Minutes of Consultation Meeting
Concerning the comprehensive Review of the African Development Bank’s (AfDB) Procurement Policy

Date: 16 July 2014  
Location: Agence Française de Développment (AFD), Paris

Present

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Discussion

The following are the main topics discussed during the meeting:

- **Harmonization in view of the ongoing review by the World Bank.** Harmonization is more about alignment of the policies, at the level of principles. The direction the Bank is taking is not very different from the World Bank apart from some areas where the Bank needed to take a different position to suit the African context. Those areas of departures are to some new ideas that the WB is may be considering. This could also result in countries that have signed the GPA treating non-GPA countries differently from other GPA members. Also, as the GPA is applied beyond a threshold, procurement below the threshold may not be assessed properly. Though this may not affect the AfDB as none of the Bank regional member countries are signatory to the GPA (only Cameroon is an observer), however, if this principle is accepted, countries that are signatory to any trade agreement (e.g. COMESA, SADC) may demand that the Bank use their procurement systems by the same logic. Another departure from the World Bank is entering into agreements with major suppliers and mandating a list of arbitrators for establishing Dispute Resolution Boards. However, all the above possible departures from the WB Bank policy should not significantly affect Harmonization. It should be also noted that the Bank is continuously in contact with all MDBs and is keeping them informed about its approach to reviewing its procurement policy.
• **Use of Country Procurement Systems.** The AfDB was about to introduce the use of country procurement systems in its policy in 2011. Given the experience of the World Bank at that time, and the fact that the World Bank had started its reforms, the AfDB waited to assess the WB’s review. Most African countries’ legal frameworks have been aligned to the MDB’s policies and/or the UNCITRAL model law, and borrowers typically use standard bidding documents prepared by the Bank, including those that result from harmonization with other MDBs. However, the weakness still lies in the capacity of the institutions and this will be addressed under the new procurement policy which encourages the incremental use of country systems and moves away from an “all or nothing approach”.

AFD indicated that they systematically use country systems by default with some caveats. They provide their borrowers with their guidelines and the borrower is committed to apply both country system and guidelines; in case of conflict between the two, a decision is made on which rules provisions shall apply. In Fragile and Conflict Affected States (FCS), if requested by the borrower, AFD may carry out procurement on behalf of their borrowers and in such cases, the no objections are given by the borrower.

• The new procurement policy will also look at the cost of procurement in the Bank itself. The Bank is currently doing a study to see whether it has been really achieving value for money, inter alia whether there may be occasions when good bids have been rejected for reasons that may have not been considered as material.

• **Value for Money.** The new procurement policy puts more emphasis on achieving optimal value for money under Bank financed procurement. The value for money concept is based on four mutually reinforcing and supporting principles namely; Economy, Efficiency, Effectiveness and Equity using processes that are fair, competitive and transparent. Sustainability and other considerations are more emphasized than the current policy. For example, while economic considerations are covered in the current policy, and some social considerations are broadly covered in the current bidding documents, environmental considerations are not covered and will be included under the new procurement policy.

• **Capacity Building in Borrower Countries.** The Bank provides significant capacity building support to borrower countries, mainly in the form of technical assistance under its projects. It has been very rare, however, to finance a project solely focusing on procurement capacity building. The Bank procurement records show that except for the Bank’s involvement in the procurement reforms in regional economic entities, there has been no other project exclusively supporting procurement reforms. Under the new procurement policy which is more focused on the use of country systems (*the bank considers that the existence of robust and reliable country systems provides the best fiduciary assurance*), it is expected that more projects will focus on public procurement reforms and capacity development. In addition, assessments of country procurement systems will be carried out by the Bank in collaboration with borrowers and other donors.

• **Impact of the New Policy.** The new policy is expected to mostly impact contracts that are of high risk and high complexity e.g. supply and install, design and build, Public Private Partnership…etc. Under those contracts a fit for purpose approach resulting in customized procedures will be used. Less complex (more predictable), Low risk contracts which represent more than 90% by number of the Bank’s portfolio will be done using standard procedures.
• **The New Procurement Framework.** The new procurement framework was explained in detail. It comprises four documents: the Policy which will be principles based and will be approved by the Bank’s Board of Directors; the Methodology, which will focus on the operationalization of the policy and will be focused on the assessment of procurement systems to be used by the Bank, identification of gaps and providing capacity building for closure of those gaps as well as monitoring and evaluation; the Operation Procurement Manual, which will provide the how i.e. will include procurement methods and procedures including innovative ones and allowing to account for specific approaches such as ESRP; and the Toolkit which will provide the borrower and procurement specialists with the necessary tools to do procurement e.g. bidding documents, contracts, guidance notes, case studies etc. The Policy will mention the other three documents and will refer to them.

**Conclusion**

The AFD supported the procurement approach adopted by the Bank while reviewing its procurement policy. AFD cautioned the Bank delegates about the complexity of implementation and showed its interest to see the incorporation of flexibility in the subsequent documents.