

Public Procurement in Europe and Central Asia including Use Of Country Systems

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World Bank's Engagement with ECA Client Countries

- First Generation of Country Procurement Assessment Reports
- CPARs after Formal Instructions Available
- Recent CPARs Using OECD-DAC – World Bank Methodology of July 2006

Engagement with Other Donors in ECA Countries

- With European Commission- opportunities and challenges, e.g. Romania and FYRMacedonia
- With ADB, EBRD, EIB and others
- Importance of approaching the Client with the same voice

Bank's Experience in Groups of Countries

- Russia
- Ukraine, Moldova, Belarus
- South and Central Europe and Baltics – EC Group
- Turkey
- South Caucasus
- Balkans
- Central Asian Countries
- Critical Issues
 - Importance of Country Ownership
 - Engagement with EC
 - Implementation Issues

Use of Country Systems In Bank-Supported Operations(UCS Pilot of April 2008) in ECA

- Country Procurement System
- Discussions and Consultations
- Bank Procurement Standards
- Selection Methodology
- Launch of the Piloting Program in ECA Countries
- Cooperation and Harmonization
- Progress so far in ECA Countries and Issues

Three Stages of Methodology of Use of Country System

- **Stage I:** Selection of pool of potential countries for piloting of UCS in procurement and assessment of the overall quality of each country's procurement system;
- **Stage II:** Assessment of the consistency and equivalence of the country's procurement system with principles of the Bank's procurement policies; and
- **Stage III:** Assessment of compliance, performance, capacity, and fiduciary risks at the sector/executing agency level

Bank Methodology using OCED/DAC

- The Bank's methodology for use of the assessment tool defines benchmark scores for each of the 54 sub-indicators. No aggregates per pillar/indicator.
- These benchmark scores require a
 - "3" for 17 sub-indicators;
 - "2" with an action plan for 10 sub-indicators (shown as a 2+);
 - "2" for 25 sub-indicators; and
 - Two of the sub-indicators (4(d) and 10(e)) are scored on a pass/fail (3 or 0) basis.

Engagement with a Country: Example 1

- **Stage I:** Based on Government request Stage I activities substantially completed;
- **Stage II:** Detailed assessment of equivalency and consistency conducted by consultant; Bank Team reviewed the work of consultant;
- A mission was planned to review and complete Stage I and II;
- Government requested that Bank postpone the mission until public procurement system is substantially aligned with the EU directives;
- Government asked for the Bank views on the recent addendum which the Bank provided; and
- Stage III: Currently no suitable pipeline project
- Public procurement Agency invited to attend the Public procurement Forum in CA to share their experience.

Stage I Assessment using OCED/DAC – an example

| Sub-Indicators | Required | Proposed |
|--|----------|----------|
| 1(a) – Scope of application and coverage of the legislative and regulatory framework | 3 | 2 |
| 1(b) – Procurement methods | 2+ | 2+ |
| 1(c) – Advertising rules and time limits | 3 | 2 |
| 1(d) – Rules on participation | 3 | 0 |
| 1(e) – Tender documentation and technical specifications | 3 | 3 |
| 1(f) – Tender evaluation and award criteria | 3 | 3 |
| 1(g) – Submission, receipt and opening of tenders | 3 | 2 |
| 1(h) – Complaints | 3 | 3 |

Stage I Assessment using OCED/DAC – example

| Sub-Indicators | Required | Proposed |
|--|----------|----------|
| 12(c) – Evidence of enforcement of rulings and penalties exists | 2+ | 2 |
| 12(d) – Special measures exist to prevent and detect fraud and corruption in public procurement | 3 | 2 |
| 12(e) – Stakeholders (private sector, civil society, and ultimate beneficiaries of procurement/end-users) support the creation of a procurement market known for its integrity and ethical behaviors | 2 | 2 |
| 12(f) – The country should have in place a secure mechanism for reporting fraudulent, corrupt, or unethical behavior | 3 | 2 |

Example: Sub indicator 1 (a) requirement

- (a) The legislative and regulatory body of norms is adequately recorded and organized hierarchically (laws, decrees, regulations, procedures,) and precedence is clearly established.
- (b) All laws and regulations are published and easily accessible to the public at no cost.
- (c) The legislative and regulatory body of norms covers goods, works, and services (including consulting services) for all procurement using national budget funds.
- Scores: a, b & c met=3, a and either b or c=2, a only=1, none=0.

Example: Sub indicator 12 (c)

- **Sub-indicator 12 (c) — Evidence of enforcement of rulings and penalties exists.**
- There is evidence available where provisions on corrupt practices have been enforced. PPA has reported 16 cases to public prosecutors in 2007. In addition to this, there are also many cases reported by the contracting entities to public prosecutors, but they are not recorded by PPA or any other central agency.
- **Condition Met: Partially. Score: 2**
- **Proposed Mitigation Measure: The Bank's Fraud and Corruption provisions will be applicable for the pilot project.**

Example: Sub indicator 12 (d)

- **Sub-indicator 12(d) — Special measures exist to prevent and detect fraud and corruption in public procurement.**
- The government has put in place an anticorruption program and established the Public Officials Ethics Authority under the Prime Ministry through Law No 5176 which defines the ethical rules for public officials. All of the public officials are required to sign a commitment form to confirm their full compliance with ethics rules.
- There is a special department in Council of State dealing with cases on public procurement.
- Better coordination and higher authority at a higher level is required to ensure successful and effective implementation of the program.
- **Condition Met: Partially. Score: 2**
- **Proposed Mitigation Measure: The Bank's Fraud and Corruption provisions will be applicable for the pilot project.**

Stage II Assessment

Consistency and equivalence for International Competitive Bidding with respect to section I and II of the Guidelines

- **Section I: Eligibility Paragraphs 1.6-1.8.**
- **Requirement: Conditions for participation to be limited to those that are essential to fulfill the contract requirements. Exceptions indicated in para 1.8.**
- **Findings: The Public Procurement Law (PPL) introduces no restriction to the bidders from any country for participating in the tenders open to international competition, except the firms and individuals from a country which prevents Turkish firms from participating the tenders in that country. Conditions for participation to the tenders open to international competition are limited with the qualification requirements, and also with the estimated contract value thresholds. However, a considerable number of entities and procurements are excluded from the scope of PPL.**
- **Conclusion: Provisions of the PPL related to ineligibility and exclusions widely, with few exception, covers the requirements of para.1.8 of Section I of the Bank's Procurement Guidelines**

Stage II Assessment

Consistency and equivalence for International Competitive Bidding with respect to Sections I and II of the Guidelines

- **Section II: Validity of bids and bid security. Paragraphs 2.13-2.14**
- **Requirement: Bidding documents must state bid validity period. Bid security not mandatory**
- **Findings:** Validity of bids is specified in the bidding documents. This period may be extended maximum for a period equal to the initial validity period with the consent of the bidder, provided that no amendments to be made in the conditions of tender and contract.
- Bids have to be accompanied with a bid security not less than 3% of the bid price. However, it is not compulsory to require tender security for consultancy service tenders, provided that it is stated in the bidding documents.

Stage II Assessment

Review of Bidding documents to be used, when Competitive Bidding is anticipated with respect to the Harmonized Master

Procurement Documents

- Review of the Standard Prequalification Specifications (SPQS) for the Works Procurement vis-à-vis Prequalification Document (PD) for Works of Master Procurement Document (MPD)
- Review of bidding documents for Works and Goods to be used when international competitive bidding is anticipated vis-à-vis Harmonized Master Procurement Documents for procurement of Works and Goods

Example: Review of the Standard Prequalification Specifications (SPQS) for the Works Procurement vis-à-vis Prequalification Document (PD) for Works of Master Procurement Document (MPD)

- **A. General: e.g., Scope of Application: Findings:** The document does not include such a section similar to Section VI of PD providing information to the interested applicants about the scope of works.
- **B. Contents of the Prequalification Document: e.g., Amendment of Prequalification Document: Findings:** The Contracting Entity may amend the prequalification document through issuing addenda, which becomes an integral part of the prequalification document.
- **D. Submission of Applications: e.g., Late Applications: Findings:** Any application received after the deadline are rejected and returned unopened.
- **E. Procedure for Evaluation of Application: e.g., Confidentiality:** There is no specific Article in the SPQS regarding confidentiality.

UCS Experience of ECA Country – Example 2

- **Scoping mission conducted and Government agreed for the Bank to start the assessment but without diverting from the path of accession to the EU**
- **1st stage assessment started and in the final report write up stage.**
- **No project will be identified in the coming two years.**
- **Have enough time to address an action plan with coordination with the EC and USAID.**

Stage III —Assessment at the Sector/Project Level Not yet conducted for any country in ECA

- Assess Client interest and identify a project/sector by the Country Director in consultation with Sector Director/Manager, implementation team and Regional Procurement Manager;
- **Conduct Agency Capacity Assessment;**
- **Conduct a Compliance and Performance Assessment;**
- **Conduct an Agency Compliance with legal obligation;**
- **Conduct an assessment of the Performance of the Agency; and**
- **Continue Monitoring the performance of the Agency.**

Critical Issues in Bank-funded/Other Operations In ECA countries

- Lack of Competition
- Conflict of Interest
- Contract Implementation
- Country Portfolio Fiduciary Reviews
- Issues on Fraud and Corruption

Issues for Discussions

- How to engage highest levels of government in improving public procurement system?
- How to increase competition and bring trust among bidders/contractors in the integrity of public procurement system?
- How to make Conflict of Interest provisions more effective?
- How to improve client capacity at implementing agency level?
- Use of Country System in ECA countries- are we ready?