

# Assessing the World Bank's new procurement framework

By Jeroen Kwakkenbos

## Introduction

On July 21st 2015 the executive directors of the World Bank approved a [new policy framework](#) which governs the procurement activities of projects financed by the Bank. This is the first major reform of the World Bank's procurement policy in over 50 years and is said to represent a major shift from how the Bank used to operate. World Bank clients spend several trillion dollars annually on procuring goods or services on behalf of public authorities, of which the Bank finances less than 1%. Despite this, it has a large amount of influence on its clients' public procurement policies, particularly in the poorest countries. The Bank's procurement policy "[impacts a portfolio of about USD 42 billion in over 1,800 projects in 172 countries.](#)" For these reasons, the framework the Bank imposes is incredibly important in determining how procurement systems are designed and operate in their client countries.

Most of the major reforms that the framework brings are internal to the Bank's management and operations of public procurement in order to streamline approval procedures and reduce costs. While some of these reforms are ambitious and may seem like a drastic change for those inside the Bank, from an external perspective it has the appearance of old wine mixed with good intentions in a new bottle. While there is much potential in some of the elements that it brings, that potential is often undermined by an inability to acknowledge existing bad practices. Shifts to increase country ownership of procurement are accompanied with the requirement that procurement systems align to the Bank's policies rather than to the countries' own policies and international commitments. Capacity development is prioritised but unfunded and driven by the Bank's own assessments rather than those of the partner country. While acclaimed as the first major reform of the Bank's procurement policy in 50 years, from a development effectiveness perspective it has more the appearance of a baby step rather than the much needed great leap forward.

## What is public procurement and why does it matter?

Procurement- the purchasing of goods and services by governments to implement public projects or provide public services such as infrastructure or health and education services- is an important share of economic activity in any country; it is the main component of government spending besides wages. According to the Organisation for Economic Co-operation and Development (OECD), public procurement accounts for 20% of gross national income (GNI) for OECD countries and 14.5% for developing countries.

In developing countries, public procurement is a bigger source of development finance than aid. OECD Development Assistance Committee (OECD-DAC) donors provided just 0.32% of their GNI in aid in 2010, and only a few post-conflict states receive anything more than 14.5% of their GNI in aid. While domestic resources and tax income are the most important funding sources for public procurement, in some developing countries, development aid funds a substantial share of public investment and purchases. This is because donors still prefer to fund, for example, the construction of new hospitals or schools, while relatively lower amounts of aid are channelled for recurrent expenses, such as wages of teachers and doctors.

Public procurement is an area of spending that is directly under public control and makes up 15-20% of global gross domestic product (GDP). In the past, governments have been discouraged from incorporating social and environmental criteria in their procurement policies in favour of a "lowest cost" approach. The new framework makes some allowances for these criteria but only under specific circumstances.

A [study](#) co-sponsored by the United Nations Conference on Trade and Development (UNCTAD) and the German Federal Ministry for Economic Cooperation and Development (BMZ) highlights several policy decisions that governments can make in terms of public

purchasing to foster the growth of domestic industries and services. The focus of this study is the Information and Communication Technology (ICT) sector. However, many of their recommendations are transferable to other sectors.

For several years now, [Eurodad](#) has noted that harmful procurement practices by donors have limited the potential impact of Official Development Assistance (ODA) on the local economy of developing countries. Other evaluations, for example on [Haiti](#), have demonstrated that only a small amount of resources used for development purposes impact local firms and suppliers. [Eurodad and others](#) have also noted that public procurement can be targeted effectively to achieve development goals and implement national industrial and development policies. However, donors have consistently pushed for procurement liberalisation, which tends to favour large international companies and firms based in donor countries.

Public procurement is key to development finance. It accounts for over 17% of world GDP and in developing countries can account for as much as 70% of public expenditure. [Eurodad estimates](#) that USD 69bn of aid money is spent on procuring goods and services annually either by donors or by recipient countries, more than 50% of total ODA. Pro-poor procurement practices are key to ensure that aid delivers the best development results. If well targeted, smart procurement can yield a "double dividend" where the development projects it supports also benefit the domestic private sector of developing countries through purchase of locally produced goods and services.

## Why World Bank procurement policy matters

The previous World Bank procurement guidelines consider international competitive bidding as best practice and make it compulsory for larger contracts that exceed certain thresholds. Domestic firms in developing countries usually cannot compete for international bids as they do not have access to the same resources as large

multinationals. This approach essentially bars them from large scale development programmes, which undermines the achievement of positive development outcomes. Eurodad research found that half of the contract value in World Bank funded projects in country case studies in [Bangladesh](#), [Bolivia](#), [Ghana](#), [Namibia](#), [Nicaragua](#), and [Uganda](#) went to foreign firms, and the share increases with the size of the contract.

Firms in industrialised and emerging economies are currently the main beneficiaries of the business opportunities offered by World Bank finance. In 2008, 67% of the value of World Bank-financed contracts went to firms from just ten countries: Argentina, China, France, Germany, India, Indonesia, Italy, Russia, Turkey and the United Kingdom.

Furthermore, World Bank procurement guidelines are considered as blueprints for the design of national procurement system reform programmes. Therefore, they influence the institutional system of client countries by:

- attaching policy conditions to their aid and loans,
- providing donor-driven technical assistance, and
- conducting diagnostic reviews of procurement systems.

An independent evaluation commissioned by the OECD in 2010 found that opaque tendering, tendering in large lots, and restrictive eligibility criteria make it difficult for micro, small and medium enterprises (MSMEs) from developing countries to compete for tenders. [Eurodad research](#)

confirmed that in particular the latter two aspects feature in World Bank-funded procurement. Fragmentation and the use of donors' procurement systems certainly lead to a complex supply chain, which has implications for sectoral policies such as health, education and food.

An [evaluation](#) by the Dutch foreign ministry on their engagement with the World Bank noted that in the procurement review "more attention should be paid to sustainability, environmental considerations, and Corporate Social Responsibility in awarding contracts. This would not only be consistent with the Bank's mission, but also give Dutch firms a better chance of winning future contracts." The principles that are being promoted should not be distorted to improve access to markets for firms in donor countries. Increased standards should go hand in hand with increasing the capacity of entrepreneurs in partner countries to meet these standards.

This is why World Bank procurement guidelines should reflect the Bank's development mandate, including for private sector development, as well as create policy space for developing countries to use procurement as a policy tool.

### New World Bank framework

The new framework proposes several broad principles guided by a vision statement - "Procurement in Bank operations supports clients to achieve value for money with integrity in delivery of sustainable development" - and the Bank is hoping to leverage its influence to promote "good procurement" reforms in client countries. In a step in the right direction the framework clearly states that Bank supported public procurement should be seen as a public

policy tool for partner countries to achieve their development objectives:

"Procurement has a dual role: client capacity building and fiduciary assurance. Bank procurement is both a development instrument and a strategic policy tool that can support a broad range of economic and social development objectives."

The dual role of developing partner country capacity and aligning public spending to public policy is a major shift from the former approach which viewed procurement in a more mechanistic light. This approach should allow partner countries to use their procurement spending to support environmental and social objectives rather than focusing purely on cost and efficiency considerations. While this is clearly a positive development it is somewhat undermined by other elements of the framework mentioned further on.

The new framework specifically covers "how Borrowers acquire works, goods, and services (consulting and non-consulting services) under investment project financing (IPF)<sup>1</sup>." It relates strictly to the public sector and does not cover procurement activities by private sector clients of Bank supported Financial Intermediaries (FIs) or public private partnerships (PPPs). In the case of FIs it is assumed that as they take on the full credit risk of their activities they should have the appropriate due diligence to ensure clients align to World Bank standards and principles. In the case of PPPs:

*"the Bank will require Borrowers to select a private partner using the most appropriate procurement approach consistent with the Bank's Core Procurement Principles, the Bank's Anti-Corruption Guidelines, sanctions*

#### Box 1

The [Busan Partnership For Effective Development Cooperation](#), endorsed by the World Bank makes several clear commitments to using partner country systems, including country procurement systems, and the development of diagnostic tools to assess those systems:

*"The use and strengthening of developing countries' systems remains central to our efforts to build effective institutions. We will build on our respective commitments set out in the Paris Declaration and Accra Agenda for Action to:*

- Use country systems as the default approach for development co-operation in support of activities managed by the public sector, working with and respecting the*

*governance structures of both the provider of development co-operation and the developing country.*

- Assess jointly country systems using mutually agreed diagnostic tools. Based on the results of these assessments, providers of development co-operation will decide on the extent to which they can use country systems. Where the full use of country systems is not possible, the provider of development co-operation will state the reasons for non-use, and will discuss with government what would be required to move towards full use, including any necessary assistance or changes for the strengthening of systems. The use and strengthening of country systems should be placed within the overall context of national*

*capacity development for sustainable outcomes."*

Furthermore it stresses the importance of using public procurement to support local firms in partner countries:

*"Pursuant to the Accra Agenda for Action, we will accelerate our efforts to untie aid. We will, in 2012, review our plans to achieve this. In addition to increasing value for money, untying can present opportunities for local procurement, business development, employment and income generation in developing countries. We will improve the quality, consistency and transparency of reporting on the tying status of aid."*

1 IPF covers loans from the International Bank for Reconstruction and Development, a credit or grant from the International Development Association, a project preparation advance, a grant from the Bank, or a trust fund administered by the Bank and executed by the recipient.

procedure and, as appropriate, with the requirements set up in the Procurement Regulations and further elaborated in the PPP Annex (Annex F, sub-annex XIV). The private partner selected in this manner would then procure the goods, works, non-consulting services and/or consulting services required for the facility from eligible sources (in accordance with the Bank's Anti-Corruption Guidelines and sanctions procedure), using its own procedures."

Many of the issues presented by the framework are addressed in the initial [CSO Joint Submission](#) to the phase one consultation, but some require further consideration. The focus on capacity development and supporting "good procurement" should be qualified to ensure that it is demand-driven and conforms to national development objectives. The principles themselves should explicitly state how they will be implemented to achieve sustainable development and should adhere to international agreements and conventions on human, labour, environmental and social rights as well as commitments to development effectiveness (see box 1).

## Ownership

The centrepiece of the new policy is the development of a partner country Project Procurement Strategy for Development (PPSD). In principle this strategy will be developed by the borrowing country and will guide all decisions related to public procurement:

*"The optimum procurement approach for each operation will be based on the findings from an analysis of the project needs, market, risks, and other influencing factors identified through a Project Procurement Strategy for Development (PPSD)."*

The purpose of the PPCSD is to better align public procurement to the policy objectives of partner countries. It gives the borrower license to spell out criteria for Value for Money decision-making to identify the best bids to carry out projects. At face value this should drastically increase partner country ownership as they would be able to determine for themselves what the best options are in procuring goods and services. However this ownership is undermined by extensive interference by the Bank in the development and approval of the PPCSD. Furthermore it is assumed that the partner country would use the World Bank's procurement system. If they want to use their own country procurement systems to implement a project it would require extensive appraisal and approval by the World Bank.

In a manner that is somewhat representative of how the Bank operates, the use of the borrower's own procurement systems can be included in the PPCSD as an Alternative Procurement Arrangement (APA). The

framework identifies several acceptable APAs which include:

- The procurement arrangements of other development banks/ agencies/ organisations with which the Bank has concluded agreements (bilateral/ co-financing agreements and/or Memoranda of Understanding that set out partners' agreed roles and responsibilities);
- Procurement arrangements of full members of the voluntary Agreement on Government Procurement (GPA) for covered expenditures/agencies, subject to review of borrower implementing agency capacity acceptable to the Bank; and
- Procurement arrangements of any borrower implementing agency that is found acceptable to the Bank according to the Bank's assessment framework.

The specific mention of countries that are members of the World Trade Organisation's (WTO) GPA is somewhat confusing. Developing countries have refused to sign on to the agreement as it gives equal treatment to foreign and domestic firms and reduces the policy space to use procurement for the development of domestic industries by prohibiting domestic preferences in public tenders. This entirely contradicts the Bank's stated goal of using procurement as a policy tool and its own allowance of domestic preferences. Furthermore given that only a [handful](#) of World Bank client countries are GPA members and along with non GPA members would require Bank approval to use their country systems, it is unclear why it is even mentioned at all. In fact the framework goes on to say that the "use of Borrower agency-level procurement arrangements (in both GPA and non-GPA members) is subject to a successful review of implementing agency capacity." In essence the Bank's use of APAs could be simplified to "partner countries are free to use any procurement system they wish as long as it is either the Bank's system or one that the Bank approves of."

To the Bank's credit the option of using partner country procurement systems as an APA (even with all the strings attached) is a major step forward in aligning its policies with commitments to development effectiveness. The new framework also seeks to streamline the requirements for using partner country systems for procurements of lower to moderate value and risk. Despite pressure from trade bodies representing consultants and contractors to mandate international contract bidding for national contracts below international advertising thresholds, the Bank decided that "procurements at lower to moderate value/risk levels should be undertaken using a system that is acceptable to the Bank and is as close as possible to the norm in the country."

Another positive development in the new framework is the ability for partner countries to include social and environmental criteria in procurement processes:

*"If the Borrower requests, sustainability provisions may now be incorporated into the procurement process. Where requested (by the Borrower), Bank and Borrower staff will identify specific sustainability risks and opportunities for procurement during the research and planning stages of project preparation (incorporating activity-specific issues identified as part of the Bank's environmental and social risk assessment process), as detailed in the PPCSD, for example, design proposals for enhanced access for disabled persons. As agreed with the Borrower, sustainability risks and opportunities would then be addressed at the appropriate stage of the procurement process (e.g. defining specific sustainability criteria as necessary for prequalification, specification, evaluation, and/or contract management). The Bank would support Borrowers to include other sustainable procurement criteria in Bank-financed procurements if such criteria are fully consistent with the Borrower's own national policy and the use of such criteria does not contravene the Bank's Core Procurement Principles."*

This is a major step forward in the Bank's procurement policy and is a potential sea change in how partner countries can use their public resources to set high standards and norms for private sector suppliers and contractors. However the language remains ambiguous in terms of implementation. The Bank will still have final say on whether the sustainability criteria can be utilised and awards would be based on a points system rather than pass fail criteria. This means that a bidding firm can mitigate low sustainability scores by offering lower cost bids. It is understandable from an ownership perspective that sustainability criteria is not mandatory but given all the other non-negotiable elements it is unclear why the Bank is flexible on issues that are covered in international conventions on labour, human rights and disabled persons, while intransigent on voluntary commitments that most countries are not party to such as the GPAs and others related to trade and procurement liberalisation. The Bank cannot pick and choose, either it has to ensure that partner country procurement practices are in line with all of their international commitments or it has to pass responsibility for their implementation to the borrower without forcing the implementation of agreements they are not party to.

## Partner country capacity building

The move by the Bank to increase use of Partner Country Systems is not entirely motivated by the desire to promote good governance and effective development.

The framework points out that shifting responsibility to the client country frees up Bank resources and staff supporting procurements for that agency. For this to happen requires increasing the capacity of client institutions and systems, and tailoring procurement guidelines to address identified weaknesses. Capacity development is incredibly important for partner countries to develop and utilise their own procurement systems. The new framework rightly identifies it as a critical element in enhancing ownership and expanding the options available to partner countries. However despite highlighting the Bank's central role in developing the capacity of its clients it "does not propose to increase baseline funding to support capacity building work." Funding for capacity development will potentially come from a variety of sources including "from the country's own resources, borrowing, reimbursable advisory services, donor funding and the Bank's budget. In addition, Management will seek to establish a multidonor trust fund (MDTF)."

Assuming the funds are made available, the Bank has developed a methodology to assess Alternative Procurement Arrangements in Borrower Implementing Agencies to identify areas in partner country procurement systems that require capacity development. Based on the findings, the Bank will put together a programme and determine the resources that need to be raised to implement it. This approach is a stark contrast to commitments made to development effectiveness. The Busan Partnership agreement states that the signatories will:

*"Assess jointly country systems using mutually agreed diagnostic tools. Based on the results of these assessments, providers of development co-operation will decide on the extent to which they can use country systems. Where the full use of country systems is not possible, the provider of development co-operation will state the reasons for non-use, and will discuss with government what would be required to move towards full use, including any necessary assistance or changes for the strengthening of systems. The use and strengthening of country systems should be placed within the overall context of national capacity development for sustainable outcomes."*

In theory the Bank should have to justify not using partner country procurement systems based on a mutually agreed diagnostic tool and then develop a capacity development plan that would enable their use. In practice the partner country has to request the use of its own country systems which are then assessed by the Bank's own diagnostic tools that determines a capacity development plan

that the partner then has to pay the Bank to implement.

### **Conclusion: One step forward two steps back**

On the surface, the new procurement framework represents a major shift in how the World Bank operates. In principle it offers greater flexibility and ownership for partner countries to utilise procurement as a public policy tool for achieving development objectives. Allowing for greater use of country systems and incorporating social and environmental criteria in procurement decisions should be lauded as a huge step forward in aligning the Bank's activities with development effectiveness principles. However, many of the bad practices of the previous policy continue to take place albeit under a new format and different guises. A critical question to ask is how the framework stacks up to the key demands made by CSO groups during the review process:

**Ask 1: Procurement becomes an economic policy tool which is pro-poor, promotes domestic industry development and empowerment, reduces asymmetries between local and foreign companies in order to create a truly level playing field, focusing in particular on SMEs; and works towards poverty eradication, sustainable development and mitigating climate change.**

**Ask 2: Procurement becomes a development tool, considers social and environmental criteria, and creates incentives for all private actors to behave in a socially and environmentally responsible fashion.**

It is unclear to what degree the new framework would support the domestic private sector in partner countries. The previous policy regarding domestic preferences has remained unchanged but anything beyond it related to targeting domestic suppliers or local content provisions requires approval from the World Bank board:

*"Management has maintained the current requirements for the use of domestic preferences (Annex F, sub-annex VI). If local content or industry integration requirements are required beyond the Regulations, then this will require either Board approval in the context of the specific project, or a Management waiver during implementation. In Management's view, further evaluation of the use of domestic preference provisions may be warranted in the future."*

SMEs are barely mentioned and the focus on international contract bidding does nothing

to reduce asymmetries between foreign and domestic firms. Lip service is paid to utilising procurement as a policy tool but the restrictions placed on borrowing countries limit its ability to do so effectively.

The allowance of social and environmental criteria at the request of the borrowing country is a major step towards procurement being an effective development tool. However, the ambiguity in terms of how this aligns to World Bank policy makes it uncertain that it could be effectively mainstreamed across procuring authorities. Given the level of Bank involvement in developing partner country procurement policies it is unlikely that controversial measures would be allowed to be implemented and there is a possibility that the criteria will conform to what the Bank considers acceptable rather than what the partner country wants. The private sector is largely absent from the framework as it only addresses public sector clients. Sanctions are largely targeted to corruption issues and there is no mention of how partner countries should address firms that violate human and labour rights. In fact there is no mention of these rights at all.

**Ask 3: Procurement respects transparency and accountability, emphasising that accountability to citizens in developing countries matters most. The Bank can play a catalytic role in strengthening domestic accountability through its procurement practices.**

**Ask 4: Procurement increases the effectiveness and developmental impact of aid and ensures that the larger share of aid inflows remain in the recipient countries.**

The framework makes an attempt at promoting development effectiveness but largely fails in its implementation. While there is the appearance of increased country ownership, all of the criteria for when and how that ownership takes place is entirely determined by the Bank. There are some commitments to involving CSOs, citizens and other stakeholders in procurement decisions but mostly from a watchdog perspective with very little engagement in actual decision making. Increased transparency in procurement decisions is a positive step but does not translate into increased ownership and accountability. For the most part the Bank still decides when, how and what while putting more responsibility for implementation on the partner country.

## **Eurodad**

The European Network on Debt and Development is a specialist network analysing and advocating on official development finance policies. It has 47 member groups in 19 countries. Its roles are to:

- research complex development finance policy issues
- synthesise and exchange NGO and official information and intelligence
- facilitate meetings and processes which improve concerted advocacy action by NGOs across Europe and in the South.

Eurodad pushes for policies that support pro-poor and democratically-defined sustainable development strategies. We support the empowerment of Southern people to chart their own path towards development and ending poverty. We seek appropriate development financing, a lasting and sustainable solution to the debt crisis and a stable international financial system conducive to development.

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