

Carrying out procurement efficiently under World Bank-financed projects is critical to good project implementation, to the attainment of the objectives of the projects, and to their sustainability. Equally, the Bank, as part of its developmental role, is interested in strengthening the capacity of its borrowers to administer public procurement in an effective and transparent way as part of sound governance and good project management.<sup>1</sup>

To this end, the Bank has established procurement rules to be followed by borrowers for the purchase of goods, works, and services required for the projects financed by the Bank, and procedures for Bank review of the procurement decisions made by borrowers. World Bank project teams are required as an integral part of project preparation and appraisal, to make an assessment of the capacity of the project implementing agency or project implementation unit to administer procurement. For a description of the World Bank project cycle, see  Chapter 22, Financial Management in World Bank Reconstruction Projects.

Procurement can become particularly challenging in emergency (post-disaster and post-conflict) operations, even for a government with established procurement capacity. Therefore, assessment of procurement capacity takes on special importance in emergency operations. For a full discussion of the Bank's response to emergencies, see  Chapter 20, World Bank Response to Crises and Emergencies.

This chapter provides (1) a review of the Bank's procurement policies and procedures, (2) a summary of the Bank's procurement assessment process, and (3) a brief discussion of procurement issues that the Bank may need to address in emergency operations.

## Public Procurement in Bank Operations

It is the Bank's fiduciary responsibility to ensure that the proceeds of its loans are used only for specified purposes, and that attention is paid to economy and efficiency, without regard to political and other non-economic influences or considerations. Therefore, the Bank has established procurement rules to be followed by borrowers for the procurement of goods, works, and services required for the projects financed by the Bank, and procedures for Bank review of the procurement decisions made by borrowers.

World Bank Operating Policies (OPs) establish the parameters for the conduct of operations and describe the circumstances under which exceptions to policy can be made. They are based on the Bank's Articles of Agreement, the general conditions, and policies. Bank Procedures (BPs) explain the procedures and documentation required to carry out the policies set out in the OPs. This section summarizes OP/BP 11.00, "Procurement."<sup>2</sup>

### Operational Policies

**Procurement rules and instructions.** The rules that apply to the procurement of all goods, works, and services financed with Bank loan proceeds are detailed in the Procurement Guidelines<sup>3</sup> and the Procurement Policies and Procedures,<sup>4</sup> and those that apply to the selection and employment of consultant services are detailed in the Consultant Guidelines<sup>5</sup> and the Consulting Services Manual.<sup>6</sup> The guidelines are incorporated by reference in the Loan Agreement, and are binding on the borrower.

### This Chapter Is Especially Useful For:

- Policy makers
- Lead disaster agency
- Procurement specialists
- Project managers

1. World Bank, 2002, "Revised Instruction for Carrying out Assessment of Agency's Capacity Assessment to Implement Procurement; Setting of Prior-Review Thresholds and Procurement Supervision Plan," <http://siteresources.worldbank.org/PROCUREMENT/Resources/Assessment-all.pdf>. "Loan" in this Operating Policy/Bank Procedure means International Development Account (IDA) credits and IDA grants and Project Preparation Facility (PPF) advances to which the Bank's Procurement Guidelines are applicable according to the provisions of the relevant agreement with the Bank for the credit, grant, or PPF advance, but excludes development policy lending, unless the Bank agrees with the borrowers on specified purposes for which the loan proceeds may be used. "Procurement" refers to the purchase of goods, works, or services (e.g., the hiring of consultants); "borrower" includes the recipient of a grant or PPF advance, or the project implementing agency, when it is different from the borrower.
2. World Bank, 2001, OP 11.00 "Procurement," <http://go.worldbank.org/Y66EAJUGL1> and BP 11.00 "Procurement," 2001, <http://go.worldbank.org/Z33TBIUH90>.
3. World Bank, 2006, "Guidelines: Procurement under IBRD Loans and IDA Credits," <http://go.worldbank.org/RPHUYORF10>.
4. World Bank, "Procurement Policies and Procedures," <http://go.worldbank.org/IXJZSH4F50>.
5. World Bank, 2006, "Guidelines: Selection and Employment of Consultants by World Bank Borrowers," <http://go.worldbank.org/U9IPLUDCO>.
6. World Bank, 2006, *Consulting Services Manual: A Comprehensive Guide to the Selection of Consultants* (Washington, DC: World Bank), <http://siteresources.worldbank.org/INTPROCUREMENT/Resources/2006ConsultantManual.pdf>.

**Principles of procurement.** Four basic principles guide the Bank's procurement requirements:

- Ensuring economy and efficiency in the procurement of goods, works, and services, as mandated by the Articles
- Giving eligible bidders from developed and developing countries a fair opportunity to compete in providing goods, works, and services financed by the Bank
- Encouraging the development of domestic industries—contracting, manufacturing, and consulting industries—in borrowing countries
- Providing for transparency in the procurement process

**Competition, economy, and efficiency.** Competition is the basis for economic and efficient procurement. The Bank prefers procurement methods that maximize competition. Procurement of goods and works normally requires the use of international competitive bidding, and, for the selection of consultants, it normally requires the use of quality and cost-based selection (QCBS). Some exceptions are permitted.

**Eligibility to compete.** Any firm from any member country is eligible to compete for Bank-financed contracts except in any of the following circumstances.

- The borrower country prohibits commercial relations with the firm's country.
- The firm has a conflict of interest.
- The firm is owned by government, unless it is legally and financially autonomous, operates under commercial law, and is not a dependent agency of the borrower.
- The firm is under sanction by the Bank for having engaged in corrupt or fraudulent practices.

**Domestic preference.** To encourage the development of domestic industries, the Bank permits:

- preference to bids offering goods manufactured within its country;
- preference to bids for works contracts from eligible domestic contractors in countries below a specified per capita income threshold; and
- credit to proposals for consulting services that include nationals as key staff.

**Transparency.** Transparency is an essential part of the Bank's efforts to ensure effective use of loan funds and to combat fraud and corruption. To promote transparency, the Bank:

- requires public notification of procurement opportunities;
- favors the use of open competitive procedures that include public bid opening;
- provides a specific mechanism by which a losing bidder may request, and receive, an explanation as to why its bid was not selected; and
- discloses the results of bidding processes, including the names of firms or individuals awarded contracts and the value of the contracts.

**Role of the borrower and the Bank.** The borrower is responsible for all aspects of project implementation, including procurement. For each project, the Bank assesses the capacity of the implementing agencies to carry out the required procurement and determines the level of associated risk. The borrower prepares a procurement plan that covers the activities necessary to ensure that project procurement will be carried out efficiently and professionally. The Bank assists the borrower in planning for procurement, including preparation of the procurement plan, and it supervises and monitors procurement decisions throughout project implementation.

If a borrower fails to carry out procurement in accordance with the procedures agreed to in the Loan Agreement, the Bank can cancel the amount of the loan allocated to the goods, works, or services that have been misprocured. The Bank may also apply other legal remedies.

**Country procurement assessments.** The Bank and the borrower's government together periodically assess the effectiveness of the borrower's procurement system and identify reforms to address deficiencies in the system. The findings of this assessment are incorporated into the Country Assistance Strategy. This chapter includes a description of the country procurement assessment process, below,

**Fraud and corruption.** The Bank requires that borrowers and bidders observe the highest standards of ethics during the procurement and execution of Bank-financed contracts. Firms found to have participated in fraudulent or corrupt practices or activities are declared ineligible to



be awarded future Bank-financed contracts, either indefinitely or for a stated period of time. If a representative of the borrower is found to be engaging in such corrupt or fraudulent practices, the Bank cancels the amount of the loan allocated to the contract in question, unless the borrower takes action to remedy the situation that is satisfactory to the Bank.

## Bank Procedures

**Project preparation, appraisal, and implementation.** For each project proposed for Bank financing, a procurement specialist (PS) is included in the task team from its inception.

**Procurement capacity assessment and planning.** The PS assesses the capacity of the agencies that will implement the operation to carry out project procurement, and the risks associated with procurement under the operation. The PS uses the most current applicable Country Procurement Assessment Report (CPAR) for this assessment. If the assessment reveals deficiencies, the Bank works with the borrower to formulate an action plan to strengthen capacity (including training or technical assistance, as appropriate) and mitigate the identified risks.

As soon as the nature and main components of the proposed project are identified, the PS assists the borrower in preparing the project procurement plan for an initial period of at least 18 months, taking into account any technical, financial, or management constraints the borrower may be facing. The procurement plan, which is updated annually or as needed during project implementation, covers:

- the list of contract packages;
- the project procurement program, including timing of the contracts;
- the methods for procuring the necessary goods, works, and services;
- the required Bank standard bidding documents; and
- the institutional arrangements to carry out the procurement.

For projects for which the contracting schedule and specific contracts cannot be precisely defined, the procurement plan consists of a description of all administrative aspects of procurement and consultant selection, including:

- criteria for efficient contract packaging and appropriate procurement methods;
- timing of all procurement activities and the system to monitor procurement progress; and
- actions to keep the business community informed of opportunities and outcomes of project procurement.

**Project appraisal and negotiations.** During appraisal, the Bank develops a procurement supervision plan and agrees with the borrower on standard bidding documents to be used for the project. The Bank and the borrower also agree on any activities to strengthen the procurement capacity of the borrower during implementation. These agreements are incorporated in the Loan Agreement.

**Project implementation.** During project implementation, the Bank evaluates whether the borrower's procurement actions comply with the provisions of the Loan Agreement, and monitors adherence to the procurement plan and progress with the strengthening of the implementing agency. If major deficiencies occur, corrective actions are proposed.

**Role of Bank staff in procurement activities.** In working with borrowers on procurement matters, Bank staff maintain strict neutrality and impartiality. Staff do not:

- recommend to borrowers that they use particular consulting firms, suppliers, or contractors;
- undertake activities that are the responsibility of borrowers; or
- participate in evaluating bids or proposals.

**Allegations of fraud and corruption and misprocurement.** Complaints alleging fraudulent or corrupt practices by a bidder, supplier, contractor, or consultant in the procurement process of a Bank-financed contract are referred by Bank staff to the Department of Institutional Integrity. When Bank staff determine that the borrower has followed procurement procedures that are not in accordance with those set out in the Loan Agreement, the borrower is notified in writing. The notice brings the violation to the borrower's attention and advises that, if the situation is not rectified, the Bank may declare misprocurement. One of the key Bank specialists involved in these situations is the Regional Procurement Adviser. Bank procedures that apply in these cases are detailed in BP 11.00.

# The World Bank Procurement Assessment Process

One of the main responsibilities of the Bank with respect to procurement is to help borrower countries improve their procurement systems. Sound public procurement policies and practices are essential to good governance. Procurement assessment takes place at two levels: for the country as a whole and for the individual government agency that is being proposed as the executing agency for a World Bank project. This section briefly describes the methods for assessing the procurement capacity of both entities.

## World Bank Assessment of Country Procurement Capacity<sup>7</sup>

Using the country procurement assessment, the Bank assists its member countries in analyzing the quality of their public procurement policies, organization, and procedures. The result of this assessment is the CPAR. Many countries' CPARs are available on the World Bank Web site.<sup>8</sup>

**Purpose of the country assessment.** The main purpose of the country procurement assessment is to establish the need for and guide the development of an action plan to improve a country's system for procuring goods, works, and consulting services. To accomplish this, the primary objectives of a country procurement assessment are to:

- analyze the country's public sector procurement system, and how well it works in practice;
- identify institutional, organizational, and other risks associated with the procurement process, including procurement practices unacceptable for use in Bank-financed projects;
- develop a prioritized action plan to bring about institutional improvements; and
- assess the competitiveness and performance of local private industry participation in public procurement and the commercial practices that relate to public procurement.

**Scope of the country assessment.** The Bank considers a country's procurement system to be composed of the following elements, each of which is analyzed in the country procurement assessment:

- Legal framework
- Procurement system organizational framework
- Procurement capacity building system/institutions
- Procurement procedures/tools
- Decision-making and control system
- Anticorruption initiatives and programs
- Private sector participation in the system
- Contract administration and management
- System for addressing complaints

Beside examining these elements, the country procurement assessment also examines how procurement is supposed to be carried out for goods, works, and consultant services, including, where applicable, large and/or complex turnkey, supply/install, management of public utilities, concession, information technology, and other contracts. More importantly, the country procurement assessment examines the application of the rules and enforcement in practice. Poor dissemination of rules, inadequate training of personnel, lack of enforcement, failure to maintain good records, endemic corruption, and a variety of other factors create risks that can undermine an otherwise seemingly adequate system.

**Outcome of the country assessment.** The result of the country assessment is the CPAR. Each CPAR will be different and reflect the scope and content as agreed to in the approved memorandum that is developed before the initiation of the assessment. The CPAR will generally include a discussion and analysis of findings for both the public sector and the private sector components of the assessment, a recommended action plan and sequence of actions, recommendations on technical assistance that will be needed to implement the action plan and sources of financing for it, and a monitoring plan for the project.

7. World Bank, "Assessment of Country's Public Procurement System," <http://go.worldbank.org/RZ7CHIRF60>.

8. World Bank, "Documents and Reports," <http://go.worldbank.org/L50GDXTRO>.



## World Bank Assessment of Agency Procurement Capacity<sup>9</sup>

Bank project teams are required as an integral part of project preparation and appraisal to make an assessment of the capacity of the implementing agency or project implementation unit designated to administer project procurement. This agency capacity assessment is useful both for Bank-financed procurement and other types of operational arrangements, such as multi-donor financing arrangements.

**Purpose of the agency assessment.** The objectives of the agency capacity assessment are similar to those of the country procurement assessment, specifically to:

- evaluate the capability of the implementing agency and the adequacy of procurement and related systems in place to administer procurement in general and Bank-financed procurement in particular;
- assess the risks (institutional, political, organizational, procedural, etc.) that may negatively affect the ability of the agency to carry out the procurement process;
- develop an action plan to be implemented as part of the project, as necessary, to address the deficiencies detected by the capacity analysis and to minimize the risks identified by the risk analysis; and
- propose a suitable Bank procurement supervision plan for the project considering the relative strengths, weaknesses, and risks revealed by the assessment.

The agency capacity assessment is carried out by a PS assigned to the project during the project preparation stage of the project cycle. The aim is to have the assessment and the agreed-upon action plan finalized by the time of project appraisal.

**Scope of the agency assessment.** The capacity review includes an assessment of the capacity of the agency to carry out all phases of procurement. Typically, it includes a review of the following:

- Legal aspects and procurement practices
- Procurement cycle management, whose key elements are:
  - Procurement planning
  - Preparation of bidding documents
  - Management of bidding process, from advertisement to bid opening
  - Bid evaluation
  - Contract award
  - Preparation and signing of contract
  - Contract management during implementation, including dispute resolution methods
  - General handling of procurement cycle (duration, actors, reviews, etc.)
- Organizational structure of the procurement unit, including:
  - Organization of procurement unit and allocation of functions
  - Internal procedural manuals and instructions and historical compliance
- Support and control systems
- Record-keeping
- Staffing
- General procurement environment
- Private sector viewpoint, including
  - General efficiency and predictability of the system
  - Transparency of the procurement process
  - Quality of contract management
  - General reputation of the agency as free of corruption

**Outcome of the agency assessment.** The outcome of the agency capacity assessment is an action plan to build the agency's capacity. The assessment includes a detailed description of the actions to be taken and the associated timetable. Actions may address any or all of the topics listed above, and recommendations may include additional capacity, staffing, training, support by consultants, and improvements required in facilities, organization, record-keeping, reporting, and planning and monitoring. Actions that are essential for project implementation are prioritized and are initiated before procurement starts. Others are implemented during the life of the project. Terms of reference for any consulting assignments and cost estimates are also included in the plan. The detailed plan forms part of the project implementation documentation and is agreed to with the borrower as part of project negotiations.

9. World Bank, 2002, "Revised Instruction for Carrying out Assessment of Agency's Capacity Assessment to Implement Procurement; Setting of Prior-Review Thresholds and Procurement Supervision Plan," <http://siteresources.worldbank.org/PROCUREMENT/Resources/Assessment-all.pdf>.



## Characteristics of a Good Public Procurement System

According to the CPAR framework, a public procurement system is well functioning if it achieves the objectives of transparency, competition, economy and efficiency, fairness, and accountability. The following key elements help determine whether a particular system meets these objectives:

- A clear, comprehensive, and transparent legal framework with easily identifiable rules that govern all aspects of the procurement process, including:
  - Advertising of bidding opportunities
  - Maintenance of records related to the procurement process
  - Predisclosure of all criteria for contract award
  - Contract award based on objective criteria to the highest-ranked evaluated bidder
  - Public bid opening
  - Access to a bidder complaints review mechanism
  - Disclosure of the results of the procurement process
- Clarity on functional responsibilities and accountabilities for the procurement function, including:
  - Those who implement procurement, including preparation of bid documents and the decision on contract award
  - Those who are accountable for proper application of the procurement rules
  - Means of enforcing these responsibilities and accountabilities, including the application of appropriate sanctions
- An institutional framework that differentiates between those who carry out the procurement function and those who have oversight responsibilities
- Robust mechanisms for enforcement
- Well-trained procurement staff

This not an exhaustive list of issues and the CPAR is customized to the issues present in each country, including the manner in which all the above actually work in practice.

*Source:* World Bank, "CPAR Instruction," <http://go.worldbank.org/J2H75S2RB0>.

## Procurement Issues in Emergency Operations and Potential Solutions

The Bank's OP/BP 8.00, Rapid Response to Crises and Emergencies, is explained in detail in  Chapter 20, World Bank Response to Crises and Emergencies. OP/BP 8.00 addresses the need to focus Bank assistance for emergencies on its core development and economic competencies while ensuring the Bank remains within its mandate. This section explains some of the specific procurement issues of operations implemented under OP/BP 8.00.

Emergency operations may give rise to unique procurement issues. This is due to two situations in particular: (1) risks inherent in the post-disaster procurement environment, such as the scale of procurement and the time pressure under which it may be taking place; and (2) the complexity of the institutional arrangements, particularly if there are numerous funding sources and special arrangements, such as multi-donor funds.



These issues have been addressed in the broader context of reconstruction project financial management in  Chapter 22, Financial Management in World Bank Reconstruction Projects. Included below is a list of specific measures that the Bank and the borrower government may want to consider to lower the risk and increase the efficiency of procurement in post-disaster reconstruction projects.

- The Bank should assign experienced emergency PSs to provide real-time advice to the borrower on post-disaster procurement. This should include developing a Simplified (6-month) Procurement Plan (SPP), which is permitted by OP/BP 8.0. The SPP will simplify procurement while ensuring borrower compliance with the Bank procurement procedures explained above.
- The following special procurement actions are permitted under OP/BP 8.0 and should be evaluated:
  - Using rapid procurement methods (direct contracting or simple shopping) for the procurement of services of qualified United Nations agencies/programs and/or suppliers (for goods) and civil works contractors already mobilized and working in emergency areas (for works)
  - Using single sourcing or Consultant's Qualification Selection for contracting firms that are already working in the area and that have a proven track record for the provision of technical assistance
  - Extending contracts issued under existing projects for similar activities by increasing their corresponding contract amounts
  - Where alternative arrangements are not available, using Force Account for delivery of services directly related to the emergency
  - Using national competitive bidding, accelerated bidding, and streamlined procedures, and applying Bank provisions on elimination, as necessary, of bid securities
- Recent CPARs or agency procurement assessments should be used to design the reconstruction financial management and procurement system, or a simplified assessment of procurement capacity should be immediately conducted.
- If a special arrangement for financial management or procurement is being considered, strive to incorporate as many donors and other agencies as possible in both the analysis of options and the use of the arrangement, to reduce transaction costs for the government.
- Carry out a procurement assessment focused specifically on the multi-donor arrangement for procurement jointly with other donors and agencies.
- If major nongovernmental agencies involved in reconstruction are not part of the multi-donor arrangement, use the framework proposed in  Chapter 19, Mitigating the Risk of Corruption, Annex 1, How to Do It: Conducting a Corruption Risk Assessment, to assess nongovernmental organization procurement capacity, since their capacity will affect the overall efficiency of the reconstruction program.
- Technical assistance can be provided to the public procurement system at various levels to increase the efficiency and speed of procurement, without undermining transparency and control.
- Technical assistance can also be provided to agencies that may not be directly involved in procurement but have a coordination or indirect role—such as the treasury department, ministry of finance, line departments, and others.
- Properly managed and staffed concurrent audits can maintain control while allowing the volume of procurement to increase.
- Procurement and project management agents are other options to provide additional procurement and implementation capacity. The Bank maintains a list of prequalified procurement and project management agents with the ability to rapidly deploy to emergency areas. Borrowers can access companies from this list under appropriate authorized single source arrangements.