

Use of Country Procurement Systems
Consultation with US Private Sector – New York, NY
December 14, 2007

The following provides a summary of the discussions that took place between the World Bank representatives and the participants from firms in the New York area.

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 Bank was asked to clarify the differences between the 2005 proposal and current proposed methodology

The Bank responded that the initiative to increasingly rely on country systems began in 2005 and gained momentum with the Paris Declaration when the donor community recognized that aid effectiveness would be improved with better performing country systems, and that partner countries would have more incentives to improve their systems if provided with increased coordinated support for capacity development. The drain on capacity is caused by many donors introducing parallel systems for the management and control of funds, including use of funds under various procurement rules.

The Bank's earlier proposal on using country procurement systems benefited from the first round of consultations where the private sector provided its concerns. In addition, the assessment tools available to assess country systems improved, including the OECD/DAC benchmarking tool that has been vetted by the international community within the framework of the OECD/DAC Procurement joint venture in July 2006.

As a result the current approach relies on traditional diagnostic tools (CPARs and action plans) and a much improved OECD/DAC benchmarking tool; is divided into stages, each with a well defined and transparent process based on clear criteria that enables monitoring during implementation; includes an equivalence assessment vis-à-vis the full range of Bank policies; includes a stronger vetting process, both internally and externally by associating more closely the private sector and civil society in country assessments and the monitoring of the piloting program; relies on an enhanced capacity assessment of the proposed implementing agencies, including a new tool to identify risk factors, set mitigation measures, and track performance and effectiveness of mitigation measures throughout the life of each pilot project; mandates annual independent third party audits to complement the supervision work of the Bank and to help track performance under the pilots; applies remedies such as mis-procurement, and retains its fiduciary rights vis-à-vis the handling of complaints and fraud and corruption procedures; enhances advertisement and transparency requirements, including in particular a fully functional and publicly available website

for each pilot project; proposes to exclude complex, high-value and non-standardized procurement as well as most consultants contracts from the pilots; and of course is conducting a much broader consultation process and will maintain an open feedback mechanism throughout the period of the piloting program that will enable interested stakeholders to express their concerns and observations directly to the Bank.

Some participants asked whether the WB would publicly identify countries with good or poor performance.

The Bank clarified that the whole initiative takes place within the context of capacity development, and that it intended to rely on procurement country systems on a pilot basis, starting with countries and projects that better meet the requirements of good generally-accepted international practice, perform effectively and efficiently, and present limited risks. The approach privileges providing support to all interested countries in developing their capacity and conducting the reforms that would have been identified as necessary during the assessment of their procurement systems, and putting in place action plans of corrective measures to bring the country to generally-accepted international benchmarks.

Some participants questioned the Bank about the number of countries expected to participate in the piloting program

The Bank responded that it did not intend to “qualify” countries but to adopt an approach that would take into account the quality of the country systems as well as the capacity of executing agencies to implement pilot projects, and conduct various assessments to select countries and projects that present a significant chance to meet the requirements. The Bank will first establish a pool of potential participating countries in the piloting program after a comprehensive analysis of their procurement systems at the country level, and then assess and select pilot projects.

- 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?**

Some participants thought the assessment tool is useful and generally of good quality, but wondered whether the Bank should not adopt a tiered approach.

The Bank thanked for this comment and pointed out that this suggestion is consistent with what a number of others have said throughout the consultations. It further clarified that it will rely on a comprehensive assessment process which will take place first at the country level, and then at the sector/project level. The first will include two distinct steps: 1) an assessment of the broad country legal and

institutional procurement framework, and 2) a test of its consistency and equivalence with the principles of the Bank procurement policies and procedures that are embedded in the Procurement Guidelines that apply to civil works, goods and services. This will allow vetting country systems against both generally-accepted international practice standards and Bank procurement policies.

The second level will consist in an assessment of sector/project compliance, performance, capacity, and fiduciary risks in order to identify the most qualified executing agencies presenting the best profile and highest chance to successfully implement pilot projects.

Other participants were generally supportive of an approach based on country ownership and country systems, but queried the level of information on the process and wondered how will the Bank determine or define equivalency, and thought that industry and civil society should have the opportunity to see the equivalence and testing tools.

The Bank explained that the assessment of equivalence of the country procurement systems will focus on consistency and equivalence with the principles of Bank procurement policies which are embedded in its Guidelines. The procedure to review consistency and equivalence is particularly important to ensure a "fair playing field" when competition is expected to attract foreign bidders and determine if the country's policies will achieve the same intended result. The process will in fact simply compare country systems with the guidelines on a paragraph per paragraph basis of the section referring to international competitive bidding (ICB).

- 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?**

Participants asked what would be the mechanism for addressing issues such as language preferences on bids, and one participant particularly expressed concern that in one specific country, an American firm cannot comply with some bid security requirements because of discrepancies between authorized language in bidding documents relating to bid securities and the American banking system.

The Bank responded that it may be an issue with the US system, and that the World Bank policies indeed authorized language under ICB bidding processes to be English French or Spanish as per its Guidelines. The Bank invited to contact the Chief Procurement Policy Officer who chairs the policy committee that meets monthly, and also to write to the concerned regional procurement manager, to review the issue in more details.

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

There were few questions on this issue, mostly to clarify how would it work and how would the mentioned thresholds be set.

The Bank clarified why it does not intend at this point to rely on country systems for the selection of Consultants in all pilot countries/projects. It mostly results from the Bank experience that most countries either (i) have not developed policies and procedures in this regard that differ from those of goods and works; and/or (ii) do not discriminate between consulting services and other standardized services of a non-intellectual nature; and/or (iii) have developed policies and procedures significantly different from those specified in the Bank's Selection and Employment of Consultants Guidelines. The Bank could, however, agree to conduct a full analysis before agreeing to consider consultant services as part of the pilot if the country policies and procedures are broadly consistent with those of the Bank.

The current proposal is that the country could use national procedures acceptable to the Bank for consulting services that fall below thresholds set at the same level as current ceilings for services for which the Bank accepts that the short-lists consist of local consulting firms only. These thresholds vary from one country to the other, and are based on the specific strengths of their consultants markets.

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?

Participants asked whether there had been sufficient input from the private sector, and the degree to which the World Bank is receptive to hear input. Some participants expressed the concern that comments should be directly posted on the website, while others stated that they did not want their comments publicly posted.

The Bank strongly expressed its willingness to listen to what all stakeholders had to say, and informed the participants that the consultation process was extended by a month to account for the many requests to conduct more meetings in more countries, and give more time to the private sector, in particular their international representative associations to send detailed comments. The Bank reiterated its commitment that all comments from the consultations that were held with governments and private sector and civil society in more than 70 countries would all be posted on the Bank external website.

Participants asked whether the Bank have the resources in place to monitor against fraud and corruption.

The Bank's recent governance and anticorruption initiative is strongly supportive of the benefits of the use of country systems in improving the governance conditions within a country. With regard to corruption in general, the Bank anticipates no changes in the way we will deal with corruption as each of the pilots will involve the signing of a Legal Agreement as is currently the case, and the Bank's anti-corruption provisions will be made applicable to the pilots. Supervision of Bank projects will be enhanced by audits and by the use of the new dynamic risk tool.

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 wondered about the timetable for implementation of the proposed pilots.

The Bank responded that it would depend on the decision of the Board of Executive Directors later in the first quarter of calendar year 2008 to proceed with the piloting program or not. It is expected that about six months would be needed to go through the process to assess and select countries and pilot projects.