



The World Bank

## Procurement Policy Review Feedback Summary

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**Date:** June 27 & 28, 2012

**Venue:** The Hague, Netherlands

**Total Number of Participants:** 47

### Overview and General Reactions

On the 27<sup>th</sup> and 28<sup>th</sup> of June 2012, consultations in regard to the World Bank procurement policy review were held at the Ministry of Economic Affairs, Agriculture and Innovation in The Hague, the Netherlands. The meeting was organized by the Ministry of Economic Affairs, Agriculture and Innovation, the Ministry of Foreign Affairs, the Ministry of Finance, and the Ministry of Infrastructure and the Environment.

Present at the meeting were the Chief Procurement Policy Officer from the World Bank, Mr. Bernard Becq, and his colleagues Mr. Devesh Mishra and Ms. Elisabetta Piselli. Mr. Omar Tiwana from the Asian Development Bank (ADB), and Mr. Vinay Sharma from the African Development Bank (AfDB) had also been invited to present the perspective of the regional multi-lateral development institutions. Ms. Camilla Christensen, representing DANIDA (Denmark), was present as an observer. On the side of the Netherlands: Mr. Rob Swartbol, Director General for International Cooperation, Mr. Marten van den Berg Deputy, Director General International Relations, Mr. Jan Willem van den Wall Bake, Executive Director for the Netherlands at EIB, Mr. Wim Holleman, Director of Market Relations and Procurement at Rijkswaterstaat, other Dutch government officials, and representatives of the private sector were present. The list of the participants is attached in Annex.

The first day of the meeting focused on sharing practical experience of the Dutch private sector with the World Bank procurement policy in regard to all categories of procurement. The second day focused on sharing best practices from Rijkswaterstaat, the agency of the Ministry of Infrastructure and the Environment responsible for the main road network, waterways and water system. The presentations as well as a copy of the Program are posted on the Bank's website dedicated to the procurement consultations.

### **Executive Summary**

General comments and recommendations made by the Dutch governmental institutions and private sector during the consultations were as follows:

- Create more room for **quality considerations** in procurement decisions over and above minimum quality standards for qualification purposes: functional specifications to be preferred over technical specifications; more use of EMAT-(Economically Most Advantageous Tender) method instead of awarding to the cheapest tender; increased use of QBS (Quality Based Selection) as a preferred method of consultant selection; and during bid evaluation, give a larger weight to quality. It was indicated that in the Netherlands a 70-30 quality/price ratio is often used.
- Consider functional specifications as an alternative to purely technical specifications, hence better allowing for innovation and alternative proposals and bids.
- Pay more attention to **sustainability, environmental considerations, and CSR** (Corporate Social Responsibility) in the award of contracts.
- Participants were hesitant about **country systems**, and fear the loss of the 'golden standard' the World Bank provides. A proliferation of different procurement systems worldwide is also difficult to handle for international business (and therefore leads to less competition). Lastly, they fear a decrease in transparency if country systems are used and would prefer a continued role of the World Bank in procurement processes, including the possibility of having recourse to the Bank.
- The World Bank should invest more in **capacity building**.
- The World Bank should use quality guidelines for **procurement of pharmaceuticals**, in particular when procured locally, and not rely only on national drug regulatory authorities in every country.
- No **'one size fits all sectors'** approach.
- The policies should give more room for **'local content'** in tenders.
- Contract types that favour **Early Contractor Involvement (ECI)**, inclusion of **life cycle costs** in the tender, and encouragement of **'supply chain thinking'**, are preferable. PPP (Public-Private-Partnerships) projects are a good example hereof. While perhaps Best Value Procurement (BVP) could bring challenges in difficult country environments with limited capacity, it is an interesting concept to learn from.
- A stronger focus on **contract compliance**, including in regard to monitoring contractors' qualifications and contract performance vis-à-vis specifications and scope of works, is desirable.
- A **strong and independent procurement function** in the World Bank remains essential.

The World Bank acknowledged all proposals as highly interesting avenues for its review and endorsed the need for public procurement to account for value for money and quality. The Bank clarified that it is already possible to include quality criteria in tenders, according to the current Guidelines, which points to the issue of how to better ensure that flexibility is properly used depending on circumstances. The Bank also clarified that under current policy, bid evaluation does not solely depend on price, which is considered only among bidders that have been evaluated as qualified and responsive, i.e. meeting all the quality requirements of the particular tender.

The World Bank generally endorses the importance of sustainability and environmental issues and highlighted that dealing with such issues entails more than simply amending its procurement policy, and requires broad country-based policies that the Bank could support. The same holds for quality standards in drugs procurement. This begs the question of how to best improve on these issues – and the sort of supporting or initiating role for procurement in this regard.

The World Bank indicated that, while the review is carried out, a number of issues would be addressed and interim measures (including possible policy changes) could be adopted in regard to procurement in Fragile and Conflict-affected States (FCS), procurement in countries subject to EU procurement Directives, and the potential for an increased use of PPP projects.

The World Bank's overarching objectives are to: 1) remain a key player in regard to international procurement standards, 2) ensure that its procurement policy remains central to discharging its fiduciary responsibilities and 3) support good public procurement as a development objective in itself (and not the least important). But it is looking for more flexibility, in particular in project implementation, to be more responsive to Borrowers' needs according to differences in the risks involved, the size and complexity of the tender, the capacity of the borrower country and its various administrative entities, as well as the markets in the sectors it finances.

All participants agreed that procurement is a central and strategic development tool, related to governance and value for tax-payers' money. Procurement should therefore maintain a central role in the organisation and policies as well as the development agenda of the World Bank.

## **Report**

### *Value for money: balancing performance and compliance*

The central theme in the presentations by the Dutch representatives of government institutions and the private sector is the concept of 'value for money'. There is a need to focus more on performance without sacrificing the need for appropriate compliance rules (i.e. not focusing on compliance just for the sake of compliance), and to strike a balance between the Bank developing role and its fiduciary concerns, performance and compliance, flexibility and rules. The environment (capacity and governance) in which the Bank operates and its Guidelines are applicable does not, however, always allow to rely on more complex procedures. Another important factor is that the Bank works on a project basis, while structural improvements in capacity building need a broader approach.

An essential requisite for performance and achieving (best) value for money is capacity building. Mr. Bob Vlietstra from the International Procurement Agency (IPA) aptly stated that: ‘In order to create response to a tender, you need a private sector that is able to respond’. Monitoring and auditing is also essential in the procurement business, and therefore it is helpful to cooperate with local procurement entities. Philips and other representatives of the private sector present at the meeting all encourage the World Bank’s support to procurement capacity building.

According to Professor Jan Telgen (University of Twente), there is a risk of a possible trade-off between ‘value for money’ (buying smart) and anti-corruption (sticking to the rules; not performance related). An example is the fact that procurement specialists are required to change jobs very often in many countries in order to prevent corruption. However, this also prevents capacity building. Public procurement policy requires a continuous balancing act between transparency (fight against fraud and corruption, but also red tape) and flexibility (which is needed in order to get the best value for money).

#### *Sustainability, Environmental Impact and Corporate Social Responsibility*

One aspect that the Dutch private sector views as crucial in getting best value for money is the inclusion of functional requirements and considerations of sustainability, environmental impact, Corporate Social Responsibility (CSR) and local content in the tender and selection process. A practical suggestion for incorporating these ‘soft’ matters comes from IPA and involves using the UN Human Development Index (HDI) and a CO2 compensation-indicator in the evaluation of bids.

According to Mr. Martijn Schuttevaer from Boskalis, it is important to approach procurement as a total package: it is more than construction only. Considerations of environmental impacts are more important, especially in the long-term, than costs only. Also, stimulating the inclusion of local content is important. This could be reached by including requirements regarding local content in the evaluation of bids and incentivize local procurement. In order to achieve a ‘total package’, Boskalis recommends the use of a broader procurement evaluation framework (not only price matters), a no ‘one size fits all sectors’ approach, more know-how from IFI’s to support borrowing countries, and an appropriate governance structure to monitor commitments. One important point is that these issues go beyond procurement, and as such they require country-based policies, ownership, and they need to be tackled also through other sector policy changes. In addition, sustainable and environmental considerations in procurement require adequate capacity. Making sustainable and environmentally and socially responsible procurement criteria mandatory or optional in procurement remains a complex issue, which requires to further explore how to best accommodate it in procurement. Nonetheless, the participants emphasized that the Bank should not ‘walk away’ from sustainability in procurement, including in regard to standards for the procurement of pharmaceuticals and core labour standards. Sustainability and CSR aspects act as an incentive for efficiency, and are not more expensive in the long-term when considering lifecycle costing and can actually save money. Moreover, they can often be presented as necessary costs to maintain a sufficient level of stakeholder support.

Mr. Omar Tiwana (ADB) added that inclusion of additional criteria relating to non-technical and financial dimensions that include sustainability and CSR in making procurement decisions can inject (or increase) subjectivity in the evaluation process and this implies policy trade-offs; in dealing with borrowers, more 'traditional' financial and technical criteria are widely accepted, while new criteria can raise questions of who is selling the 'norMs.'. Also, it is sometimes perceived by borrowers that application of new and advanced criteria (including functional and/or technical specifications) result, at least at the outset, in a skewed set of suppliers, i.e. those that supply the 'new norMs.' which, not infrequently, may be suppliers in more advanced countries that are at the cutting edge of developing such 'norMs.'. When the Bank has the responsibility to develop local organizations and sectors as well, sometimes it can be difficult to strike an appropriate balance. Put simply, it is important not to lose sight of the fact that the outcome the West, donors and possibly even the World Bank want in applying new functional or similar indicators in making procurement judgments may represent application of a mix of policy priorities that is not necessarily the same as that desired by emerging markets like China and India (and may be considered in a negative way by borrowers as an imposition on their national policy space). Thus it is necessary to consider introduction of any new functional or similar criteria in a sequenced manner, through focused and sustained outreach to national decision makers, to ensure sufficient country ownership and commitment. Mr. Vinay Sharma (AfDB) also expresses hesitation with regard to the use of merit points for matters like sustainability and environmental impact, because they imply some form of subjectivity in the evaluation.

#### *Country systems.*

While the Bank's current Procurement Guidelines may remain appropriate for large-scale investments, but less well tuned for the variety of applications and development challenges faced today, the Dutch participants believe that there are opportunities to increase quality and performance in large-scale projects.

The objective should be to develop a more flexible procurement regulatory framework, allowing to deal with context-specific issues (for different countries and sectors, and hence markets and risks). However, developing different policy approaches may be controversial and may threaten the consistency and effectiveness of the process. The fact of the matter is, however, that different countries (especially fragile and conflict-affected ones and emerging markets) face different challenges due to different risks and levels of capacity. In the Netherlands, for example, there is a big emphasis on sustainable procurement and life cycle evaluation, leading to progressive and performance-based procurement that should be possible to some extent even in lower capacity environments. In this respect, concrete best practices on useful (electronic) tools were presented by the Dutch participants.

The general feeling among Dutch representatives of the private sector is that country systems possibly could create a sense of insecurity about the reliability and implementation of rules and regulations. They look at the World Bank for immediate recourse and protection with regard to procurement projects, especially in unstable environments, and thus encourage strong procurement oversight by the Bank. Mr. Lon Buijsen, representative of Philips, indicates that the World Bank's Guidelines and Standard Bidding Documents (SBDs) set a global 'gold standard', ensuring transparent and fair procurement in Bank-funded projects, which allows for robust competition (also for local companies). The World Bank oversight is necessary to create a level playing field in procurement. Philips recommends caution with

regard to relaxing procedures and standards, as there is limited public sector capacity in many countries where the Bank is active, and this can result in (more) fraud and corruption.

The use and strengthening of country systems should not mean, however, for the World Bank to ‘cancel’ the ‘gold standard’ altogether, but rather to be aiming at remaining a key player in regard to international procurement standards and keeping the ‘gold standard’ when it is in line with development objectives to allow for more flexibility in its application taking into account specific circumstances, in particular depending on the context, size and complexity of the project to be executed, and the environment in which it takes place, including country capacity.

### *Procurement function*

Procurement is a strategic function and public sector management tool that requires highly qualified and educated staff, deserves equal recognition (salary) and needs to be assigned a clear position in the civil service hierarchy of a country. Achieving value for money (“buying smart”) vs sticking to the rules, as well as doing the right thing rather than things right and early involvement in project design are increasingly recognized as critical aspects in procurement. Advertising, transparency, clarity of rules, and oversight (by a thousand eyes) and audits, as well as the development of the capacity of local suppliers and professional development of procurement officers are other important aspects to be strengthened. This is not always the case in low-income countries where procurement is often still viewed as a purely administrative function. The professionalization of procurement officers, including an emerging trend to move from corporate procurement to public procurement, epitomizes the increase in professional opportunities that public procurement with its broader scope of tasks and responsibilities now offers.

The Dutch private sector emphasizes the need to view procurement as a strategic policy area, not as an administrative function, and the need to maintain the role of procurement within the World Bank policy and organisation accordingly (i.e. as a professional function). Furthermore, the procurement function has to be involved at an early stage in the project cycle, in order for procurement processes to be better prepared. At the same time, the procurement function has to be involved longer in the project cycle. Contract management and contract compliance clearly need improvement.

Participants stressed the importance of maintaining a strong and genuinely independent procurement function within the Bank itself. Even when the Bank would decide to rely to a larger degree on country systems, for example in the context of the Program-for-Results financing instrument (PforR), this would require a strong or even reinforced procurement function, in order to enable it to independently assess and monitor the procurement functions/activities in the countries concerned. The fiduciary role of the Bank for individual transactions should remain important.

### *Dutch best practices – Rijkswaterstaat (RWS)*

Rijkswaterstaat (RWS) is the agency of the Ministry of Infrastructure and the Environment responsible for the main road network, waterways and water system. RWS' approach to procurement shifted from the traditional way of activity-based contracts, to an innovative way with incentives for the private sector to use their creativity and expertise through integrated contracts. The new procurement strategy is based on a market strategy to ensure a durable competitive market and the reliance on functional specifications in the tender. The contracting strategy consists of three kinds of contracts (standards):

- Performance based contracts for maintenance, through an open procedure process;
- Design and construct for new projects, through a restricted procedure; and
- Design, build, finance and maintain (DBFM) for major projects (over 60 million Euros), through a process of competitive dialogue.

Especially the DBFM contract gives an incentive for bidders to think in lifetime solutions regarding investments and materials. Political demands that have to be met and incorporated in the procurement process concern sustainable procurement, innovations, social return and PPP-projects. Instruments for incorporating these types of issues are DuboCalc, a tool that calculates the environmental impacts of different infrastructure designs (by using environmental Life Cycle Analysis), and the CO2 Performance ladder, focusing on CO2 management in organisation and projects and providing certification.

RWS uses a value-based approach to procurement, including performance and price measurements, combined with quality control. The quality component in the evaluation of bids can be as high as 70 percent. Lessons learned from this approach are that best value procurement transforms the procurement strategy (think 'supply chain'): it ensures that bidders keep the interest of the client in mind.

The World Bank representatives have expressed to be especially interested in the Best Value procurement techniques of RWS; Mr. Becq indicates that the Bank might finance more PPPs and in this context there might be room for the use of competitive dialogue in the tender process, of course depending on the capacity and know how of all relevant players. Special interest of the World Bank (as well as the ADB and AfDB) goes to the question of ensuring that the design criteria are actually implemented, determining it really is best value for money and making the functional and technical criteria operational. Checks and balances have to be in place: it is important to know when the Bank can trust the process (no issues of fraud and corruption) and how it can be monitored by the Bank.

The two-day consultation session ended with a visit to the second Coentunnel, a Dutch PPP-project. The Netherlands has proven to be proficient, also on an international level, in the use of the PPP contract form. PPPs offer opportunities to ensure attention for life-cycle cost and early contractor involvement (ECI) in the development of projects, thus increasing the quality and sustainability of the end product.