

Use of Country Procurement Systems
Consultation organized by MEDEF
Paris, France
September 24, 2007

MEDEF --Mouvement des Entreprises de France, "Movement of the French Enterprises"), the largest union of firms in France, organized a meeting with representatives from the French private sector to discuss the World Bank's proposed methodology to pilot increased reliance on country procurement systems. The meeting was organized by Philippe Gautier, Chef de service Afrique, Europe, Politiques de développement, financements internationaux of MEDEF International. The question and answer period followed a detailed presentation by the World Bank on the proposed methodology. The following minutes of the meeting are structured around six key questions.

1. The World Bank has proposed a detailed methodology for a procurement country system piloting program in 8-10 countries. What remaining questions need to be addressed or clarified about this program?

The participants asked what the WB was going to change in terms of governance vis-a-vis decentralization, and what controls would be retained.

Participants asked how the Bank saw reliance on country systems with regard to harmonization, particularly at the regional level (e.g. Africa), and what would happen in countries that would not be retained to participate in the pilot exercise.

Other participants pointed out that, from the private sector perspective, reliance on country systems would require to appraise the procurement systems of many countries instead of functioning under a harmonized IFI set of rules.

The Bank responded that the proposed strengthened internal vetting and control procedures proposed under the pilot (inter alia the role of the Procurement Sector board and Operational Procurement Review Committee, or third party independent audits) aim at ensuring that there is no degradation in controls, supervision and application of remedies, including the rescinding of pilot status, which will be included in Legal Agreements of the pilot projects. The current Bank procurement decentralized structure will continue to operate with its procedures to escalate complex issues at the proper senior level. All requirements regarding controls and audits will be laid out in Legal Agreements.

The Bank will continue to participate in the on-going harmonization initiatives with other Multi-lateral Development Banks (MDBs), associating key partners such as FIDIC and CICA. Regional harmonization initiatives are conducted jointly with the concerned regional MDB. All harmonization efforts are complementary to the proposal, the main objective of which is to strengthen country procurement systems and align them with best international practice as developed under harmonization. The proposal is to pilot reliance on country systems for projects executed by well-performing agencies in countries that can demonstrate good overall procurement governance, while all countries, in particular those not participating in the pilot, will benefit from support to improve their systems and develop capacity.

The Bank feels that countries that have well-performing systems assessed to provide equivalence to the Bank's policies should be recognized and used. These well-performing systems will benefit the country as well as any private sector firm that chooses to do business in the country regardless of the source of financing.

- 2. The OECD/DAC benchmarking index provides for scoring of 54 sub-indicators on a 0-3 scale with a score of 3 representing best practice. 30 of 54 sub-indicators in the OECD/DAC tool have been identified as critical and require achieving the highest score of 3 for 22 of the sub-indicators or a score of 2 with an agreed action plan for 8 of the sub-indicators. Is this achievement level appropriate and if not, why?**

Participants asked how will the sub-indicators be used in practice, and whether they really represent best practice vis-a-vis good practice. One participant asked about the use of the CPARs (*Country Procurement Assessment Reports*). Some were concerned that they could be used to validate country systems beyond Bank-financed projects.

Other participants queried about the role of the private sector in the assessments.

The Bank responded that the 30 critical sub-indicators relate primarily to process and procedures contemplated in the Bank's policies. Other sub-indicators cover a range of procurement aspects related to staffing, training, organization and the marketplace. The main point is, however, that the Bank would rely on the sub-indicators as one of the elements of its methodology to assess systems at the country level, along with CPARs and equivalence testing, and that in addition, it will rely on other tools to assess performance, compliance and risks at the project level. The methodology will still rely on CPARs, its traditional procurement diagnostic tool, as they provide a broad qualitative assessment of procurement in borrower countries, as well as generic information on the effectiveness of the country systems. The sub-indicators are identical to those of the OECD/DAC benchmarking tool that has been approved by the Procurement Joint Venture that regroups most donors and a set of partner countries, and in that sense, represent best available international practice. They will also be used as part of the Paris declaration on Aid effectiveness.

The Methodology fully encourages involvement of stakeholders in the validation of the assessments. This would include the private sector, civil society and active donors in the country. The Bank would welcome specific proposals in this regard. The Bank intends to disclose to the maximum extent the results of the assessment processes and the information that is used to select the pilots.

- 3. Under this proposal, not all procurement would be included in these pilots. Should the Bank include complex, high value procurement such as those [e.g. highway construction, power generation equipment, information technology] now cleared by the Operations Procurement Review Committee (OPRC) in the use of pilot country procurement systems?**

The participants indicated that qualitative and quantitative criteria should be used under Bank-financed projects, irrespective of whether or not they rely on country systems, as well as continuing to rely on Standard bidding Documents. Some participants indicated that they favor continuing Bank review.

Some participants expressed the need to develop further documents for PPP projects, and mentioned that international arbitration should be the rule.

The Bank responded that both currently apply through qualification requirements that bidders must meet to be awarded contracts, and that equivalence of country systems will be essential in this regard. The Bank responded that the harmonized Master Procurement Documents should be used to the extent possible for large, complex and non-standardized processes under the country systems proposal. The Bank will also consider what procurement processes should remain under Bank review. This decision will be made on the basis of the feedback from the consultations and will be reflected in the final methodology submitted to the Board for their approval.

The Bank is open to a broad discussion of PPP processes and how to further strengthen related procurement processes under all Bank-financed operations, but that it would be difficult to use SBDs or harmonized Master Procurement Documents (they do not exist) given their non-standardized nature. The Bank informed the participants that international arbitration is only recommended by the current guidelines but not mandatory, and that it would be difficult to add such a requirement when relying on country systems.

4. Is the proposed handling of the Selection of Consultants in the pilots satisfactory? If not, how can this be strengthened?

The participants expressed concern with the selection of consultants procedures, even under the current Bank Guidelines, in particular with regard to the composition of the short-lists and the reliance on quality and cost methods, with the fear that the use of country systems could make things worse.

The Bank responded that it intended to revise its Selection of Consultants Guidelines as a separate activity, and would welcome comments on our current methods to take them into consideration. The Bank would also welcome comments regarding the proposed ceilings to rely on local methods which would be taken into consideration when preparing the final methodology.

5. Are the proposed performance based measures sufficient to address transparency, access to information and governance and anticorruption issues (GAC) that have been raised with regard to the pilots of country systems in procurement?

Some participants indicated that they consider fraud and corruption issues of particular importance, and wondered whether the current policies and procedures would still apply when relying on country systems. Some mentioned that performance evaluation and data were essential to get the full picture of how effective country systems really are.

The Bank responded that not only fraud and corruption definitions and related procedures as they are currently contemplated in the guidelines would apply (through reference in the Legal Agreement), but also the anti-corruption guidelines that were adopted as part of the Sanctions Reform package adopted by the Board in June 2006. The Bank recognized that the adequacy and measurement of performance are challenging, and that they are but one of the tools to

determine quality and efficiency. This is one of the key reasons for having introduced the new concept of independent third party audits to assist in reviewing performance during the whole project cycle and providing necessary information, along with supervision/post review and the dynamic risk tool to monitor fiduciary risks.

6. Do you have other suggestions that will strengthen the World Bank Group's efforts to help countries improve their procurement systems and help us learn from these pilots?

Some participants mention the lack of consideration of social and environmental aspects in the proposed methodology. One participant also mentioned that too often “low” bidders (offered prices are well below cost estimates) are awarded contracts and do not subsequently perform well.

One participant asked about the possibility to approach the Bank before award in case of issues with a particular bid.

The Bank responded that social and environmental issues are dealt with through the reliance on local laws and through good bidding documents. CPARs and some sub-indicators touch upon social issues, which will provide some useful indications in this regard. Nevertheless, Bank policies do not mandate particular conditions, except for core labor standards that it recently included in its SBDs for civil works. The low bidding price issue is a serious one but the Bank policies in this regard are very clear: bracketing is not acceptable, but post-qualification to check that qualification requirements are still valid must be conducted.

The Bank responded that the same mechanism that applies under our current rules would still apply, and this will be recorded in the Legal Agreements.

Overall Conclusion: Most participants appear agreeable to the overall approach. Many wanted additional time to review the documents and provide detailed comments. The Bank reminded the participants that a website was specifically created for receiving comments and that all comments will be taken into account. In addition, we informed the participants that summaries of all consultation meetings would be posted on this website to enable everyone to see what types of comments were emerging from the consultations.