

**TACKLING GOVERNMENT PROCUREMENT  
WORKING GROUP SESSION  
Group 1  
Tuesday 12th October 2004**

**Rapporteur Report**

**Panel**

The panel was as per the programme save that interviewee number one, **Shaukat Omori** did not attend the session.

**Juanita Olaya (TI-S)** chaired the first part of the working group until tea break. Sahr Kpundeh chaired the session after the break

**Quotes**

1. For procurement reform to be successful it needs to be evaluated continuously - Eduardo Romero Ramos, Minister for Public Administration Mexico.
2. Most procurement reforms are focused on laws but it is necessary to move from addressing only legal reforms to changing behaviour and attitudes - Sahr Kpundeh, World Bank.
3. Procurement departments should be de-linked from the user department and also from the financing department to eliminate corruption- Mwangi, Kenya Institute of Management.

**PRESENTATIONS**

**Presenter: Romero Ramos, Minister for Public Administration, Mexico**

The Minister presented the experience of the New Mexican government in dealing with reform in the public procurement sector. They first focused on ensuring transparency in public procurement. The previous government had introduced a website, *compranet*, where information of public procurement could be obtained. The new government identified that the purchase of government goods and services was a major avenue of corruption. They thus improved the system of *compranet* to ensure that information on government tenders are available on the website and that even bids can be sent online. Anybody can access the site to know what government tenders have been awarded, to whom and for how much. The hope is that by 2005 it will be possible to submit bids through the Internet in 100% of the cases.

The new government also introduced a system of price consultations and pre-tenders. Through the pre-tenders there was discussion on the rules with the public before the actual tenders are awarded so that the final tenders are fair to all interested parties so as to

minimize the number of complaints after awarding the procurement contracts. This decision drastically reduced the number of complaints on tenders.

The government also increased public participation in the procurement process. They have signed an agreement with universities, business chambers and NGOs so that these groups can participate in and observe the process to ensure greater transparency.

The government also started a process of revising their procurement legislation following a comparative study done for the government on procurement procedures. The draft reforms have not been fully approved. It is fairly difficult to achieve consensus on purchasing issues, as no rule can be satisfactory to all the different stakeholders. The process of changing the legislation has taught them that reformists should abstain from introducing issues that may lead to ideological debates.

The new government has also included the terms of the OECD convention against bribery in their tender terms to ensure that all those involved know that the government is serious about anti-corruption and against bribery.

There is also a need for an open international banking system to enable investigation on fraud in procurement through access to foreign accounts.

**Interviewee 2: Erry Hardjapamekas, Vice Chairman, Anti-Corruption Commission, Indonesia**

The interviewee indicated that in Indonesia the reform of the procurement system started with a change of the state budgeting system. Previously, if a department did not exhaust their budget for a year, the balance would be taken back. Corruption therefore was rampant during the last quarter of the year, with everyone running to exhaust their budget allocations.

After reforming the planning and budgeting process, they proceeded to civil service reform. This involved improvement in the recruitment process, the training of staff, the improvement of pension terms and salary.

Thirdly, they developed a code of conduct to guide those involved in procurement. The independent commission also has powers to monitor the system and propose reforms and if the government refuses to implement the same, they can have them implemented through parliament.

He ended by stating that all that Indonesia lacked was a president committed to anti-corruption like Kenya. The hope is that the new president will be reform-minded.

**Interviewee 3: Hennie van Vurren, Institute for Strategic Studies, South Africa**

South Africa's legislation on transparency in procurement was guided by a statement in the Constitution requiring open and transparent government procurement systems. Their reform was thus underpinned by the constitutional provision.

A second constitutional provision, which shaped the direction of reform in government procurement, was the provision on the need to redress past inequities. As a result of this provision a deliberate effort was made to give opportunities to previously marginalized groups. This has led to a positive changed economic situation for the blacks in South Africa. However, the flipside has been 'fronting', where white businessmen use black people as fronts to win contracts under this rule.

### **Plenary**

The plenary raised several issues. The idea of *compranet* was discussed and its utility for developing countries analysed. Several participants noted that it's a useful tool not just for contractors but also for civil society who would want to monitor the whole process of government procurement. Due to the fact that in several countries access to the Internet is fairly limited, its practical use to those countries would be doubtful. However, what is essential is access to information by the public on the procurement process. This must not only be limited to Internet. It should also involve publications in newspapers.

Participants also discussed different countries experiences with a system of reward and punishment for firms that violate procurement rules and those who comply. In South Africa, for example, there is a system of blacklisting firms that have failed to comply with procurement requirements by engaging in unethical or corrupt practices. In Mexico, although they do not have a blacklist in the strict sense of the word, they normally suspend such firms from doing business with the government for some time and publish such suspension in the official gazette. In Nigeria instead of a blacklist, they have a white list of companies that have and are willing to continue complying with procurement procedures.

The other issue discussed was how to balance the requirement of transparency and efficiency. Participants agreed that there are times when people who are dissatisfied with the procurement process can delay a process through lengthy and protracted appeal and court process. While these are essential processes, the government needs to design strategies of ensuring broad consensus so that the levels of discontent with the outcome are minimized. Transparency and public participation, pre-tenders and monitoring are tools that can help in this process.

It was agreed that it is necessary to involve the private sector in the process of reform in procurement.

Further discussion centred on the OECD convention. In this context, a suggestion was made to the effect that when procurement officers observe bribery by foreign officials,

they should ensure that such information goes back to the official's home country by making the information available to the Embassy of the foreign country with copies to the media.

### **Recommendations and Lessons Learnt**

Arising from the discussions, the following recommendations were made:

1. There is need for new anti-corruption governments to provide a roadmap to the citizenry on the procurement reform process so that citizens are aware of, and can engage in, the process of reform and also support it.
2. After provision of the roadmap, it is crucial to ensure that there is public participation in the procurement process, the government needs to articulate what they want to do, disseminate this information to the public, have a system of collecting their feedback on the proposals and let them have access to the final document detailing the reforms.
3. Mechanisms for transparency and public disclosure of information on procurement need to be put in place. Disclosure is necessary for purposes of building public confidence and support for the procurement process and its reform. Such disclosure should be on issues like procurement contracts awarded, persons to whom the awards have been made, the sums involved and what citizens can do with information given and any information they have on the procurement process. In Nigeria for example, a Minister in charge of local government published information on money given to local authorities and asked citizens to follow up on the amounts. In Mexico, the government has a website with information on procurement. Even bids are done online and all the information is available to the public.
4. New governments should deal with administrative changes in public procurement that they intend to make very quickly as this will give the public confidence on the intention of the new leadership as the government pursues legal and institutional changes.
5. Governments should be strategic in their reform process and not just do things in an ad hoc manner. For example, the decision to fire procurement officers in Kenya seems to have been ad hoc as it was not followed through with.
6. There is a need to involve all the players in dialogue sessions so as to agree on and understand the outcome of public procurement reform and its benefit for the people. This will also enable agreement amongst the players on essential reforms.
7. The period before and after elections is normally a critical window of corruption in procurement processes. A new government must deal with this period carefully. The balance to be struck is between not allowing past corruption to go on and taint the new government on the one hand, and ensuring continuity in government services, on the other. A suggestion for dealing with this issue is for the new government to look critically at contracts signed a few months before an election and to form a committee to verify such contracts. After elections, a critical look should be taken at sectors in which corruption in procurement could have occurred, like big construction and military contracts. These should either be

- put a hold pending establishment of oversight mechanisms or one should ensure very strict compliance with the rules.
8. There is a need for innovative approaches to reforms. Such innovative approaches should, however, not be used to disadvantage small and medium company interests. The innovative approaches could include:
    - Putting in place a system of incentives and punishment. This could take the form of blacklisting, listing tender defaulters or having, like in Nigeria a white list prepared in conjunction with the private sector of those who comply with procurement requirements.
    - Developing, in consultation with stakeholders, a code of conduct to ensure ethical behaviour and agreement on a system of compliance and its enforcement.
  9. It is important that debate on public procurement and anti-corruption shifts from a technical process and debate about rules to one focused on service delivery so that procurement reforms and anti-corruption efforts are seen as a means to removing obstacles to service delivery to citizens and not an end in themselves.
  10. Procurement reform should be dealt with in a broad policy framework so that reform is sustainable and holistic
  11. In this vein, reform in procurement should be linked to other processes to ensure access to information, reform in rules governing private financing of political parties and establishment of a code of conduct not just for the civil service but for all players in the procurement industry
  12. Above all, reform should be undertaken in the broad framework of ensuring good governance and improving livelihood of citizens.

**Collins Odote**  
**Rapporteur**

