



The World Bank

## Procurement Policy Review Feedback Summary

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**Date:** September 25, 2012

**Venue:** Hanoi, Vietnam

**Total Number of Participants:** 21

### Overview and General Reactions

A half day consultation session with multi stakeholders was conducted on September 25, 2012 in Hanoi. Majority of participants are from business community (private and state owned companies who have participated in the Bank's financed projects or other public investment projects). The list of participants is attached.

#### General observations:

- Many participants appreciated the Bank's contribution in public procurement reform in Vietnam. The Bank's procurement policies and guidelines opened a new era for public procurement in this country.
- After some time of implementation of the Bank's procurement guidelines in Vietnam, there are certain issues to be addressed and tackled, including Conflict of Interest, SOE eligibility, harmonization of regulations and procedures etc.
- Most of participants wished the Bank take more flexible approach in considering the country context and market conditions, then introducing appropriate guidance and regulations.
- The Bank should exercise more influence on GOV's procurement reform process.

## 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?**

- Private sector expects the Bank to take the bottom up approach, i.e, review specific provisions of the procurement policies and regulations, then make necessary adjustments, for example, identify problems and bottleneck issues arising during the process of selection consultants and contractors, propose modifications in the Guidelines and other policies to address these shortcomings. The Bank often conducts implementation support and supervision missions during project implementation, how these findings would be considered and/or reflected in the Bank's revised policies?
- Participants appreciated the Bank's Guidelines and praising that they bring transparency to the procurement process, at the same time, criticizing that the bid evaluation takes too long especially due to long verification process by various agencies and also the review of eligibility of bidders.
- The capacity of local private sector bidders is still generally limited. Some bidders 'polish' their bids to win the contracts thus quality assurance is an issue of concern. Meanwhile, in various sectors there are SOEs who have considerable professional experience and capacity but are not eligible to participate in the Bank financed projects because of their dependency on the functional ministries/agencies of the projects. Although the objective of SOE eligibility policy is to promote a level playing field and transparency in competition, it would limit the project implementation effectiveness because at present there are not many strong private consultants/contractors in the Vietnamese market. The dependency requirement in the Bank's Guidelines need to be clearer and at the same time more flexible, so as the capable SOEs have opportunities to contribute to large and complex projects.
- Conflict of Interest (COI): Some PMUs are facing difficulties in evaluating bidder's COI status. It is necessary to have clearer and more detailed guidance on COI evaluation.

**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?**

- The Bank should consider the specific conditions of Vietnam so as to appropriately localize the Bank's regulations and guidance for the country.
- Eligibility and Qualifications: interpretation and application of the related provisions are not consistent among functional ministries, provinces and project owners. The Bank needs to introduce clear, concise and specific guidance, enabling correct understanding and application by implementing agencies.
- More incentives for local companies' participation are required. This relates to packaging thresholds: a big

	<p>valued package tends to discourage national bidders. In addition, it is difficult for national bidders to be qualified due to excessively high requirements. Another unfair issue is in ICB package foreign contractors get paid upon shipment based on CIP terms, while local companies do not get paid until after goods delivered at site. The Bank should consider this aspect in the revised Guidelines to promote the local industry.</p> <ul style="list-style-type: none"> <li>• Verification of authenticity and legality of bidders' qualification documents: the Bank should recommend relevant ways of verifying and checking. One of suggestion is to prepare bidding documents with good quality, well defined provisions, and relevant technical and qualification requirements, to limit the room for falsifying documents.</li> <li>• Lengthy bid evaluation process: Average timing spent on bid evaluation is 6 months. GOV's approval and the Bank's no objection procedures for bid evaluation results are time consuming. That delay would make negative impacts on bid prices and technical quality of bids (especially in IT sector, where configuration and Price changes occur on a frequent basis). A countermeasure is working out appropriate evaluation criteria to achieve good quality at reasonable price; at the same time to help shorten evaluation process. Bidders should be notified and updated about the evaluation progress.</li> <li>• Provision for interests on overdue payments to contractors is provided in the contracts, but how to enforce its implementation is a question of concern. The Bank is suggested to examine this matter in the review process.</li> <li>• Counterpart Budget: the Bank is suggested to provide financing for expenditures that are usually subject to counterpart funds (tax, etc.) to avoid delayed payments to Contractors due to constraint local counterpart budget.</li> </ul>
<p><b>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?</b></p>	
	<ul style="list-style-type: none"> <li>• Low capacity of Project Implementing Agencies, affecting quality of bidding documents and bid evaluation: The Bank needs to deliver more training.</li> </ul>
<p><b>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?</b></p>	
	<ul style="list-style-type: none"> <li>• The Bank should introduce general regulations, with particular guidance for each type of consultants, contractors, suppliers.</li> <li>• Standard Bidding Documents: should allow more flexibility; should be prepared for each type of projects/sectors.</li> </ul>
<p><b>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?</b></p>	

<p><b>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?</b></p>	
	<ul style="list-style-type: none"> <li>• The Bank should exercise more influence on GOV's procurement reform. Vietnam's new Procurement Law is under drafting process. The Bank should advise the Government of Vietnam the following areas: <ul style="list-style-type: none"> <li>○ There are other legal documents which relate to different aspects of procurement such as Construction Law which have specific requirements. It is unreasonable to incorporate all types of procurement into a single law.</li> <li>○ Cost estimate: The existing cost norms are low and related regulations are insufficient. The estimated price of a bidding package should cover the contingencies of price escalation, increased quantities and other risk factors.</li> <li>○ Direct Contracting/SSS: this procurement method should be accepted in exceptional cases. Competitive bidding needs to dominate.</li> <li>○ Provisions on penalization/punishment: partial, unfair (in favor of Employer/Client)</li> <li>○ Bidders' qualifications: It is necessary to publicize information on bidders' qualifications. This would facilitate bid evaluation process, and promote anti-corruption.</li> </ul> </li> <li>• Harmonization issue: despite the GOV's and some development donors' efforts in harmonizing procurement regulations, the gaps and differences still exist, causing difficulties for consultants and contractors. The efforts on harmonization need to be further promoted, for procurement effectiveness and efficiency.</li> </ul>
<p><b>7. What suggestions do you have to monitor and evaluate the Bank's Procurement policies and assess their impact and effectiveness?</b></p>	
<p><b>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?</b></p>	