

Use of Country Procurement Systems
Consultations in Senegal
November 12-15, 2007

The World Bank organized four consultations via video conferences in Dakar on November 12 through November 15, 2007 with members of the Governments, Private Sectors, Civil societies and Development Partners of 18 different countries. The first one on November 12, 2007, was with Cote d'Ivoire, Mauritania, Republic of Guinea and Senegal; the second one on November 13, 2007, was with Benin, Burkina Faso, Cap Verde, Guinea Bissau, Mali and Niger; the third one on November 14, 2007, was with Cameroon, Democratic Republic of Congo, Republic of Central Africa, Republic of Congo; the fourth one on November 15, 2007, was with Burundi, Comoros, Madagascar and Togo (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 and why 8-10 pilot countries only and why would the regions propose the candidate countries and whether the Bank already knows what those countries are.

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. The regions will propose the candidates for the pilots for countries that are interested, as they have a good knowledge of the countries, sectors and projects. While the Bank knows the good performers, no countries have been pre-selected.

Participants wanted to know if regional projects can be selected as pilots.

The Bank explained that for the pilot phase, we intend to limit the selection to simple projects for individual countries.

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 – a lot will depend on the results of the piloting and interests expressed by the countries themselves. The pilot phase will take as long as it takes to implement the projects. The shift to the full use of country systems for all projects will be gradual and on a country by country performance.

Participants wanted to know what steps the countries have to take to be considered for the pilot program. Can individual countries belonging to Economic Union such as WAEMU express an interest individually or do they have to go through WAEMU. *The Bank explained that countries will have to wait and see if the Board approves the methodology and once it is posted on the website to see whether they can meet the minimum requirements and in which case they should contact the Country Director to express their interest. Countries do not have to go through regional economic unions.*

The participants wanted to know if this initiative is in line with the Paris Declaration on Aid Effectiveness and if the Bank is consulting other donors/aid agencies for the sake of harmonization.

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. 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.

Participants wanted to know what will happen to countries that do not meet all the necessary criteria to qualify for the pilot status.

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 tailored to their respective needs, hopefully in close collaboration with other donors.

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 and would capacity development be targeted to the civil society as well. They wanted the Bank to help them strengthen the capacity of internal and external control institutions and develop the civil society capacity to be ‘watchdogs’ in the national systems and monitor the performance in these pilot projects. Others wanted to know what measures will be taken by the Bank to ensure the effectiveness of the capacity building efforts.

The Bank explained that it will continue to provide technical and financial assistance to all countries interested and committed in improving their systems. The effectiveness of the program will not only depend on the measures that the Bank will take but also on the willingness and commitment of the countries to build their own capacity.

Participants wanted to know how this initiative takes into consideration other international agreements such as UNCITRAL and initiatives such as those related to anti-corruption initiated by UNDP, OECD etc.

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

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.

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 are both aimed at building national capacity. They complement rather than contradict each other.

- 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 assessment is complex and 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 modified in light of the above and to take into account the specificity of the countries.

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 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.

Some participants wanted to know how the Bank came up with 30 critical sub-indicators.

The Bank explained that it selected sub-indicators that it thought were necessary to ensure a good procurement system and the number is irrelevant.

- 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. They wanted to know how the Bank will set the prior review thresholds.

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. The criteria for setting the prior review thresholds have not set yet.

Some participants would have preferred to see the countries use Bank's standards for complex projects but recognize that this may take time where it has not happened yet. Some participants of the private sector thought that using the Bank's procedures for complex procurement is a safeguard measure that is necessary for complex procurement such as concessions where they believe there is a lack of transparency in the national procedures.

Some participants believed that implementation will become more complicated if the Borrowers have to follow one set of rules for smaller, routine contracts and another for complex projects. They wanted the Bank to evaluate the national systems on all levels and if the countries pass all the tests, the national systems should be used in line with the Paris Declaration on aid Effectiveness.

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 and that the equivalence test is limited to regulations only. The Bank will compare the national procedures with the Bank's guidelines to ensure that the broad general principles of the guidelines are respected. 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.

Some participants wanted clarifications on the equivalence test – they wanted to know how the Bank will treat provisions that are specific to ICB such as currency and payment, arbitration etc. and standard bidding documents. Is the Bank going to require the country's procurement code to have similar provisions or will it accept the national provisions and similarly for standard bidding documents. They thought that national SBD acceptable to the Bank should be used and some of post qualification criteria regarding annual turnover, for example, are too high.

The Bank explained that it has not made any firm decisions yet on the ICB provisions but the underlying principles that encourage participation will be maintained. For currency, the country will have to ensure that bidders are paid in a convertible currency and will not be subject to restriction on expatriation of monies. The standard bidding documents will have to be consistent with national requirements and international practices, where applicable and acceptable to the Bank.

There were some misunderstandings regarding the equivalence test. Some thought that this would create a new set of procurement directives and others that this initiative is an imposition of the Bank's procedures on national systems.

The Bank explained that the national procedures would be used for pilot countries and that the Bank's guidelines are based on good international practices and many years of experience in procurement and in line with the harmonization with other Multi Lateral Development Banks and Bilateral donors.

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

Some participants needed clarifications on the choice of the thresholds. 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. Some saw the introduction of thresholds as a simple reluctance to use national procedures. Others still wanted to see a harmonization of thresholds among countries belonging to the same economic union as the WAEMU.

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.

Some participants wanted some flexibility in the performance indicators. The objective here would not be to decrease quality but rather be realistic and based on availability of reliable data in the specific countries.

Some participants wanted to know what guarantees the Bank has that this initiative will meet its objectives.

The Bank explained that there are no guarantees but every possible measure is being taken to ensure success and performance will be monitored throughout the implementation phase for actions if standards are not maintained.

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 the paper to be clearer on what constitutes a country system, they wanted Use of Country Systems to mean not only use of national procedures but

also reliance on national institutions including those carrying out controls/audits instead of contracting out audits to independent third parties.

Some participants wanted to know the rationale behind the selection of pilots by sectors/projects and not on a country level. Most believed that the lessons learned from these pilots will not be meaningful and representative if the selection is based on sectors rather than projects only.

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. They wanted to know if the Bank will no longer rely on independent national institutions such as the Procurement Regulatory Body that carries out compliance review for the country.

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 and will continue to support and strengthen local institutions.

Some participants recommended the continued publication of consultations worldwide on the Bank's website so that everybody is informed of the process.

Some participants thought that advertising on a national website would be sufficient and that the requirement of UNDP, DG Market has to be removed for competitive bidding even those that could attract foreign bidders.

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

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Video Conference 4 - November 15, 2007 (Participation - 3 Countries)

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3. TOGO – Participants list not available