



The World Bank

Procurement Policy Review Feedback Summary

Date: August 8, 2012

Venue: New Delhi, India

Total Number of Participants: 27

Overview and General Reactions

The consultation workshop conducted on August 8, 2012, included representatives of industry associations, private sector consultants and large service providers for PPP, IT and enabled industries, legal firms and institutions providing capacity building programs in India. Leading industry associations such as Confederation of Indian Industry (CII), Associated Chamber of Commerce and Industry (ASSOCHAM), Federation of Indian Engineering Organizations (FIEO) and NASSCOM- the IT&ES industry association participated in the consultation. Representatives of NIFM and ASCI, which are training institutions conducting in-service procurement training programs, also participated, as well as representatives from leading PPP consulting organizations like IL&FS, IDFC, etc.

General observations:

- As a first step, the World Bank needs to consider how hands-on it wants to be involved in procurement process management. The degree of day-to-day involvement is currently high, which leads to long turnaround times. The World Bank should move to laying down principles, building capacity and carrying out audits with sanctions on deviations.

- The World Bank needs to reconsider the definition of procurement – mainly its scope and coverage. The scope of procurement shall cover the full cycle, from beginning to end, rather than just to the contract award stage.
- The World Bank should define its role in procurement management based on the categories of recipient/borrower versus aid-recipient. In the first category, sensitivity should be shown toward borrowers’ demands for the use of country systems etc., since this category stands for advancements in the overall situation in economy and country.
- Procedures should be dictated by intent. If the intent is to enhance economy and efficiency, and/or reduce waste or corruption, the procedures laid down should be tested for their efficacy to achieve the intent.
- The Indian market is open to the entire world, but Indian industry faces restrictive practices outside India. Nationality as a criteria and preferential restrictions are followed in GPA conditions. The World Bank should use its leverage to promote open markets all over the world.

Specific Feedback from Stakeholders	
1. The analysis presented in the Initiating Discussion Paper captures the key issues and concerns that should be addressed in the review. Are there other challenges which the review should try to address?	
	<ul style="list-style-type: none"> • Get more involved in the post award phase, particularly where new approaches, such as performance-based and outcome-based contracts, are emerging. The World Bank should get more involved in the monitoring of social, environmental and other regulatory commitments and performances of these contracts. • Environmental considerations in procurement should be separated from social considerations that are specific to a country context. If social circumstances are not considered, problems in the country will be aggravated. Environmental considerations change from time to time. Procurement policies should be dynamic. • Consider sectoral variations in managing procurement. PPP and CDD cannot be addressed with one approach.
2. Taking into account the new concepts of public procurement and the broader context of public sector management best practices, what type of changes should the Bank take into consideration in modernizing its procurement policies?	

	<ul style="list-style-type: none"> • The World Bank should develop and encourage innovative procurement practices from sectors like power, infrastructure, etc., to be applied in new sectors, where they are not considered useful yet, such as social sectors, education, etc. • Do not bring in descriptive details in policy guidelines; keep it brief and limited to principles and approaches. • Country specific policies should be adopted given the changes in markets and end use of public goods and services. • Environmental considerations and life cycle costs should be considered. • The World Bank should not prescribe domestic preference; promoting local industries should be the responsibility of governments. • Promote and encourage small and medium industry by allowing provisions for partnering with bigger players through contractual conditions and provisions rather than preferential procurement approaches. World Bank policy should try to create an enabling environment for these kinds of partnerships.
<p>3. In light of various levels of risks and capacity among borrower agencies, how can the Bank best ensure that funds provided by the Bank are used for the purpose intended?</p>	
	<ul style="list-style-type: none"> • Develop policies based on a deeper understanding of the capacity of the borrower, their culture, governance issues, etc. Is the borrower a department or an agency? Look at the turnover of people and the resulting loss of institutional memory. There can be multiple policies and guidelines rather than just one. • Follow country capacity and systems for prior and post review. Adjust prior review based on institutional capacity. • Capacity building should address trainees. Courses should be offered for students to take up public procurement. Contractors should be included in this.

	<ul style="list-style-type: none"> • Capacity developed in World Bank projects is not sustained. As of now, capacity development is limited to the project life cycle. The World Bank needs to suggest “model skill sets” that borrowers can continue to utilize. • The outcome of this policy review should be valid for the next 30 years. There are drastic changes happening everywhere, ensure that nitty-gritty areas are avoided and left to country systems. • Encourage capacity building of the private sector as well. Models should be developed for decision makers and for procurement capacity building. • Harmonize capacity building programs across multilateral Development Banks, other donors and governments. In a large country like India, the World Bank should partner with the government for capacity building efforts. • The World Bank should demand stability in the project implementation team to guarantee delivery and sustained capacity. • Professional certification is the need of the hour in public procurement in India and the World Bank can guide in developing such standards. • Decide whether the procurement management should be compliance or performance based, based on an assessment of capacity and maturity of the client institutions.
<p>4. The Initiating Discussion paper highlights the multiplicity of demands and contexts procurement is serving today –diverse sectors, instruments, delivery mechanisms and clients with varying institutional frameworks and governance conditions. What recommendations could help the Bank best tailor its procurement requirements to meet these diverse and varying demands and needs?</p>	
	<p><u>Recommendations on Consultant Selection</u></p> <ul style="list-style-type: none"> • Review the limitations on the nationality of firms on the shortlist. A country like India, where almost all leading consultants are present locally, should have more than two spots on the shortlist. • Allow international firms to bid from their corporate offices.

- Introduce a “Panel of Consultants” for selecting consultancies for multiple projects, sectors, states, etc.
- Allow regional experience instead of country specific experience if it is in similar regions (e.g. for selection for the South Asia region, experience in any of the SAR countries should be adequate, experience should not be limited to experience in India, Sri Lanka, or Bangladesh).
- Deliverables from clients can become an issue and pose challenges to consultants including, e.g., when additional time is needed. A counter party arrangement is required.
- Bundling the scope of tasks/services into one assignment/contract leads to joint and several liabilities among the parties. This risk shall be considered.
- Consider and make provisions for promoting small and medium agencies in consultancies.
- PPP is being questioned in the country with regard to viability, funding, returns, etc. The World Bank should provide best practices.
- Penalties are in place for service providers, but not for clients in cases of delays.
- The World Bank should develop a databank of service providers and consultants.

IT Sector Specific Inputs NASSCOM

- IT requirements should be considered as part of budgeting in large projects, starting at the conceptualization stage.
- The World Bank should organize a rolling briefing on an annual basis to the IT industry on opportunities.
- Move to “best value bid” in the second stage, with a first stage being about pre-qualification. Consider technical aspects in the second stage.
- Consider that individuals who take support from back end prospective bidders could potentially have a conflict of interest.

- SLA based contracts should have risks and rewards. Risks should not all be on the vendor's side, there should also be a guarantee for the performance of the agency.
- IPR and warranty terms for software should be considered. Warranty and IPRs need to be modified with each contract based on inputs.
- Outsourcing of end-to-end IT solutions (including design, architecture, software and hardware provision and management over the years) should be introduced.

Recommendations for Service provider and other sectoral Procurement

- Turnaround time should be limited so that bidders do not carry the risks associated with dollar value fluctuation, wage cycles for multi-year projects, technology obsolesce, etc.
- The role of the consulting engineer and which party finances that service need to be clarified. Lenders' engineer is paid by the borrower. Bank shall specific downstream, lenders engineer shall not be appointed by the borrowers. This is the reason for cost escalation.
- Arbitrations are negotiated in New York courts. Since the World Bank has offices everywhere, courts should be in Delhi or country specific.
- Price negotiations should be allowed. Allow limits up to 15%.
- Pilots should not be considered real projects. Outcomes and lessons from pilots should be reviewed to see how they can be carried forward. Incentivize the good performer.
- Implementing agencies confuse input-based and output-based contracts. Every time the least common denominators are used to assess performance.
- Warranty arrangements should be made according to industry.
- Escalation indices should be based on market prices, but not on published indices (like RBI baskets).

	<p>Indices should be relevant to the area of work, sources of material supply, etc.</p> <ul style="list-style-type: none"> • Dispute resolution mechanisms should be strengthened and mandated in all projects. • Details on budgets and projects should be disseminated more frequently. • Develop a method for robust estimates so that bidders do not have incentives to quote below the estimate. • There are a lot of experienced contractors working with the private sector. This should be considered as meeting the requirements of the post qualification stage (currently only experience with government clients is considered for post qualification). • World Bank should be involved in evaluation of bids.
<p>5. What could the Bank do to simplify and streamline its current policies and to take advantage of the potential gains offered by e-procurement and IT-based tools?</p>	
	<ul style="list-style-type: none"> • Use e-GP to avoid corruption and use technology for improving efficiency.
<p>6. International consensus calls for use of country systems and harmonization among development partners. What can the Bank do to advance the use of country systems and harmonization among partners?</p>	
	<ul style="list-style-type: none"> • Strengthen the country law. The World Bank should follow the India Procurement Act. Consider potential conflicts between national law, state laws and Bank guidelines up front and find a solution for using the country systems.
<p>7. What suggestions do you have to monitor and evaluate the Bank's Procurement policies and assess their impact and effectiveness?</p>	
	<ul style="list-style-type: none"> • The World Bank should develop a new supervision model for procurement management. Instead of prior and post review, the focus can shift to milestones achieved in the procurement process. This will offer a better insight into Bank's own procurement performance as well.
<p>8. Do you have other suggestions to help the Bank develop a proposal for a new policy framework and guiding principles for revisions to the Bank's procurement policies?</p>	

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| | <ul style="list-style-type: none">• Qualification requirements at EoI for the consultants stage should be definite (“no etc.”).• De-briefing at EoI stage should be based on scores and should include details of successful firms.• A standard “No” to queries raised during the pre-proposal stage could lead to non-participation. Make provisions for constructive suggestions for change in scope and approach from the consultants in the pre-proposal stage. |
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