

# WORLD TRADE ORGANIZATION

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**Working Group on Transparency  
in Government Procurement**

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## WORLD BANK GUIDELINES ON PROCUREMENT

Statement by the Representative of the World Bank at  
the Working Group's Meeting of 23 May 1997

### Introduction

The apparent purpose of the Working Group on Transparency in Government Procurement is very close to the World Bank's objectives in the area of procurement. The World Bank Guidelines prescribe rules for the application of open, transparent and economic procurement procedures to all procurement under the projects financed by the World Bank. The World Bank has closely cooperated with the UNCITRAL over the years in the development of the UNCITRAL Model Law on Procurement of Goods, Construction and Services and is also cooperating with the regional development banks, the OECD and with other international institutions that have an interest in open and transparent public procurement. The World Bank would be happy to support the work of the Working Group in its future activities.

The World Bank is the oldest and largest of the international development finance institutions. It was established in 1945 with the purpose of making loans to developing country members in order to improve their economic situation. Today, almost all countries of the world are members of the World Bank. The World Bank (officially the International Bank for Reconstruction and Development (IBRD)) and the International Development Association (IDA), together finance annually some 40,000 contracts under loans of some \$20 billion that are mostly allocated for specific development projects. Loan agreements of the IBRD and IDA with Borrower countries incorporate by reference the World Bank's Guidelines for Procurement of Goods and Works and the Guidelines for Selection and Employment of Consultants. The Guidelines are based on the principles of the Articles of Agreement establishing the World Bank signed in 1944, which provide that the World Bank must make its loans with due attention to economy and efficiency.

### Transparency in public procurement

Transparency is not an end in itself. Its main purpose is to foster competition in procurement. In considering how the public sector should do purchasing, it becomes clear that competition is the best way to get value for money. For example, a public entity which wants to purchase 100 trucks can choose between one of the following two methods of procurement, which are at the extreme end of the spectrum. On the one hand, it could choose to negotiate with one supplier concerning the price of the trucks. From the point of view of the supplier, it makes sense to ask 30 to 40% more than what he would have charged under conditions of competition and then reduce the price by some 10 or 20% in the negotiations in order to make the purchaser happy, thus obtaining a final price that is still much more than what he could obtain in a competitive situation. On the other hand, with the rules of competitive bidding, every supplier bidding for 100 trucks must submit his bid price by a certain deadline, and has only one chance of doing so (i.e., he is prohibited from subsequently reducing it). The fact that the supplier cannot change his price or conditions after bid opening is the most powerful

incentive to each bidder to give his best price in order to stand a chance of getting the contract. By using the most transparent procurement method and open competition, the public sector, in its role as a consumer, will get the best possible price from the supplier.

Another purpose of transparency is to foster the confidence of the taxpayer in the decency and honesty of the public sector purchases. In that sense, it is the most powerful way to fight corruption, which is a serious problem confronting all countries universally. To the extent that corruption manifests itself in public procurement, transparency in procurement and competition in the procurement process contribute to fight it because corruption thrives in the dark. Some of the main elements of transparency are set forth below.

#### Notification and advertising

One important aspect of transparency in the UNCITRAL Model Law and the World Bank Guidelines is promoting wide participation in the procurement process through publicity and advertising. The World Bank Guidelines require that, when the loan agreement is signed, the Borrower must advertise a General Procurement Notice in the United Nations Development Business (UNDB). Thus interested bidders all over the world are notified in advance about the project that is going to be financed by the World Bank, the type of contracts that are expected to be available for bidding under the project, and where and when the bidding documents will be expected to be available.

A Specific Procurement Notice is published further in the project cycle by the Borrower agency for the particular procurement, either in the UNDB or in the official gazette or in other specialized newspapers in the Borrowing country. The World Bank also requires that all foreign embassies in the Borrowing country be notified of any bidding possibilities. The information is passed on by the embassies to the industries, suppliers, contractors in their countries. Notification is extremely important because if bidders do not know about the bidding possibility they cannot participate in the bidding process. As a result, the procurement process will not take place under the best competitive conditions and the Borrower agency will not get the best possible price. Irregularities in the procurement process could well occur even at this stage. There was recently a case where, in its recommendation for award to the World Bank, the Borrower agency stated that the particular contract was advertised and only one bidder had submitted a bid. Under the World Bank rules, the award is to be approved even if there is only one bidder. However, another supplier protested the approval of the award by the Bank since they had not been informed of the bidding opportunity. An investigation showed that the copy of the advertising in the official gazette produced by the Borrower agency was a falsification, as the advertising had never taken place. This was an attempt to fraudulently influence the award of the contract in favour of one preferred bidder, by suppressing the required notification.

#### Predisclosure of relevant information

It is important that the "rules of the game" are publicly announced so that all bidders get the same chance of knowing in advance when and where they have to submit their bids and, particularly, how the bids will be evaluated. It is not permissible to apply any bid evaluation criteria that have not been announced previously.

#### Public bid opening

Public bid opening is an important feature of transparency. A few years back this was not a generally accepted idea because some countries had the tradition of opening bids only in camera. In this area, like so often in life, perceptions are as important as what actually happens. A bidder who has lost the award which is opened and evaluated without the presence of the bidders may have the perception that the committee opening the bids may have allowed one of the bidders to change

its bid price after the opening of the bids. It is for this reason that the World Bank's Guidelines, the UNCITRAL Model Law and most modern procurement laws of individual states emphasize that bids must be opened in the presence of all bidders that have submitted a bid; the bidders must submit their bids by a deadline; and the bids must be opened immediately thereafter in the presence of all bidders that wish to attend; the prices must be read out; and minutes must be established so that facts are clearly established and can no longer be changed.

#### Accessibility of applicable laws and regulations

It is very important that the bidders have access to the laws and regulations on procurement so that they are aware of the rules under which procurement processes will take place. The World Bank Guidelines are made available to everybody and distributed widely because it is important for bidders to know the rules. The Bank's Standard Bidding Documents set forth clearly the rules of the bidding process, for example instructions to bidders on how to submit their bids, technical specifications, evaluation criteria, conditions of the contract, etc. If the bidding documents are not clear, the bidder may perceive that the procurement official may have had a chance to interpret certain rules in order to give an undue advantage to another bidder. The World Bank has developed mandatory Standard Bidding Documents, e.g., for the purchase of equipment, works, consulting services, pharmaceuticals, textbooks and computers, etc. Since the use of Standard Bidding Documents by the Borrowers has become mandatory, protests and complaints by suppliers have substantially decreased.

#### Prior and post review

The UNCITRAL Model Law provides a mechanism by which aggrieved suppliers can seek a review of the decision of the bidding authority by the procuring entity itself, by an administrative body or a judicial review body. As regards the contracts under the World Bank funded projects, the World Bank supervises the implementation of the procurement process. Important contracts accounting for around one fourth of the total number of contracts are subject to prior review where the Bank reviews every step of the procurement process to ascertain the conformity of the procurement process with the agreed rules. For other contracts, the Bank uses a post review procedure to ensure that the Borrower has carried out the procurement process in accordance with the agreed rules. In the latter case, when the Borrower submits his application for the withdrawal of funds from the loan account, he has to give the Bank all the relevant information on how he carried out the procurement. Moreover, under the Guidelines, upon a complaint from a bidder, the World Bank checks the allegation to ascertain whether the procurement rules have been properly applied by the Borrower. The Bank does not enter into any dialogue with the bidders until the award has been made. If, after the award, a bidder wishes to ascertain the grounds on which his bid was not selected, and he is not satisfied with the explanation given by the Borrower, he may seek a debriefing with the Bank, where the relevant staff will explain the process to the bidder.

#### Technical assistance

The World Bank considers the UNCITRAL Model Law as the best document available at present that could be used as model by governments that want to introduce transparent procurement codes. The World Bank has been providing funds to its borrowing countries under institutional development grants to finance the services of lawyers qualified in the area of procurement that can advise governments on the development of modern and transparent procurement laws, most often based on the UNCITRAL Model Law. The World Bank also gives assistance to governments for the preparation of Standard Bidding Documents. While it has been mostly countries of the former COMECON Agreement and of the former Soviet Union that have received assistance from the World Bank for developing new procurement laws, several African and Asian countries have also improved their procurement laws through technical assistance of the World Bank.