

Use of Country Procurement Systems
Consultations in Kenya
November 5th & 6th, 2007

The World Bank organized two consultations via video conferences in Nairobi on November 5th and 6th, 2007 with members of the Governments, Private Sectors, Civil societies and Development Partners of 10 different countries. The first one was with Kenya, Sudan (Juba), Tanzania and Uganda and the second one with Ethiopia, Malawi, Lesotho, Mozambique, Rwanda and Zambia (see attached list of participants). The main objective of these consultations was to present the methodology for the Use of Country Procurement Systems to seek feedback and comments from the participants. The discussions that took place between the World Bank representatives and the participants have been summarized around the six issues posted on the website.

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 wanted more clarifications on the selection of pilot countries. Many of them were of the opinion that 8-10 pilot projects may not be an adequate sampling. The suggested that the Bank considers geographic sampling (pilots from each region). *After explaining the selection process, the Bank explained that initially 8-10 countries will be targeted to allow the Bank to closely monitor their implementation. No firm decisions have been made yet on the final number of pilots or the regions they will come from. A lot will depend on the results/assessments and interests expressed by the countries themselves.*

Participants wanted to know whether there will be one round or more of pilot selection, the time frame for the selection of pilots, the duration of the pilot phase and the shift to the full use of country systems. *The Bank explained that it would take at least a year to select the first set of pilot countries from the time the Board gives the green light on the revised methodology to move forward. There has been no decision yet on how many rounds there will be – all will depend on the number of countries that are selected. The pilot phase will take as long as it takes to implement the projects. The shift to the use of country systems on all projects will be gradual and on a country by country basis and will depend on the lessons drawn from the piloting program.*

The participants wanted to know how the Bank would evaluate countries with respect to E-Procurement and if it would be an eliminating criterion. *The Bank expects to select countries that have, at least functional websites that are used to disseminate information on procurement, advertisements, contract awards, complaints and information systems that generate reliable data for measuring performance of the implementing agencies. Use of E-Procurement for bidding will not be mandatory.*

The participants thought that that this initiative is not in alignment with the Paris Declaration on Aid Effectiveness as there is no harmonization being carried out with

other development partners/aid agencies. The participants wanted to know what other development partners are doing to respect their commitments under the Paris Declaration on Aid Effectiveness.

The Bank pointed out that this initiative is in line with the objectives of the Paris Declaration. The Bank has defined a methodology in line with the risk it is willing to take. The Bank explained that the assessment for selecting pilot countries for the use of country systems will be solely for projects financed by the Bank.

The Bank explained that it could not answer on behalf of other development partners but cited instances where there has been collaboration in the area of harmonization in procurement. As each development partner will have to define its own risks and set its own standards, it is very unlikely that there will be an agreement on the risks.

Some participants knew that they are not ready for country systems but wanted to know how the Bank could assist them in strengthening their national procurement systems.

The Bank explained that it will continue to provide technical and financial assistance to all countries interested and committed in improving their systems. Countries that have expressed an interest in the use of country systems and that do not pass the test at this point will benefit from a strengthened capacity development assistance program, hopefully in close collaboration with other donors.

Participants wanted to know how this initiative takes into consideration other international agreements/initiatives such as those related to anti-corruption.

The Bank explained that even though other initiatives were not explicitly cited in the methodology, harmonization of national procurement systems through this initiative and other reform programs supported by the Bank is and will continue to be done in conformity with good international procurement procedures and practices.

Participants wanted to know the link between the increased use of country procurement systems and the overall reform programs that the Bank and/or other development partners are supporting.

The Bank explained that the Bank will continue to assist countries committed to their procurement reform programs and those efforts in both cases, aimed at building national capacity, complements each other and are not contradictory.

- 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?**

The participants thought that the standards are set too high and not many countries will be able to reach them. They also shared the difficulties they had in measuring the quality of the system using this tool and in applying the scoring system and suggested that the OECD/DAC tool be a joint assessment with other donors and the countries themselves. *The Bank explained that the proposed methodology will be revised by taking into consideration comments made during the consultations. It went on to explain that: (i) it has always encouraged joint OECD/DAC assessments with the countries and other development partners, and (ii) even though , at this stage there will not be any change*

in the OECD/DAC benchmarking tool, there is a separate exercise where lessons learned from its application will be used to improve it. The Bank encouraged all participants to send us contributions in this area.

Participants wanted reassurance that ongoing reforms in the countries will be taken into consideration as well as diagnostic exercises may not give an up to date view of the current situation.

The Bank reiterated the importance of ongoing reforms which measure the seriousness or commitment of Governments to modernize and improve their national systems.

Some participants wanted to know how many additional assessments (on top of the OECD/DAC) would have to be done and the costs associated with the whole exercise. *The Bank explained that the evaluation using the OECD/DAC tool will have to be updated if the first approved version of 2007 was not used, as changes have been made in some sub-indicators and the scoring system. In addition if the countries have strengthened their national systems in certain areas since the evaluation, that will have to be reflected in the results as well.*

The selection of the pilot countries will be based on a methodology that takes into consideration, not only the results of the OECD/DAC but also results from other assessments, which in most cases would have already been done e.g. CPAR, CFAA or other diagnostic tools measuring the PFM system of the country (PEFA) etc.

The Bank indicated that it has not worked out the detailed costs as these will differ from country to country and number of diagnostic exercises that have been carried out.

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 wanted clarifications on the definition of complex procurement and wanted to know who will define them and when.

The Bank explained that what may be complex for one country may not be so for another and that at the time of finalizing the procurement plan during negotiations the Bank and the Borrower will jointly define and agree upon complex contracts that will require prior reviews by the Bank. Complex procurement is procurement that is not routine for the countries. It is also procurement for which the countries have heavily relied on the Bank's experience in the past due to a lack of local expertise.

Most participants would have preferred to see the countries adapt the international standards (or Bank's standards here) for complex projects but recognize that this may take time where it has not happened yet. However, some participants of the private sector thought that using the Bank's procedures for complex procurement is a safeguard measure that should be kept for procurement of concessions, for example, where they believe there is a lack of transparency in the national procedures.

Some participants thought that the section on equivalency in the document is not clear and needs to be clarified. They thought that the equivalency was an imposition of the Bank's policy on national systems.

The Bank explained that the pilots are being selected from projects being financed by the Bank. It is thus normal for the Bank to compare the national policy with that of the Bank. However, when it comes to country systems, there are reforms going on in parallel that touches aspects other than rules and regulations such as the institutions, capacity of the public sector, the competence of the private sector, the control institutions, the complaints mechanisms etc. The reforms in these areas are done in conformity with acceptable international practices which are not necessarily those of the Bank only. The equivalence test is limited to regulations only.

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

There was not a consensus on this matter. Comments differed from country to country. Some felt that their national procedures regarding the selection of consultants will meet the equivalence test and should be evaluated. Some that knew their national procedures would not meet the required level of achievement suggested that the Bank work with them to achieve the desired level of acceptance. In both cases, they wanted to eliminate the thresholds for consultants. They added that a multitude of procedures within a same project would be too confusing. However, there were also those that opted for a gradual increasing of the thresholds until their systems fully meet the requirements and finally those that have no problem with the proposal but thought that the Bank had to rethink the threshold amounts.

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?

The participants (mostly from the private sector) expressed concerns that not enough emphasis is being put on performance indicators specially those measuring corruption and that the piloting is focused too much on the quality of the system i.e. procedures and compliance and not impact.

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?

The participants wanted to know the rationale behind the selection of pilots by sectors/projects and not on a country level. Some believed that the lessons learned from these pilots will not be meaningful and representative if the selection is based on project and not sectors/programs. Most participants suggested that pilots be made up of sectors and not projects alone if lessons are to be successfully drawn from this exercise and also in line with what is being done under SWAs. And if sectors are selected, the Bank will have to review its position on the exclusion of PIU from pilots.

The Bank explained that for pilots in procurement the assessment will not stop at the country level as different ministries/implementing agencies operate at different levels of

performance. Hence there will be a need to evaluate performance at the sector, implementing agencies level to determine their readiness for increased use of country systems. Consequently, the selection will be carried out at three levels: there will be a first selection of a pool of potential countries based on general procurement and performance track record of the country, then an assessment of the quality of the public procurement system at the national level based on the OECD/DAC benchmarking tool, and how such system meets a test of equivalence with Bank policies, and thirdly an assessment of risks, capacity, and the performance of the implementing agency at the sector/project level. The decision to select pilots by sectors or projects will depend on the results of the assessment and the level of achievement in the sectors.

The participants wanted clarifications as to why the Bank is seeking independent third party audits and not enhancing the capacity of national control institutions already in place and relying on them. Some wanted to know whether the 3rd Party Audits will cover the entire operations of the Ministries or only the operations financed by the Bank. *The Bank explained that the Bank will maintain its fiduciary obligations in these pilot projects and that capacity building has always been and will continue to be a core activity in the reform programs that it supports. Audits will be required for the pilot projects only.*

Some participants thought that the methodology is far too complex for an exercise that, in their opinion, will have very little impact. They pointed out that the ongoing harmonization in some countries are more advanced.

Some participants wanted to know the status of the harmonization work that the Bank is leading with other donors/IFI.

The Bank explained that a lot of progress has been made in this area of harmonization with other development partners and continues to be made but that this is not sufficient as the national system is not only policy and procedures and harmonisation at the donors/IFI levels does not improve the national system which comprises of the legal framework, the institutions, tools, competent staff, private sector, etc.

One country suggested the involvement of the media to promote communication and information among national stakeholder.

The private sector wanted to establish a dialogue with the Government (where it is missing) to provide advice on procurement and wanted to be kept abreast of the progress in this piloting exercise.

One country thought it would be better to have “globally” standardized bidding documents and not national standard bidding documents to maintain a certain level of quality world wide.

While it may be difficult to have one set of bidding documents for all countries, the quality that the Bank is looking for in the equivalence tests will ensure that the international standards will be maintained in the individual bidding documents. Bidding documents complete rules and regulations in force.

Overall Conclusion

All countries thought it was a good idea to move towards country systems. Some thought they were ready; others knew they face challenges and needed assistance in building procurement capacity in their respective countries. Most of the countries liked the principle of the phased approach in selecting the pilots (while taking into account their specific comments and recommendations) and gradual move towards full country systems. They saw this initiative as a good platform for national procurement capacity development. They wanted to see more efforts in the area of harmonization among donors – wanted more donors to accept their national systems. The concerns of the private sectors and civil societies were more geared to insertion of safeguard measures in the procurement system to fight against fraud and corruption.

WORLD BANK
STAKEHOLDERS CONSULTATIONS
On Use of Procurement Country Systems

Video Conference 1 - November 5, 2007

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Video Conference 2 - November 6, 2007

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