



The World Bank

Procurement Policy Review Feedback Summary

Date: NOVEMBER 10, 2014 (afternoon session with Government agencies and PMUs)

Location (City, Country): HANOI, VIETNAM

Total Number of Participants: 34

Overview and General Reactions:

The second round of consultation with Vietnamese Government officials on the Bank's Procurement Policy Review was held in Hanoi on November 10, 2014. Participants included representatives of the national Public Procurement Agency, line ministries, executing agencies and project management units working on projects funded by WB. The list of participants is enclosed.

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

Elmas Arisoy, the Procurement Practice Manager, GGP-PIO made a presentation on the rationale of the Review, summary of feedbacks received from Clients through the first round of global consultation, the overall reform timeline, and the key proposed changes and principles to the Bank's procurement policy. The meeting was followed by open discussions and responses to the guiding questions posted for consultation.

There was no participation from OPSOR in this afternoon session.
The Bank's Hanoi procurement team members also participated in the consultations.

Overall feedback

- Many participants attended the 1st consultation workshop held in Hanoi in September 2012. They expressed their appreciation of the progress of the World Bank's procurement policy review.
- Participants highly welcomed the review process and appreciated it is a timely change. The participants appreciated the WB's continuous contribution in public procurement reform in Vietnam. The Bank's procurement policies and guidelines have been considered as an advanced model and standard for public procurement in this country.
- Participants actively participated in the discussions and in principle agreed to all the key changes proposed by the Bank.

Specific Feedback from Stakeholders

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

Over the past 20 years, with efficient support from the WB, Government of Vietnam (GOV) has achieved remarkable progress in developing procurement legal framework and strengthening institutional procurement capacity. Areas for further cooperation and support may include:

- Support GOV to enhance national procurement legislations with a view to harmonizing with international practices.
- Support GOV to broadly disseminate procurement training to PMU staff, officials of line ministries and agencies, Government inspectors, State Audits, business community, etc. to raise country's awareness on procurement. Scope of training should cover not only procurement but also contract management.
- Support GOV to develop the National Procurement Capacity Building Strategy and procurement professionals' accreditation system; Train procurement professional staff, including training of the trainers. Long term procurement training courses, oversea training and staff exchange programs, knowledge transfer and experience exchange between developed and developing countries were also suggested. At project level, a component of procurement capacity building and institutional strengthening may be included.
- On the job training and hands on advice by Bank staff would also be helpful. The Bank should disseminate on regular basis good procurement experience, especially experience in setting good bid evaluation criteria in completed packages/projects.

- The country needs national procurement agents.
- Support GOV to develop the national database on contractors' capacity and qualification, in order to enhance the transparency of the bidding processes.
- Support GOV to formulate the eGP strategy and develop the eGP system, as Vietnam is preparing for TPP and FTA admission.
- Support GOV to identify special procurement arrangements if required for a specific project at project preparation stage and to appropriately reflect in Procurement Plan and project legal documents (Negotiation package, Financing Agreement).
- WB should provide the Borrower with procurement implementation support through mobilization of qualified consultants to assist the appraisal of technical specifications and bid evaluation criteria for specific packages. The costs for such appraisal consultancy services should be funded by WB to ensure independence and objectivity.
- Support preparation and publication of Manuals on procurement practices/cases.

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

- Participants fully supported the Bank's approach to use VFM criteria which would help secure investment efficiency. Bid evaluation criteria should include total life cycle cost, effectiveness and promptness of delivery, quality of after sales services, warranty, environmental and social sustainable factors, bidder's performance in the past, etc. Criteria on product durability and quality should be included.
- WB should allow the application of merit point system in bid evaluation for goods and works procurement to provide more flexibility in considering both price and quality factors, and in responding to the specific needs of certain sectors, such as procurement of high technology equipment, medical equipment, medicine etc. GOV's newly adopted law on procurement has already provided platform for such bid evaluation method.
- Life cycle costs should be used in contract award decisions where appropriate, for example in procurement of lab equipment, power plant, etc. The Bank was proposed to guide project implementing agencies to elaborate criteria and methods for taking life cycle cost into bid evaluation.
- Competitive negotiations may be allowed in complex packages under observation of an independent agency
- Policy on preventing and fighting against F&C will help increase VFM.

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

- Participants agreed with WB’s planned direction on streamlining prior review and focusing only on high risk and/or highly value contracts, as the GOV’s procurement legal frameworks has been relatively developed and capacity of staff involved in project management has been substantially improved.
- Participants expected WB to target procurement staff resources in upstream procurement activities such as supporting implementing agencies to design suitable procurement arrangements, formulate procurement plans, develop sample bidding documents which fit the specific nature of sectors/projects. Bank’s procurement staffs are also expected to share experience and good practices in procurement, and provide guidance on contract management.
- Procurement specialists in the Bank should be more specialized, e.g. IT Procurement Specialists, Infrastructure Procurement Specialists, Framework Agreements Specialists, Sustainable Procurement Specialists, etc.
- The Bank procurement staff’s performance should be evaluated based on the proactive and supportive approach in communicating with Borrowers, quality of comments and advices, and reduction in the number of comments and rounds of review over a period of time for a project.
- The proposed new procurement framework may require training for the Bank’s staff to acquire the new set of skills

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

- Participants welcomed and agreed with WB’s intention to accept alternative procurement arrangements. It would simplify and facilitate the project implementation especially in case of projects co-financed by WB and other financial institution(s). There is no obstacle in doing so in Vietnam so long as the legal agreement clearly states the applicable procurement rules.
- Alternative procurement arrangements should be used for procurement of goods, civil works and consultancy services of medium and small values which have regular and standard technical requirements. WB should do post review for 1-2 packages of each category.

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

- Participants agreed that sustainable requirements can be scoped as optional (not mandatory) procurement criteria, where appropriate. While “green” is the trend, WB should consider each country’s specific condition.
- Participants expected WB to provide further concrete guidance for implementation (e.g. sustainable procurement criteria should be developed for different sectors).

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

Participants actively exchanged ideas and put forward a number of recommendations on F&C mitigations, including:

- Do analysis and recommend comprehensive preventing measures for the whole process from procurement implementation throughout contract management.
- Ensure the quality of bidding documents especially the impartiality and non-restriction of technical specifications/requirements.
- Closely monitor the process of issuing bidding documents and receiving of bids to ensure that bidders are not prevented from obtaining bidding documents and submitting of bids.
- Require every staff involved in the bidding process to sign the Code of Ethics/ Code of Conducts which clearly describe F&C clauses in legal documents and personal commitment.
- Require a third party, which is independent from the project owners and the bidders, to participate in the bid evaluation and appraisal process, and to monitor the procurement process.
- Publicize the national database on contractors' capabilities and the national database on contractors' performance history, and use performance history as a criterion in bid evaluation.
- For high risk and/or high value packages, WB should appoint procurement specialists to directly monitor the procurement process, attend the bid openings, keep a copy of the bids for independent review as needed, handle complaints, etc.
- WB should provide funds for independent procurement review/ procurement post review activities.
- WB should coordinate with the Public Procurement Agency to conduct joint annual procurement monitoring missions for selected projects.
- WB is proposed to refer to the national debarment lists in making decisions on contract awards for Bank's funded projects.
- Each country office of the Bank should appoint a dedicated and qualified senior staff as a focal point to manage all fraud and corruption issues in the Bank's financed procurements. Task Team Leaders should have the responsibilities of managing fraud and corruption issues in the procurements for their in charge projects.
- Prepare a Strategy on management of procurement F&C risks in the Bank financed projects.
- The Bank's policy should stipulate strict sanctions and penalties for parties engaging F&C practices.
- Debarred firms may change their names and start bidding again. WB should set up a mechanism to check and prevent this from happening.

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

- An electronic procurement tracking and contract management system may be used. The system should record the time taken in reviewing procurement documents by the Bank at each level.

8. What role should the Bank have with regard to complaints monitoring?

- WB is proposed not to accept anonymous complaints, which is in line with the national regulations.
- The Bank should play the role of Observer and Advisor. Specific complaints should be handled and settled by the Borrower in accordance with the Borrower's national law and Financing Agreements.
- Introduce complaint procedures in BD and contract documents.
- Complaints during contract implementation should also be covered, however the Bank is not a contractual party, thus should limit its involvement. Dispute resolution mechanism through independent entities such as arbitration, dispute resettlement boards... should be strengthened.
- Before awarding a contract, intention to award may be published to provide an opportunity for making complaint within a reasonable timing period (e.g. one week). This is to enable complaints to be addressed before notice of award is issued.

9. What should be the Bank's role in contract management, and with regard to improving performance of suppliers?

- WB's biannual implementation support missions are not sufficient to closely monitor contract performance. The Bank should also recruit qualified consultants (probably individual consultants) with technical and contract management expertise to review the project progress more frequently and thoroughly, and provide prompt support as needed. The Bank, however, should not interfere in details as it is not a contractual party.
- WB should share with other projects relevant information received on suppliers/contractors/consultants from a project.
- Support project owners/procuring entities to review outputs/deliverables of contracts to ensure quality.
- Support project owners/procuring entities to consider and handle modifications, arising issues during contract implementation.

10. General comments on other issues emanating from the Bank's proposals?

- The prior review thresholds for Vietnam should be increased with the first ICB and the first NCB package subject to prior reviewed irrespective of the value.
- Participants considered that it is reasonable to categorize thresholds on sector basis.

- Concrete policy on encouraging local bidders while not against the Bank's regulations such as packaging plan, verifying and controlling financial and experience capacity, applying domestic preferences for particular packages.
- Requirements of bidder's eligibility and independence from Project owner should fit the country context so as not to limit participation of local bidders but still ensure competition. WB's SOE restrictions may have limited the quality of works in certain sector/projects as the private sector capacity is still low.
- For projects having Financing Agreements committed before issuance of the Bank's new policy framework, the Bank should give guidance to allow the application of new policy as appropriate.