

Experience with Issues Relating to Scope and Coverage of Government Procurement

Coverage in the WB Guidelines and the UNCITRAL Model Law

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Purpose

- ◆ Briefly explain the coverage of the guidelines of Multilateral Development Institutions and UNCITRAL Model Law in respect to Government Procurement

Guidelines of MDBs

- ◆ Coverage: Most public sector activities (except defense) to the extent that they are funded by the MDB concerned
- ◆ All goods, works, equipment, and services, including consulting services, and BOT/concessions
- ◆ Obligations of the Borrower derive from a Loan Agreement (LA), which
 - covers procurement under the Project
 - refers to the MDB Procurement rules
 - defines procurement methods for Borrower's use
 - supercedes provisions in the national law if inconsistent with LA

General Considerations of MDB Guidelines

- ◆ Need for economy and efficiency
- ◆ Need for high-quality services (Consultants)
- ◆ Equal Opportunity to compete
- ◆ Encourage the development of national industry
- ◆ Importance of transparency in the process

Procurement Methods (Goods, Works and Related Services)

- ◆ Open competitive bidding must generally be used, with or without pre-qualification:
 - International Competitive Bidding is preferred (allows for margin of domestic preference)
 - National Competitive Bidding used for smaller contracts, unlikely interest of international bidders
 - basically similar Principles between ICB and NCB, exceptions: language, advertisement media, bidding time, bid/contract currency, and terms of contract

Procurement Methods - 2

- ◆ Other methods of procurement are allowed, as exceptions (Limited International Bidding, Shopping, Direct contracting)
- ◆ Reserved procurement, Misprocurement

Selection Methods (Consulting Services)

- ◆ Advertisement for expressions of interest, short list of qualified candidates, request for proposals, evaluation of technical and financial proposals
- ◆ Quality and Cost Based Selection is the preferred method – Quality: 80-90% weight, Cost: 20-10% weight.
- ◆ Other selection methods allowed if specified: Quality Based Selection, Selection under a fixed budget, least cost selection, selection based on qualification and single source selection

Procurement of BOT/Concessions

- ◆ Issue is specifically addressed in MDB Guidelines
- ◆ WB Guidelines provide for competitive bidding (Open or Limited) with PQ and/or one or two-stage bidding process
- ◆ If competitive bidding has not been used for selection of concessionaire, then it must be used for procurement of goods and services financed by the WB

UNCITRAL Model Law

- ◆ Scope of application is as specified in the law (art 1)
- ◆ Usually national defense and national security may be excluded (but not necessarily)
- ◆ Exclusions from coverage are to be specified in the law
- ◆ BOT/Concession in principle not excluded. Subsequently, a Legislative Guide on Privately Financed Infrastructure Projects was adopted, complementing the Model Law