated to another MDB to administer, its procurement arrangement would be used, including its version of ICB above its ICB thresholds.

Should the Bank continue to support national competitive bidding (NCB), with the Bank's requirements for its use streamlined to key issues?

55. **For many procurement activities, the Bank already uses alternative procurement arrangements in the form of NCB.** NCB is the competitive bidding procedure normally used for public procurement in the country of the borrower and is used where ICB is unlikely to promote effective competition or deliver best value for money. NCB is used under certain dollar thresholds, set for each country/region/agency as appropriate by the categories of Goods, Works, Non-Consulting Services and Information Technology and Consultants. The thresholds for NCB are informed by the maturity and effectiveness of the country's market. The NCB threshold is set at a point where primarily only local players are interested in bidding and the market is effective. The calibration of the right NCB and ICB thresholds is regularly reviewed and is informed by business experience and feedback. To support more effective setting of NCB thresholds based on market maturity and effectiveness, Management will broaden the number of categories available for example, breaking down Works into areas such as hydropower, rail construction, highways, and rural roads. This more granular approach will allow NCB thresholds to be based on how the market actually operates, as opposed to using the broad current category of Works as an example, which allows for little market differentiation.

56. **The selection of the procurement method, guiding sector-based NCB thresholds, will be subordinate to the overarching goal of providing value for money and delivering sustainable results.** The following practices will help ensure that costs to buyers and suppliers of procurement activities are proportional to the risk and value of the procurement:

- Specifications are not unnecessarily complex or onerous;
- Procurement approach and method is not unnecessarily complex, costly, or time-consuming, and is designed to adequately deliver VfM outcomes;
- Prequalification, shortlisting, and staged-procurement are undertaken as appropriate;
- Regulation is not unduly complex or costly for buyers and suppliers to address;
- Contracts resulting from procurement activities are to be managed to produce the best possible value for money outcomes; and
- Procurement officials must be trained and adequately resourced.

57. **Management proposes to streamline the Bank's requirements on the use of NCB** and focus the Bank's conditions for the use of NCB in the following areas:

- Open advertising of the procurement opportunity;
- Universal eligibility, and application of the Bank's debarment list;
- Publication of contract award information; and
- Rights for the Bank to review procurement documentation and activities (fraud and corruption provisions will be maintained through the financing agreement and operationalized by requiring that bidders present a signed acceptance of provisions).

Should the Bank focus its prior review of procurement activities on the highest-risk and/or highest-value contracts?

58. **The Bank's procurement approach includes prior review of procurement processes at key stages, by Bank staff located in Washington, DC, or in the Region/country office.** For prior review, the procurement activity pauses at key stages while the Bank checks in detail that procedures have been followed; the Bank must issue a "no-objection" before the procurement can proceed. Many stakeholders have challenged the amount of time that the Bank procurement process takes, and although delays can occur for many reasons, the stop-and-go nature of prior reviews is a key aspect of this concern.

59. **Management's view is that the investment in prior review is only warranted in the highest-risk and/or highest-value contracts (such as ICB or only where the procurement activity is very critical in a project).** However, its use in lower-risk/lower-value and/or non-critical contracts needs to be significantly streamlined to avoid diverting valuable TTL and procurement resources into low-value-added activities. The Bank currently prior reviews a high volume of very low-value contracts, and there is general consensus that there is little value added in this work and it is not best use of Bank resources. (Annex I provides key data on procurement activities, including the distribution of prior and post review activities.)

60. **Management proposes to take a far more risk-based approach to prior reviews and streamline the volume of prior reviews by at least 80%** (about 6% of the value of contracts), using other mechanisms (such as post review on a sample basis) to provide fiduciary assurance of those contracts. As an example, to streamline prior reviews, the Bank would introduce a minimum threshold for the mandatory prior review of single-source selection of individual consultants (at present all are prior reviewed, at any value or risk).

61. **Management will also encourage the country's supreme audit institutions (SAI) to undertake post review of contracts.** The acceptability of the SAI for auditing Bank-financed projects will be subject to agreement by the Bank's financial management and procurement experts. This approach will promote greater integration of fiduciary assurance, reflecting the current use of SAIs for project audits in Bank operations.

Does the Bank need to support better contract management and improved performance of suppliers?

62. **Streamlining prior review activities will release time for procurement staff and TTLs to provide more support for contract management.** It is envisaged that for the highest-risk and highest-value activities, procurement staff will support TTLs with an increased role in supervision, including identifying and agreeing on performance metrics with which both the borrower and Bank can measure performance. As appropriate, these performance metrics will be used to inform the management of any incentive mechanisms agreed in the contract to motivate performance and delivery by all parties.

63. **It is common and good procurement practice that the performance of suppliers is systematically managed across all contracts.** Under the Bank's current procurement approach, each contract is treated separately; this means that good or bad supplier

performance in one contract cannot always be taken into account in awarding the next one. Whilst there are appropriate controls in place if a supplier commits fraud or corruption, there are far fewer opportunities to take bad performance into account or to reward good performance. Management proposes to examine options to allow for previous performance in Bank financed contracts to be factored into borrower decision-making on future contract awards for ICB contracts. Initially this effort will focus on safety matters, which the Bank already monitors closely. Such an approach will require the Bank to work with the borrower to identify specific criteria that can be applied during the procurement process that assesses performance and factors that into decision-making – this will be essential in motivating good future safety performance in support of development effectiveness, VfM and sustainable results.

64. **To provide further incentives for performance, Management envisages that strategic key suppliers will be identified and asked to engage in a program to improve delivery.** Such a program would involve Bank Procurement staff identifying and engaging with key strategic suppliers to our borrowers in Bank financed contracts, generally those that operate in highly specialized and consolidated markets, typically in higher technology areas or in areas with high costs of entry. This program would empower Bank staff to strategically engage with key suppliers seeking to lift overall performance by focusing on strategic matters of importance for the Bank, its borrowers, and the suppliers. As appropriate, procurement staff would engage with other Bank specialists and suppliers to establish common standards to support borrowers in setting terms of reference, specification requirements, and so on. The risks of this approach is that a more strategic dialogue between the Bank and key suppliers could be seen as a conflict of interest, or as introducing unfair advantage; such risks can be managed (and are managed quite successfully by most other organizations and jurisdictions) and it will require a different skill set.

Should the Bank implement Bank wide tracking of procurement activities and the setting of metrics to improve performance?

65. **To measure procurement timeliness and establish performance metrics, a Bank wide tracking system will be implemented in FY15.** This system will enable systematic support to all procurement activities across the Bank, with common data on performance and identification of any bottlenecks (for the Bank or the borrower) to inform the setting of performance metrics for effective procurement. Metrics on procurement performance will also be augmented by a qualitative review of performance by borrowers and suppliers.

66. **The Bank will develop a balanced scorecard for its procurement services that measures institutional strengthening and fiduciary assurance.** A great deal of information on the award of particular contracts is available in the World Bank; however, these data sets do not include information on whether the contract was delivered on time, to budget, and to the conditions expected. Metrics will be developed that detail the key performance factors across the Bank's procurement activities, and this data will be reported and used to drive performance as part of a balanced scorecard (with capacity building and institutional strengthening issues).

Do the Bank's procurement skills need to be enhanced to ensure that the Bank will maintain its position of leadership on procurement and to deliver the proposals in this paper?

67. **Delivery of this new Procurement Framework will require that the skills of Bank procurement staff and TTLs be enhanced to keep pace with modern best practice.** An independent skills analysis of Bank procurement staff is being undertaken to analyze strengths and areas for development. Using the findings of this skills analysis, the Bank will be able to identify staff with specific expertise and will be better able to allocate the best staff to support strategic, complex projects (e.g. medical sector, information technology, hydropower, transport, water). To fill any skills gaps, the Bank intends to implement a targeted skills development program, first for procurement staff, and later expanding to include TTLs. Management also envisages expanding the independent skills analysis to any accredited staff to ensure appropriate calibration of accreditations and to inform wider skills development programs.

68. **In Management's view, a culture change is needed if the reform and modernization of Bank procurement is to be effective and support the expected development outcomes.** The steps to enhance staff skills are a key aspect of driving this culture change. The integration of the procurement family into the Governance Global Practice (GGP) will also provide a foundation for culture change. The implementation of the GGP will create a single multidisciplinary environment for undertaking due diligence, with a critical mass of staff (over 225 procurement staff) for making strategic decisions on resourcing based on specialized skill needs. Previously, it was difficult for an individual country or regions to justify recruiting staff with a specific category of knowledge, such as information technology. Within the GGP, staff with specific strategic procurement or sector specialist knowledge or multidisciplinary transferable procurement skills will be identified, and appropriate work will be allocated to them. Thus there will be a pool of procurement staff with specialized skills that can be allocated as needed to the most important projects in the Bank. At the same time, the Bank will continue its strong country focus, which is essential for providing support to borrowers in terms of both operations and local capacity building. Management is continuing to explore related culture change issues as part of the Bank wide change agenda.

V. NEXT STEPS

69. **Following CODE and the Audit Committee’s endorsement of the direction of this paper the Bank now seeks stakeholder views through a formal consultation process on the draft Procurement Framework.** Consultations will be undertaken over a three-month period with a range of external stakeholders to gauge their thoughts and reactions to the proposals in this paper (see Annex K).

70. **Following the consultations, work will begin on the final part of Phase II of these reforms.** The Procurement Framework will be finalized and presented for CODE and the Audit Committee endorsement and then to the Board for final approval in FY15. The new Procurement Framework would be launched in FY16 as part of the Phase III implementation.

71. **During the rest of Phase II, Management will continue to keep the Board informed of progress through informal briefings and working groups with Executive Directors’ Advisors.** Management will continue to engage with borrowers, stakeholders, and development partners, most notably the MDBs and the International Advisory Group on Procurement.

VI. CONCLUSIONS

72. **The Procurement Framework proposes a vision and clear guiding principles.** It recognizes two roles for Procurement, borrower capacity building and fiduciary assurance over the use of resources. It reaffirms the Bank’s commitment to fiduciary assurance, but also offers a balanced approach to improving the procurement process that strives to reach consensus among the expectations of all stakeholders. It introduces changes to modernize the Bank’s procurement practice to move toward more risk-based, differentiated approaches while strengthening implementation support and beginning to monitor contract performance. Once finalized, this Framework will provide the policy mechanism to deliver on the Bank’s vision “Procurement in Bank operations supports borrowers to achieve value for money with integrity in delivering sustainable development.” This modern Procurement Framework will represent good international practice and will reflect the complexity and diversity of the Bank’s business and the situations its borrowers face. It will take a contemporary risk-based approach to procurement, reflecting the feedback from stakeholders and the actions needed to deliver on IEG’s recommendations.

73. **In this paper, Management has presented a package of procurement reforms that, taken together provide well-balanced procurement solutions to deliver positive development outcomes through operational procurement activities.** The paper provides the first drafts of the Procurement Policy and Borrower’s Procedures, with an overview of the proposed content of additional Directives, intended to inform debate and to facilitate input on the proposed direction of this work.

74. **In moving forward on this reform agenda, Management will consult broadly with parties inside and outside the Bank.** It will take into account the varied views of all these stakeholders, so that the final proposals it will present later in FY15 will represent the optimal approach for modern procurement practice in any development institution, maintaining the World Bank’s leadership in development procurement.