



Supplement to the 2011 Annual Statistical  
Report on United Nations Procurement

# Transparency and public procurement

- A collection of articles from academia, governments, the private sector, the United Nations and more
- Providing an overview of the current debate on transparency policies as they relate to the procurement practice

## **Supplement to the 2011 Annual Statistical Report on United Nations Procurement**

UNOPS would like to acknowledge the contribution of the various authors to this supplement to the 2012 Annual Statistical Report on United Nations Procurement. The views expressed in this publication are those of the authors and do not necessarily reflect those of the United Nations. Furthermore, the views expressed in this publication are not necessarily shared by each of the authors.

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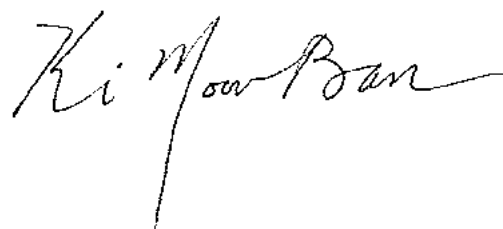
# Foreword

Public procurement is a powerful driver of development. In addition to providing goods and services a country needs, the act of procurement itself can strengthen local economies, support marginalized groups and boost local capacity for commerce.

Transparency is a core principle of high-quality public procurement. An open and transparent procurement process improves competition, increases efficiency and reduces the threat of unfairness or corruption. A robust transparency regime enables people to hold public bodies and politicians to account, thereby instilling trust in a nation's institutions.

Transparency also supports the wise use of limited development funds, from planning investments in advance to measuring the results. Much progress has been achieved in improving development assistance, and we pledge to build on the Paris Declaration on Aid Effectiveness (2005), the Accra Agenda for Action (2008) and the Busan Global Partnership for Effective Development Cooperation (2011).

Implementing an effective transparency regime is not easy. This report shares best practice from many countries and organizations, and raises key issues for discussion. I am confident that it will serve as an important tool in bolstering transparency in public procurement.



**Ban Ki-moon**  
Secretary-General of the United Nations  
19 July 2012



Secretary-General Ban Ki-moon addresses the opening session of the 4th High Level Forum on Aid Effectiveness in Busan, Republic of Korea, where the issue of transparency figured high on the agenda. **Photo:** UN Photo/Eskinder Debebe



# Table of contents

## Lead article

2

### **Transparency and public procurement**

by Therese Ballard

4

### **The role of technology in transparency**

by Tushar Dighe

6

### **Transparency and accountability as tools for promoting integrity and preventing corruption in procurement: possibilities and limitations**

by Peter Trepte

9

### **Ensuring integrity and competition in public procurement markets: a dual challenge for good governance**

by Robert D. Anderson, William E. Kovacic and Anna Caroline Müller

12

### **Multilateral talks on transparency in government procurement: concerns for developing countries**

by Giovanna Fenster

15

### **Enhancing transparency within public sector procurement: the South African experience**

by Peter Volmink

18

### **Procurement reform at the United Nations: launching a pilot programme to promote fairness, transparency and efficiency**

by Jacqueline Schroeder

20

### **Promoting transparency and efficiency in public procurement: e-procurement initiatives by Government of India**

by Prabir Panda, Sahu Ganesh and Pramod Gupta

23

### **The money trail: ranking donor transparency in foreign aid**

by Anirban Ghosh and Homi Kharas

# Transparency and public procurement



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Ms Ballard holds a Master of Science in Administration from Central Michigan University and a Bachelor of Business Administration from the University of New Brunswick. She is also a Certified Purchasing Professional and holds various professional certifications from Harvard, Oxford and the Wharton Institute.

Public procurement is the buying of goods and services on behalf of a public authority, such as a government agency. Governments spend public monies to secure inputs and resources to achieve their objectives and by doing so, create significant impact on key stakeholders and wider society. In addition, government purchasing impacts both domestic and international trade given that governments spend approximately 10 to 15 percent of their GDP in the procurement marketplace. Hence, public procurement plays a significant role in the global economy.

In public procurement the goals of fairness, competition and economic value are paramount. To achieve these goals, effective and efficient procurement processes must be established. This includes incorporating adequate controls to promote competition and minimize the risk of fraud, corruption, waste, and the mismanagement of public funds. In this context, transparency is considered to be one of the most effective tools to deter corruption and ensure value for money.

Transparency in procurement takes form in a variety of practices, such as: publishing procurement policies; advance publication of procurement plans; advertisement of tender notices; disclosure of evaluation criteria in solicitation documents; publication of contract awards and prices paid; establishing appropriate and timely complaint/protest/dispute mechanisms; implementing financial and conflict of interest disclosure requirements for public procurement officials; and publishing supplier sanction lists.

Transparency is considered to be a prerequisite for ensuring the accountability of public officials. In this regard, there is broad agreement that the effectiveness of transparency can be further strengthened by empowering monitoring and oversight organizations within civil society to scrutinize procurement, as they can play an important role as watchdogs for public sector integrity.

Such oversight practices could be effective in raising questions on a timely basis, reducing risks in complex contracts, strengthening procurement and contracting practices, holding public officials accountable and in general, strengthening governance. This aspect of transparency is a new frontier for procurement and there is still much to learn about the 'ways and means' necessary to develop and implement procurement regimes that include civil society monitoring.

The articles to follow look at transparency in procurement from a wide range of angles, and are written by experts from academia, governments, the private sector, the United Nations and more.

As with all interesting and complex debates, the authors do not always agree on the methods needed in their quest for the perfect procurement system. However as experts in their fields, the points they raise are well-informed, thought-provoking and worthy of further discussion.

We start with a look at the ability of transparency measures to rebalance the inherent informational



UNOPS is mandated to be a central resource for procurement within the UN and aims to act with accountability and transparency in all its dealings, for example when buying 1.3 million insecticide-treated nets to help combat malaria on behalf of the Global Fund in Myanmar. **Photo:** UNOPS

asymmetry within the procurement process. Trepte covers the possibilities and limitations of these measures as tools for promoting integrity and preventing corruption in procurement.

This is followed by an argument for how transparency measures are best complemented by measures enhancing competition. Anderson, Kovacic and Müller argue that while transparency can ensure integrity amongst public officials, competition-enhancing measures are necessary to prevent collusion among the supplier community.

Fenster then discusses the different types of procurement reform available, their relation to transparency, and the concerns and burdens they may raise for developing countries.

Volmink shows what these theories can look like in practice, though the lens of the South African experience. The post-apartheid constitution now prescribes that public procurement should be subjected to a regime of openness, transparency and fair dealing; worthy but often challenging goals.

The United Nations is also working towards these difficult goals, by continuously improving its approach to promoting fairness, transparency and efficiency. Schroeder's article examines the lessons learned from a UN pilot programme to give feedback to unsuccessful bidders, in order to increase transparency and develop supplier capacity.

Another method for improving transparency and efficiency is the use of online tools. This can be seen in UNOPS own experience (see box on page four). Using e-procurement and online tools for public procurement has the benefits of increased transparency, efficiency, easy access to information, increased competition and lower costs. As would be expected, the implementation of these tools required significant leadership, vision and commitment. In this regard, the article by Panda, Ganesh and Gupta on the Indian experience with e-procurement is informative.

Finally we take a slightly different look at transparency in procurement, this time from the point of view of a developing country receiving aid.

## The role of technology in transparency



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He has over 20 years of experience designing, building and implementing management, analytic, monitoring and reporting systems. Mr Dighe holds a Master of Business Administration in Technology Management and Finance as well as several professional certifications, including in the PRINCE2 project management methodology.

Put to the right use, technology has always been a great tool to improve the human condition. The question for those of us interested in governance and development is how we can harness the power of these technologies to improve lives. The recent impetus received by the open data movement and the strides made at the aid effectiveness forums towards commitments for transparency and ensuring a common, open, international data standard, can go a long way towards injecting value into public functions, including procurement.

In terms of technology, openness has been a long sought after goal. Open standards, open protocols, open formats, open source, and several similar concepts have existed for several decades. All of these concepts have a few simple notions at their core. First, that sharing information and knowledge garners collaboration, and collaboration harnesses the power of a multitude of minds. Second, opening up information curbs monopolies and fosters innovation. Limiting access to information and knowledge is the equivalent of limiting access to capital and resources and breaking down these monopolies injects value in the marketplace. Third, making information and products open enhances participation and adoption rates.

For public procurement, as with all areas of public functions, openness and transparency are core principles. Fairness can only be ensured by making information throughout the process open and available to all. Value can be enhanced by ensuring that the information has been made available to as wide a range of interested participants as possible and that unfair advantages in terms of access to information are curbed. Going further than this, the future holds promises of enabling economies of scale through the creation of pooled public procurement portals where the wide sharing of data by multiple public bodies in open formats

(CSV, XML, Open API based) can enable suppliers to provide the most competitive pricing based on higher volumes. The benefits in terms of lowered transaction costs and higher value generation for suppliers as well as public bodies can be substantial.

The approach to transparency we have taken at UNOPS is to start by providing all our stakeholders with as wide a view of our operations as possible. Whether you are a partner, a funding source, a supplier, or an interested member of the public, information on [data.unops.org](http://data.unops.org) is structured to provide you with an understanding of all facets of the projects we are managing on behalf of our partners. The key to making this happen was to ensure that all information was linked to all other relevant information. Linked data is a powerful concept that has the power to transform isolated pieces of information into knowledge, with a richness of depth and context. Our minds make meaning of objects and ideas around us through contextual references and through connections to other pieces of information. Linked data holds the promise of unifying a world of information and ideas in ways that allow us to draw meaning and understanding like never before.

The future holds substantial rewards for organizations that embrace transparency as a core value in all their functions. From a technical perspective, the challenge for UNOPS, as it is for most organizations, is to ensure that our data frameworks integrate all pieces of information into a cohesive whole. A greater challenge is to enable our data to be easily linked with data from other organizations. The adoption of open standards and open formats like the International Aid Transparency Initiative (IATI) can go a long way in ensuring that we are ready for a future in which public functions are performed in a manner that produces the most value for those in need.



All amounts are in US Dollars. All awarded contracts are made available online irrespective of value. In a limited number of cases some information will be withheld if disclosure is likely to endanger the safety or security of any individual or vendor, violate his or her rights, or invade his or her privacy.

Contract Number	Date	Description	Supplier	Supplier Country	Beneficiary Country	Partner(s)	Funding Source(s)	Amount (US\$)
UNOPS-0000326...	14-Jun-2012	Properly management	SERVI-ANGELES SA	Argentina	Argentina	UNDP (UNDP)	GOVERNMENT O...	3,094
UNOPS-0000326	14-Jun-2012	UN Web Buy LTA freig	Name withheld for sec...	Denmark	Multiple	Non Specific Hea...	UNITED NATION	4,487
UNOPS-0000326...	14-Jun-2012	Small Grants (= \$50,000)	Opslina Surdulica	Serbia	Serbia	EU/European Co...	EUROPEAN COM...	2,717
UNOPS-0000326	14-Jun-2012	Firewall security equip	HYNET S A	Argentina	Argentina	UNDP (UNDP)	GOVERNMENT O	37,602
UNOPS-0000326...	14-Jun-2012	School Construction	AMVHAC	Congo, The D...	Congo, The D...	IFAD (IFAD)	INTERNATIONAL ...	63,508
UNOPS-0000326...	14-Jun-2012	Air Tickets - International	RELAX VOYAGES	Senegal	Senegal	UNDP (UNDP)	GOVERNMENT O...	488
UNOPS-0000326...	14-Jun-2012	Other travel rel. serv.	Name withheld for sec...	United States	Kenya	UNODC (UNODC)	UNITED NATION...	1,000
UNOPS-0000326...	14-Jun-2012	UN Web Buy LTA for m...	TOYOTA MOTOR COR...	Japan	Multiple	Non Specific Hea...	UNITED NATION...	47,056
UNOPS-0000326...	14-Jun-2012	Utility building constructi	JUAN JOSE PEREZ D...	Nicaragua	Nicaragua	UNI-HADITAT (IAD...	UNI-HADITAT (UN...	31,140
UNOPS-0000326...	14-Jun-2012	Air conditioners	Frio Partes, S.A. de C.V.	El Salvador	El Salvador	UNFPA (UNFPA)	UNITED NATION...	46,350
UNOPS-0000326...	14-Jun-2012	Bank Charges; E/ DSA...	Name withheld for sec...	Kenya	Kenya	UNODC (UNODC)	UNITED NATION...	324
UNOPS-0000326...	14-Jun-2012	Lamps & Fixtures	Matelec	Senegal	Senegal		UN Office for Proj...	279
UNOPS-0000326...	14-Jun-2012	Air Tickets - International	Name withheld for sec...	Kenya	Kenya	UNODC (UNODC)	UNITED NATION...	1,500
UNOPS-0000326...	14-Jun-2012	Vehicle repair	CFAO SENEGAL	Senegal	Senegal	EU/European Co...	EUROPEAN UNI...	202

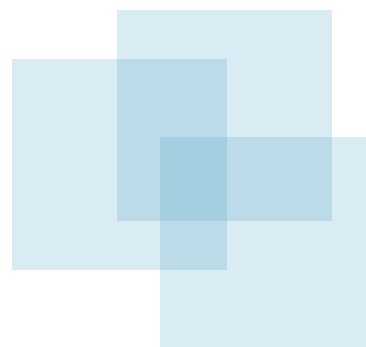
UNOPS online transparency platform, [data.unops.org](http://data.unops.org), provides users with dynamic and linked information about over 1,000 ongoing projects around the world in an open and easy-to-view format, including information about all awarded contracts.

Ghosh and Kharas argue that greater transparency in aid would help beneficiary countries plan their public procurement better and hold their buyers to account, and that to promote widespread transparency, donors must be publicly ranked.

The debate, as expressed in the articles, is inspiring as it demonstrates that leaders in the field of procurement are continuing to advance the practice, identifying and addressing the complex issues related to implementing transparency measures. This will enable transparency that enhances accountability, while not impeding the efficiency and effectiveness of the procurement process. As the Head of the Procurement Practice at one of the largest procurers in the UN system this is a goal that is of particular interest to me.

The good news, as you will read about in the articles included in this publication, is that there has been a growing trend by public procurement authorities to increase transparency in their procurement processes.

However, you will also read that there is a realization that there are significant challenges to overcome if the principle of transparency is to be fully leveraged to become an effective means to improve competition, ferret out corruption, hold public officials accountable and overall strengthen governance in public procurement.



# Transparency and accountability as tools for promoting integrity and preventing corruption in procurement:

## possibilities and limitations



**Peter Trepte** is a practicing barrister with Littleton Chambers in London and of counsel to Grayston & Company in Brussels. He is also a Senior Fellow in Public Procurement Law at the University of Nottingham.

In private practice, he concentrates on public procurement and competition law. He advises and represents public and private sector clients on issues of European Community procurement rules as well as on the application of the WTO Agreement on Government Procurement and the effect on the procurement rules of the European Community's preferential trade arrangements. At the international level, he has extensive experience in

advising on public procurement reform. Mr Trepte has degrees in law from the United Kingdom and France and a Ph.D. from the Netherlands.

For full text, please consult:

Trepte, P., 2005. Transparency and Accountability as Tools for Promoting Integrity and Preventing Corruption in Procurement: Possibilities and Limitations. Document prepared for the OECD Public Governance and Territorial Development Directorate, Public Governance Committee, Expert Group Meeting on Integrity in Public Procurement. OECD Document No: Unclassified - GOV/PGC/ETH (2005)1.

### Introduction

This paper is about reconciling the tensions in public procurement between providing adequate transparency and accountability and providing economically efficient procurement outcomes. It will also consider the ways in which the imposition of transparency requirements is used to close off opportunities for corruption.

### Procurement as an opportunity for corruption: the principal/agent relationship

Opportunities for corruption in procurement raised by the relationship between the government (the 'principal', as represented by the politicians) and the bureaucracy (the 'agent' as represented by procurement agents) are well studied.

The agent holds information which is not available to the principal. There is, in economic terms, an informational asymmetry. A corrupt agent can therefore conceal information related to the process, the bidders and the products from the principal. However the agent is himself at an informational disadvantage vis-à-vis the suppliers.

It could be argued that in addition to preventing information misuse, procurement regulation has a complementary function: to assist the procurement agent in overcoming this informational disadvantage.

Recognising the informational asymmetries inherent in these relationships, we are able to identify the ways in which procurement regulation can address and close the opportunities for corruption.

### Procurement regulation and transparency in the fight against corruption

Since it is the agent that will have privileged access to the information needed to make the decision, the principal cannot seek simply to dictate the actions of the agent. The principal relies on the professional judgement of the agent who must use judgment to collect and evaluate the necessary information. To remove such discretion entirely would reduce the procurement process to a purely mechanical function with all the consequences that would have on quality, cost and value for money. To ensure that the agent's discretion is used properly, the principal will use the tool of transparency to check the agent's actions against the framework of the regulation.

The imposition of transparency requirements is a critical component of the principal's administrative control for it is only when the actions of the agent are transparent that they can be verified. For international regulators, transparency is also a mechanism used to ensure that the benefits of competition are open to all entitled vendors.

Transparency tools can be used extensively in procurement regulation to provide disincentives against corrupt practices:

### Publicity

The requirement to advertise procurement procedures or at least solicit bids from a minimum number of tenderers will ensure that procurement agents are not able simply to contact those tenderers with whom they would prefer to deal.

### Technical specifications

Any technical specifications or standards used must be made available to all tenderers in advance and no changes will be permitted during the course of the procedure that could favour specific tenderers.

### Qualification criteria

Objective selection criteria are used to ensure that only qualified tenderers can compete for contracts. One of the dangers, however, is that it becomes a mechanical exercise in collecting compulsory but possibly unnecessary documentation from vendors. From the anti-corruption perspective, it is sometimes assumed that this would also somehow prevent corruption. The production of unnecessary information, however, merely provides an opportunity to demonstrate that the rules have been complied with, whilst drawing attention away from what might be corrupt behaviour. It should further be noted that compliance with inappropriate requirements is not without cost.

### Award criteria

Here transparency is applied to ensure that the agent will be required to state in the notice or tender documents all the criteria it intends to apply to the award of the contract. There are two options when choosing award criteria in most procurement systems: (1) focusing on just the lowest price and (2) considering the price together with a number of other criteria (such as after sales service, spare part availability, etc.) which will be set out in the bidding documents. Selecting on price alone may have the advantage of speed and simplicity but is unlikely to be of benefit in the majority of cases, where bidders are competing on the basis of differentiated products. However, the opportunity



Transparency can help ensure that all public procurement, such as these police uniforms bought in Peru, provides optimal value for money for the taxpayer. **Photo:** UNOPS

for abuse increases with the application of the second option. The challenge lies in translating qualitative aspects of the bid into quantifiable terms, which allow for a certain amount of discretion on the part of the agent, but not enough to provide an opportunity for corruption.

The procedures used, the specifications chosen, and the selection and award criteria applied can all be monitored through the application of these transparency requirements. However, to discover how well these procedural requirements are applied by an agent, further transparency measures are required. These are provided through recording and reporting.

Procurement regulation will generally require that the agent keeps all files and documents related to the procurement procedure for a stated period. The regulation will also usually require the taking of minutes that set out the reasons for the decision and may record any dissenting opinions, which might indicate cases of inappropriate influence in action.

Reporting may be useful in the event of a direct challenge to a specific award procedure. It can also provide a useful tool in identifying structural weaknesses ripe for the emergence of corrupt practices.



Procurement training, such as this course in Jakarta, Indonesia, can help increase the skills of government procurement officials to make professional procurement decisions. **Photo:** UNOPS

## The limits of procurement regulation

Procurement regulation cannot address all forms of corruption.

Even in cases where the opportunities for corruption are directly linked to the procurement function, procurement regulation may be helpless, as in cases of entrenched or systemic corruption. This is a much deeper cultural problem and goes beyond opportunistic corruption. In such cases even if the rules are followed it does not guarantee there will be no corruption or that procurement will be conducted well.

As a response to these problems the tendency, especially among those states newly introducing procurement reforms, is to seek to impose very strict regulations, eliminating any possibility for the procurement agent to exercise his discretion. Professional procurement, however, requires skill, training and experience.

## Conclusions

There is no doubt that procurement regulation can play an important part in the fight against corruption.

Regulation succeeds in reducing the opportunities of the agent for corruption by applying procedural and transparency requirements.

In the case of systemic corruption, its eradication calls for a broader campaign and much will depend on the government's willingness to reform, and on the attitudes of civil society.

The situation may be exacerbated when, whatever the good intentions, regulators impose ever stricter regulations on the agent in the name of anti-corruption. In extreme cases, this over-regulation erodes the ability of the agent to exercise his discretion and have a serious negative effect on public expenditure because it often condemns the government to inefficient and expensive purchasing.

Care must be taken therefore to identify those opportunities in the procurement function that may be reduced through regulation and transparency. The regulation needs to address the misuse of discretion and not seek to remove all discretion: procurement agents need to be in position to make professional procurement decisions and regulation should not prevent the exercise of that judgement.



# Ensuring integrity and competition in public procurement markets:

## a dual challenge for good governance



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**Anna Caroline Müller** is a Legal Affairs Officer in the government procurement team of the World Trade Organization's Intellectual Property Division. Ms Müller practised law in the Commercial Litigation and Arbitration section of Clifford Chance's Frankfurt office. Her research is focused on international economic law with recent publications in the field of government procurement. She holds degrees in law from Germany as well as in International Relations from Switzerland.

For full text, please consult:

Anderson, R., Kovacic, W., and Müller, A., 2011. Ensuring integrity and competition in public procurement markets: a dual challenge for good governance. In: Arrowsmith, S., Anderson, R., eds., 2011. *The WTO Regime on Government Procurement: Challenge and Reform*. Cambridge: Cambridge University Press. Ch.22.

### Introduction

The effective functioning of public procurement markets necessitates a high degree of both transparency and competition.

This article will first discuss the relationship between transparency and competition. Transparency-enhancing measures are, in general, consistent with the promotion of competition. They promote competition by informing suppliers of opportunities to compete and by giving them confidence that bids will be assessed objectively on their merits – thereby increasing their incentive to bid. Nevertheless, some balancing is required in order to ensure that the two approaches work well together to have a fully positive effect.

This article will detail why and how transparency-enhancing measures are best complemented by measures enhancing competition.

### Refining transparency measures to accommodate competition

Although, in most respects, measures increasing transparency are strongly consistent with the promotion of competition (and are important in their own right), due weight to the promotion of competition may require some modest refinements in the application of transparency measures. In particular, experience in the application of competition law in public procurement markets highlights circumstances in which transparency-enhancing measures can facilitate collusion among suppliers.

The process for opening bids in sealed bid procurements, for example, generally involves bids being unsealed in public and displayed for all bidders to observe. While widely seen as being important as an anti-corruption measure, this process can also facilitate collusion by enabling cartel members to determine whether co-conspirators fulfilled promises



Discussions about the WTO Agreement on Government Procurement, where one of the arguments is that external liberalization can enhance competition in the home market. **Photo:** WTO/Jay Louvion

either not to bid or to submit artificially high 'cover bids', thereby increasing cartel stability. A possible reform, in this regard, could be to permit the private inspection of bids by a guardian inside the purchasing agency, such as an inspector general.

This highlights a need for balancing (mutual accommodation) of competition and anti-corruption concerns. With such balancing, measures aimed at preventing corruption and promoting competition are likely to be strongly mutually reinforcing.

### **Why is competition important?**

Competition is a key factor in ensuring that governments, and their citizens, receive best value for money in their procurement process. There are at least three avenues through which competition can have desirable effects for procurement markets. First, with free entry and an absence of collusion, prices will be driven towards marginal costs. Second, suppliers will have an incentive to reduce their production and other costs over time. Third, competition serves as an important driver of innovation.

### **Ensuring competition in procurement markets**

Competition in public procurement markets can be promoted by international liberalization. Participation in the WTO Agreement on Government Procurement (GPA), for example, promotes competition in at least four distinct ways. First, the GPA provides a vehicle for the progressive opening of the parties' markets to international competition. Second, the various provisions of the agreement relating to the provision of information provide a framework that is intended to ensure transparent and non-discriminatory conditions of competition between suppliers. Third, the agreement requires that all GPA parties put in place domestic review procedures through which suppliers can challenge questionable decisions by national procurement authorities. Fourth, the GPA provides recourse to the WTO dispute settlement process in circumstances where parties believe that international competition has been suppressed.

However, merely opening bidding processes to foreign-based suppliers may not suffice to generate effective competition, if effective national competition laws and policies are not in place to deter collusion.

## Deterring collusive tendering

Collusion in tendering schemes takes a variety of common forms, including bid rotation (competitors take turns being the low bidder), complementary bidding (where some competitors agree to offer unacceptable bids), bid suppression (some agree not to bid), side payments or subcontracts (some agree not to genuinely compete in exchange for payments or subcontracts from the winner).

Recent efforts to deter collusive arrangements through effective enforcement of relevant statutory provisions have taken two main forms. First, there are sanctions for culpable parties, including increasingly higher fines (both corporate and individual) as well as prison sentences and additional measures, such as suspension or debarment. Second, there are inducements for cartel participants to inform government competition agencies of wrongdoing. Cartel members are encouraged to confess to their activities and assist the authorities in prosecuting their fellow cartel members in exchange for amnesty.

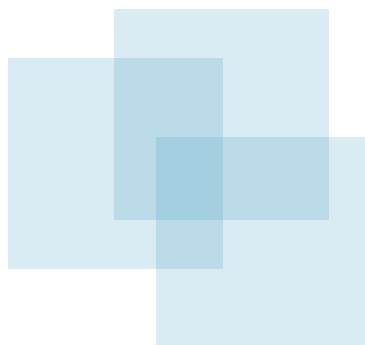
Since procurement personnel are the ones most likely to be in a position to observe behaviour that may indicate the presence of collusion, it is important that they have training in 'collusion awareness'.

The deterrence of collusion can be further strengthened by imposing a legal obligation on procurement officers to inform the enforcement authorities of apparent violations. Another is to require contractors to certify that they have set their prices independently. Yet another involves the preparation of an internal estimate of the competitive-market cost of significant projects, as a benchmark to evaluate the possibility of collusive overcharges. Finally, the detection of bid rigging can also be facilitated by econometric tools that can assist in the identification of suspicious bidding patterns.

## Conclusion

Effective functioning of public procurement necessitates a high degree of both transparency and competition. Measures aimed at enhancing transparency are consistent with the promotion of competition but there is a need for mutual accommodation of the two concerns. With careful balancing, they are likely to be strongly mutually reinforcing.

Transparency measures are important to ensure integrity of public officials, but these measures cannot alone ensure optimal functioning of public procurement markets as they do not address collusive practices on the side of suppliers. Measures promoting competition are also important.



# Transparency in government procurement: concerns for developing countries



**Giovanna Fenster** is a law lecturer at Open Polytechnic, New Zealand. She has worked on procurement matters for some 15 years, during which time she has provided advice to various government and non-governmental organizations. She was a founder member of South Africa's Construction Development Board, and worked with the board in the development of South Africa's targeted procurement regime.

For full text, please consult:

Fenster, G., 2003. Multilateral Talks on Transparency in Government Procurement: Concerns for Developing Countries. *IDS Bulletin*, 34(2), pp.65-81.

## Introduction

For many developing countries government procurement reform is a key issue, high on the good governance agenda. In addition, the recent revision of the WTO's Agreement on Government Procurement (GPA) has once again brought questions around transparency, discrimination, and the goals of procurement reform to the fore.

To help developing countries advance their procurement policies, this article considers transparency and discrimination in the context of procurement reform. The stages of a procurement process are used to illustrate how procurement reform could play out in practice.

## Transparency and the goals of procurement reform

When assessing a procurement regime, the first step is often to look at transparency, since it has the potential to serve numerous goals of reform. These include: undermining corruption; promoting the integrity and effectiveness of the public service; competition and value for money; the collection of reliable data on procurement; good governance; sound administration; and non-discrimination.

These differing goals may be served by different regimes on transparency, operating at various levels. The transparency required to avoid corruption might be different from that needed to promote international trade; a transparency discipline to ensure that all potential suppliers have access to information will not necessarily promote the collection of data. Sometimes a stringent transparency regime is warranted in order to achieve a particular goal, but in other instances the goal may not be so important as to justify the most costly, burdensome regime.

## Discrimination and procurement reform

When a developing country embarks on procurement reform it is usually taking one of two possible routes. The first is what might be called 'true reform'. It aims to deal with problems within the procurement system which render it less transparent, more open to corruption, less cost-effective, inequitable or otherwise inefficient and in need of reform. The second route is what might be called 'reform for development'. It describes the case when governments wish to use their spending power to advance certain socio-economic goals.

Reform for development may be directed at poverty alleviation programmes, at sustaining a particular macro-economic policy, at advancing smaller enterprises or at overcoming historical socio-economic imbalances. These indirect goals are invariably achieved through some form of preferencing and with instruments which are, by their very nature, discriminatory.

In assessing the domestic benefits of a reformed procurement regime developing countries need to determine the ills at which their reform programme is targeted. Is this true reform in that the procurement system itself needs fixing? Is it reform to address socio-economic ills in the society? Or is it a combination of the two?

## Discrimination and transparency in practice

The process of procuring goods, services or works is often a lengthy, staged one that allows many entry points for discrimination and a lack of transparency. This can be seen more clearly by breaking the process into three stages: (i) the invitation stage (sometimes referred to as the enquiry); (ii) the adjudication stage (sometimes referred to as evaluation); and (iii) the execution stage.





Procurement reform may be directed at poverty alleviation programmes or at sustaining a particular macro-economic policy, for example to improve the situation of domestic farmers, such as these Kenyan tea growers. **Photo:** UN Photo/Milton Grant

### The invitation stage

Article VII of the GPA distinguishes three different types of invitation: (i) the 'open' invitation, to which all interested suppliers may submit a tender; (ii) the 'selective' invitation, to which only those suppliers invited to do so by the entity may submit a tender; and (iii) the 'limited' invitation, where the entity contacts suppliers individually.

In addition, the government may use the mechanism of 'set-asides' to reserve certain work for people belonging to a specific (and named) group.

While set-asides and all but the open form of invitation are clearly discriminatory, they are also transparent and overt. This makes them relatively amenable to rules-based regulation. Monitoring how contracts are invited ought not to be too difficult. In addition, a supplier excluded by set-asides does not go through the time consuming and expensive process of preparing a bid. Where bidders find themselves preparing numerous futile bids there is a real danger that prices for the supplies being offered may increase as bidders factor preparation cost into the prices of those jobs that are won. Thus, not only do less overt mechanisms prevent a particular supplier from accessing a market on an equal footing, they could also increase the world price for the goods or services being supplied.

Some less overt techniques for excluding suppliers include drafting the technical specifications in such a manner as to ensure that only a limited number of suppliers are able to meet them, manipulating time periods for the submission of tenders, or choosing contract documents which are unusual and unknown to many.

Regulation of these mechanisms is very difficult. Rules that are too prescriptive could bring unwanted side effects, while those that are too flexible could render them irrelevant. For example, a requirement that prevents overly technical specifications increases the discretion given to officials and therefore opens the door to abuse. Similarly, insisting that time periods for the submission of tenders are a specific length could have the unwanted consequence of interfering with budgetary cycles and financial planning.

### The evaluation stage

The evaluation stage of procurement is ripe with opportunities for discrimination. The tender documents may have provided for a price preference to be allocated to named groups of suppliers at expressed percentages. Alternatively, the preferencing may be provided for in legislation or in the contract specifications. If prospective suppliers are made aware of the preferencing, the formula used to

calculate the preference and the group of people to be preferenced, the system, while discriminatory, is transparent. But other less transparent mechanisms may be employed. In the most opaque circumstances, officials may discriminate at this stage by awarding tenders as they see fit, independent of any rules, regulations or guidelines.

### Discrimination during the execution stage

When considering transparency and discrimination, the execution stage is sometimes left out of consideration. But the discriminatory mechanisms employed at this stage should not be ignored, particularly since they illustrate some of the difficulties encountered in attempting to regulate government procurement. One device employed at this stage that effectively prefers one supplier is 'bailing out'.

The most widely recognised circumstance for bailing out is when the government agrees to assist a supplier who finds, during the execution, that he is unable to fulfil the contract due to financial constraints. This commonly occurs in the construction industry when contractors underbid at the tender stage. Such contractors may be tempted to abscond or to declare insolvency. The government, faced with this situation can do one of two things. The first option is to refuse to bail the contractor out. While this may be the most contractually sound route, it is often not the most cost-effective. The government now has to re-invite tenders, and may well find that new bidders, wary of the risks associated with completing someone else's work and aware that the government may now be under severe time constraints, submit inflated bids. Many governments faced with this situation choose to bail the incumbent contractor out by agreeing to finance the completion of the works, with the goal of completing the works in the shortest time and at the lowest cost.

Bailing out presents an interesting challenge to procurement regulation. It occurs after the contract has been awarded. For tenderers to cry foul at this stage is usually ineffective and could prejudice future relations with the government. Also, it may be very difficult to separate the bailing out that serves a justifiable developmental or financial interest from that which does not.

### Burdens for developing countries

Transparency measures aimed at curbing discriminatory practices, such as debriefing unsuccessful tenderers, providing detailed information on contract awards and up-to-date information on procurement laws and regulations, are all desirable but compliance could place heavy burdens on an under-resourced administration, particularly if detailed, technical information is required.



The GPA remains controversial with a number of developing countries, such as Timor-Leste deciding to opt out in order to better protect key domestic industries such as coffee.

**Photo:** UN Photo/Martine Perret

In particular, there is a risk of paralysis – where fear of falling foul of complex legal requirements leads to underspending. For developing countries, such paralysis is clearly highly undesirable.

### Conclusion

Given limited finance and capacity, developing countries need to prioritise their procurement reform measures. As illustrated above, any procurement reform needs to focus on the various stages in the procurement of goods or services, bearing in mind that procurement reform can serve differing government goals. Some of these may be served by focusing on transparency without necessarily giving up all discriminatory practices. While discriminatory practices may not necessarily serve the goal of promoting international trade, they may help advance certain socio-economic goals. For a developing country, these goals may be at the forefront of procurement reform.



# Enhancing transparency within public sector procurement:

## the South African experience



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For full text, please consult:

Volmink, P., 2010. Enhancing Transparency within Public Sector Procurement: The South African Experience. *4th International Public Procurement Conference*. Seoul, Republic of Korea, 26-28 August 2010.

### Introduction

In 1994 a seismic shift took place in the South African political landscape when South Africa held its first democratic general election and made the transition from a closed society, characterized by official secretiveness, to one characterized by democratic values. For the first time ever, South Africans would enjoy a constitutionally guaranteed right of access to information held by state organs as well as a right to demand explanations or reasons from the state for actions which adversely impact them.

The South African constitution now prescribes that public procurement should be subjected to a regime of openness, transparency and fair dealing.

### The 'right to know' and the role of the judiciary in promoting transparency in public procurement

The 'right to reasons' and the 'right of access to information' are sometimes referred to collectively as the 'right to know'. Both rights enable a person adversely affected by a tender decision to ascertain whether the decision was taken lawfully or not.

Reasons provide an explanation or justification for a decision, enabling one to determine whether it was rational and consistent. The right of access to information on the other hand, entitles a person to be granted access to any record in possession of an organ of state or a private party, such as the scoring methodology and score sheets used by a tender evaluation committee.

South African courts have generally interpreted the 'right to know' in a generous way, consistent with the principles of openness and transparency. A number of judicial pronouncements have had a significant effect on the promotion of transparency in the arena of public procurement. The courts have held that a decision to invite, evaluate and award tenders was subject to judicial review. Courts established the right of all tenderers - even unsuccessful ones - to be treated equally and fairly in the tender process. Furthermore, the courts have held that tender documents should not contain provisions which require bidders to waive the 'right to reasons'. The courts have also stated that the 'right to reasons' would be meaningless unless decision makers actually provided rational reasons for taking administrative decisions. Finally, the courts have held that organs of state should not hide behind confidentiality clauses in contracts or so called 'state secrets' in order to circumvent the 'right of access to information'.

### The 'right of access to information'

One of the stated objectives of the Promotion of Access to Information Act is to do away with the "secretive and unresponsive culture" which existed in public and private bodies prior to 1994. This act states that any person may submit a request for any recorded information in the possession or under the control of a public body, without having to justify the request.



The new South African constitution that was adopted after Nelson Mandela took office prescribes that public procurement should be subjected to a regime of openness, transparency and fair dealing. **Photo:** UN Photo/C Sattleberger

When organs of the state refuse access to information regarding the selection of the winning bid, the grounds are usually either that disclosure would reveal confidential information such as trade secrets, or that disclosure would threaten national security.

However, the courts have not allowed organs of state to invoke such claims in an unjustified manner.

#### Trade secrets and prices

Tender submissions usually contain commercially sensitive information, publication of which could cause commercial harm to the vendors. However, this ground for refusing an information request can lend itself to abuse if it is invoked by organs of state in an unwarranted manner.

In cases where the protection of trade secrets or the secrecy of bid prices have been invoked, the courts have stated that an organ of state could only refuse to provide financial, commercial or scientific information if the disclosure of such information was likely to cause harm.

The courts also drew a distinction between the disclosure of tender prices before the closing date of a tender and disclosure after such date: whilst tender prices should be protected from disclosure before the

closing date of a tender, the same could not be said after the closing date or after award.

#### Confidentiality clauses

Claims of confidentiality per se do not justify the withholding of information. The judiciary has stated that public bodies and third parties should be prevented from subverting the law by inserting a confidentiality clause into a contract, when in fact nothing of a confidential nature worthy of protection was contained within.

The courts have held that disclosure of the price tendered by the winning bidder is essential to ensure not only that the tender process is transparent, but also that the award was made responsibly.

#### State security

The procurement of military equipment is notoriously susceptible to corruption. This is because the procurement exercise is often highly technical in nature, supplies are usually acquired from a single source and the acquisition is not subject to public scrutiny because of national security concerns.

The South African Constitutional Court has drawn a distinction between the protection of information

in the name of state security simply to avoid embarrassment (which is unconstitutional) and the protection of information to avoid harm (which is constitutional, provided that the harm is not trivial or speculative). The court emphasized that the obligation was on the government agency concerned to identify the record it wished to protect on the grounds of state security, to outline the basis for the objection, and to indicate whether the objection related to the entire document or only a portion.

### **Has access to information legislation enhanced the integrity of public procurement in South Africa?**

Transparency is universally recognized as absolutely indispensable in the fight against corruption. However, the experience of many developing countries has shown that laws on the statute book promoting transparency do not necessarily result in greater transparency in practice. South Africa is a case in point.

Tangible delivery on the principles of the Promotion of Access to Information Act has been repeatedly questioned due to its failure to live up to expectations. While the constitutional, legislative, judicial and administrative framework is strong, other critical features are lacking. The system does not provide for speedy access to information, nor does it allow for an inexpensive extra judicial mechanism for reviewing decisions to refuse requests for access to information. The current system is complex and rigid. The public at large know very little about their rights of access to information and public officials tend to know very little about their obligations to provide information.

### **Conclusion**

The 'right to know' gives substance to the constitutional promise of an open and democratic society, enabling the public to perform the critical function of scrutinizing and challenging tender decisions. It is imperative that tender decisions be subjected to robust review processes to determine whether the award was made in conformance with the highest standards of probity.

The laws providing access to information require both good design and other parallel measures including:

- independent review of each important stage in the tendering process by independent firms of legal or procurement specialists for high value or complex tenders
- creation of alternative structures to courts of law to deal with complaints and appeals from unsuccessful bidders
- introduction of education programs aimed at informing suppliers about their rights to fair administrative action, access to information and reasons, increasing the level of scrutiny of tender decisions by the supplier community
- practice of 'direct social control' over key procurement transactions, entailing the involvement of representatives of civil society as observers

Ultimately, the cost of opaqueness significantly outweighs the cost of transparency in public procurement. Opaqueness inevitably results in poor quality decision making, the acquisition of inappropriate goods and services and the selection of undeserving suppliers. It also imposes an intolerable financial and social burden on the South African public and contributes to social turbulence.



# Procurement reform at the United Nations:

## launching a pilot programme to promote fairness, transparency and efficiency



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She has 20 years of experience in private practice and in the UN system with expertise in the field of international law, international public procurement, program management (rule of law), risk management, change management and training.

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For full text, please consult:

Schroeder, J., 2010. Procurement Reform at the United Nations: Launching a Pilot Programme to Promote Fairness, Transparency and Efficiency. *4th International Public Procurement Conference*. Seoul, Republic of Korea, 26-28 August 2010.

### Overview

Under the United Nations system, UN organizations are the stewards of public funds which have been entrusted to them by Member States to fulfill their various mandates. In undertaking procurement activities, the UN is guided by the general principles of: best value for money; fairness, integrity and transparency; effective international competition; and the interests of the UN.

To promote these principles a pilot programme was launched at the United Nations Procurement Division to set up two new review boards: the Award Review Board and the Senior Vendor Review Committee. This article (in its summarized form) will focus on the Award Review Board and its value for transparency.

### The Award Review Board

In the past, no formal independent bid protest system existed in the UN Secretariat or in the UN system.

The fundamental legal principles and ethical considerations taken into account in setting up the pilot review bodies were:

- fairness and transparency, giving access to justice and right to a fair 'trial' for bidders
- ethics and integrity for the UN
- due process and standard of review
- efficiency and effectiveness for the UN, to improve the procurement process (both time and quality) and raising overall standards

The Award Review Board (ARB) offers unsuccessful bidders who participated in tenders managed by the United Nations Procurement Division a process to find out what happened to their bid and to file a procurement challenge if necessary.

Unsuccessful bidders must first request a formal debrief to receive clear and comprehensive feedback on how their bid or offer was treated and evaluated. This is a vital aspect in a transparent procurement system that reduces opportunities for corruption and increases opportunities to help vendors improve their bidding processes.

If after receiving a debrief, the unsuccessful bidder still believes the procurement process was unfair or not properly carried out, they may file a procurement challenge. Possible remedies which may be granted to a successful protester include limited financial compensation, such as reimbursement of the cost of procedure directly related to the procurement challenge (excluding attorneys fees) within the maximum limit of \$50,000; cancellation and rebid; or modification of a multiple year contract to one year followed by a rebid. Monetary damages related to commercial loss are generally excluded.

### Debriefing procedure

The purpose of the debriefing is to increase transparency and understanding of the process by explaining the rationale behind the decisions to the unsuccessful bidder. The added value of the debriefing process is its function as a capacity building tool, for



A fleet of United Nations vehicles awaits deployment in a warehouse in Dubai. **Photo:** UNOPS

vendors to improve their future offers, and in assisting the UN to improve the quality of the procurement functions.

However, if debriefings are not handled properly, they could potentially be more harmful to the process. For example, where an unsuccessful bidder is not intending to file a challenge but has requested a debrief simply for feedback on its proposal. If such a debriefing is mishandled, this could lead to loss of confidence in the process and an eventual procurement challenge.

### Establishing a panel of experts

To maintain greater independence and transparency in the selection of panel of experts, the UN decided to recruit members from the outside of the organization rather than only hiring UN officers.

Each expert signed an Ethical Declaration including a 'no conflict of interest' clause and a confidentiality clause.

### Lessons learned

The first lesson learned in pursuit of fundamental principles of public procurement, referring to integrity, fairness and transparency, is that it is important to find a balance between the economic interests of the UN and the requirement for public accountability.

The second lesson was that the establishment of the protest system itself is not sufficient enough to ensure integrity, impartiality and fairness of procurement processes. Having internal personnel serving as judges may give rise to concerns about objectivity. The UN brought a new element to the review mechanism by involving third party experts to serve on the review boards.

The third lesson relates to the immense support and expert advice the UN obtained from a number of external institutions and professionals. However, there is an understanding that for further development and improvement of UN review mechanisms, sustainable funding is required.

### Considerations for the future

Currently, the pilot programme is limited in scope and soon it will have to be expanded. Other questions include whether the pilot should be extended beyond the UN Secretariat headquarters, whether a higher or lower financial threshold should be adopted, and how parallel initiatives should be integrated in the broader context of delivering as 'One UN'.

Member States will have to decide whether to continue these review procedures and if so how to proceed for a complete roll out after the pilot phase.



# Promoting transparency and efficiency in public procurement:

## e-procurement initiatives by the Government of India



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For full text, please consult:

Panda, P., Sahu, G.P. and Gupta, P., 2010. Promoting Transparency and Efficiency in Public Procurement: E-Procurement Initiatives by Government of India. *7th International Conference on E-Government*. Indian Institute of Management Bangalore, India, 22-24 Apr 2010.

### Introduction

The recent financial crisis has forced organizations to think 'out of the box' and implement measures to reduce the cost of their operations. The Government of India directed all departments and ministries to implement austerity measures, including making the public procurement system more efficient.

The existing manual process for invitation of bids, bid evaluation and finalisation of the winning bid in India is time-consuming, cost-intensive and prone to manipulation and corruption. To increase transparency and efficiency, the necessity of adopting an online or e-procurement system has become acute.

### Public procurement process: an Indian perspective

The Central Vigilance Commission has recommended various steps to increase transparency in public buying.

E-procurement represents a cost-effective, efficient and transparent solution. E-procurement signifies a web-based process that enables enterprises and

government departments to manage their purchases online, across the entire requisition to payment cycle. A comprehensive e-procurement system includes three components: information and registration, e-purchasing and e-tendering.

The opportunity to conduct online transactions with the Government simplifies regulatory processes. A number of success stories of e-procurement in public purchases point to several benefits from e-procurement, from increased efficiency and customer satisfaction, to reduction in process time, costs reduction, increase competitiveness, and more.

### E-procurement initiatives by the Government of India

The Government of India approved the National e-Governance Plan in 2006. E-procurement is an integral component of this plan. In support of e-procurement, digital signatures are now accepted on par with handwritten signatures and the electronic documents that have been digitally signed are treated on par with paper documents.





An e-procurement system can enhance transparency and probity by keeping a traceable online record of transactions.  
**Photo:** UNOPS

Other government directives require that all Ministries and Departments shall introduce e-procurement to reduce cost and improve transparency and efficiency in procurement and similarly take steps to introduce e-payments. The IT Act from 2000 provides the enabling legal framework for the conduct of electronic commerce by the government departments and ministries.

### **E-procurement implementation**

In order to reap the benefits of widespread information technology, a number of steps have been initiated by the Government. These are broadly classified as follows:

#### **Web-based e-procurement platform:**

These platforms enable creation and approval of purchasing requisitions, placement of purchase orders and receipt confirmation of goods and services by using a software system based on internet technology.

#### **E-tendering:**

This process involves soliciting information and prices from suppliers and the compilation and collation of the responses received from suppliers using internet technology.

#### **E-reverse auctioning:**

Using internet technology to buy goods and services from a number of known or unknown suppliers.

#### **E-informing:**

These initiatives are concerned with gathering and distributing purchasing information both from and to internal and external parties using internet technology. The right to information requires all government departments to provide information related to their work on their website, including information about procurement.

### **Main findings**

Key issues facing governments are time and cost overruns in projects. These are often attributed to delay in procurement of requisite goods and services due to protracted administrative lead times and procedural complexities. Also, governmental procurement agencies often have to contend with the collusive tactics of registered suppliers.

An e-procurement system enhances transparency and probity by keeping a traceable online electronic record of transactions. It consolidates data on the procurement of various goods directly or indirectly. The data thus enables the procurement agencies to go in for bulk purchases and negotiate greater discounts with suppliers.

However, the following challenges still remain to be addressed:

### **Making e-procurement mandatory**

Existing guidelines and policies do not make e-procurement mandatory. At best they make effective utilisation of e-procurement discretionary with no penalty being placed on non-implementation.

### **Procurement and outsourcing procedures**

Presently, not all activities pertaining to procurement are captured by an e-procurement system. The present system, combining manual and automated aspects, is cumbersome to use and as such prevents e-procurement from becoming a real alternative to manual procurement.

### **Demand aggregation**

Major benefits from e-procurement are likely to accrue to the Government from an aggregation of the demands of all departments. However, aggregation of demands remains a major hurdle due to vested departmental interests, perceived loss of authority and the effort required in achieving it. The need for demand aggregation should also be weighed against the degree of decentralisation desired for purchases.

### **Secrecy**

Many requirements of government procurement, especially those dealing with key defence or strategic projects, are associated with some degree of perceived security implications - a major challenge to most e-procurement initiatives.

### **Resistance to e-procurement implementation**

There is lack of support for the concept, implementation and effective utilisation of e-procurement systems by stakeholders including suppliers, departmental users and others.

### **The lack of enabling environment**

Though India is considered to be an IT giant, the IT infrastructure, literacy rate (IT or otherwise) of the public at large and penetration of computers/internet is very poor, especially in rural areas. This is a major challenge as far as the use of e-procurement at a district level is concerned.

## **Conclusions and recommendations**

The broad recommendations are that e-procurement must be made mandatory for all procurements except petty purchases, and that all e-procurement projects should be planned, monitored and implemented through the formulation of 'high powered' core groups within the ministry or department. Top leadership support is vital in achieving initial acceptance of the system.



An e-procurement system can represent a cost-effective, efficient and transparent solution. **Photo:** UNOPS

The implementation of all aspects of e-procurement, such as the issuing of digital signatures, would reduce the lag time in vendor registration and reduce procedural overheads. Also, to harness the full potential of e-procurement systems, a single portal must be implemented instead of having smaller e-procurement portals addressing the specific needs of a particular department.

All e-procurement concepts should be validated by a pilot study. Change management for any new automated system is critical to its acceptance and success. There is a need to train the users within the organization as well all other stakeholders of the system, for example vendors.

If the security and confidentiality of financial data, for example the bid amount, are not ensured, an e-procurement system may actually promote corruption. The e-procurement application must ensure the security of data, including an audit trail, data encryption and similar features.

The Public-Private Partnership model is the preferred mode of implementation in situations where the government department does not have the necessary technical know-how, or where the expected utilisation of the system does not justify the upfront investment.

The Government of India has initiated radical reforms in order to bring much needed transparency to its procurement processes. A comprehensive approach encompassing a standardised procurement system (i.e. rules, regulations and guidelines), a vigilant monitoring mechanism and effective e-procurement systems have been envisaged for this purpose. This mechanism, though a good beginning, must aim to harness the entire spectrum of possibilities provided by information technology today.

# The money trail:

## ranking donor transparency in foreign aid



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For full text, please consult:

Ghosh, A., Kharas, H., 2011. The Money Trail: Ranking Donor Transparency in Foreign Aid. *World Development*, 39(11), pp.1918-1929.

### Introduction

There is growing consensus that aid transparency must be improved in order to increase aid effectiveness. According to Moon and Williamson, aid transparency can be defined as "the comprehensive availability and accessibility of aid flow information in a timely, systematic and comparable manner that allows public participation in government accountability."

This includes not just how much money is given, but how that money is spent, and as such is of great importance when studying the public acquisition of goods and services in countries which receive Official Development Assistance (ODA). In this paper, we look at elements of transparency that are needed to improve aid coordination and accountability, from the donor to the procurement officer.

The Accra Agenda for Action, a document summarizing the deliberations of the 3rd High Level Forum on Aid Effectiveness held in 2008, called on all donors to disclose aid information in a timely manner. The International Aid Transparency Initiative (IATI) was launched at the same forum. IATI brings together donors, recipients, aid experts and non-governmental

organizations to create a common and universally agreed method of sharing aid information between all stakeholders.

### Importance of transparency in aid effectiveness

Complete transparency means that everyone can see how much aid is being given by each donor, to whom, for what projects and when.

Over the last ten years, the number of new aid projects has skyrocketed, and their average size has shrunk drastically. This fragmentation of ODA makes it even harder for aid agencies to coordinate their activities and duplication and waste could be growing.

Transparency is also valuable in combating corruption. In one beneficiary country in Africa a public expenditure tracking survey found that only 20% of donor-funding for education programmes was actually reaching schools. As a result of an information campaign making transparent what each school was supposed to receive from the ministry, the funds flow increased to more than 80%.



Workers in Myanmar unload a shipment of food provided by the Livelihoods and Food Security Trust Fund (LIFT), which works to eradicate extreme poverty and hunger in collaboration with its implementing partners, such as the Food and Agriculture Organization of the United Nations. LIFT has provided assistance to more than one million direct beneficiaries.

**Photo:** FAO-LIFT

Greater transparency affects all major stakeholders in development assistance programs:

- Donor country taxpayers can understand how their taxes are being used, and thus become more engaged in and supportive of aid.
- Donor country governments can evaluate their aid programmes more effectively.
- Recipient country citizens can hold their governments to account over any discrepancies between aid received and aid spent on the public procurement of goods and services.
- Recipient country governments can plan their budgets and their procurement needs better. This is especially true for aid dependent countries, where ODA forms a large part of their budget.

Improving transparency will require additional investment and organizational changes by donors. These costs are mainly administrative, adapting IT and reporting systems to global standards and also staff time spent on training and the reporting of aid activities. But the savings on automating provision of aid data alone would more than offset the costs of investing in better transparency systems. The case against transparency thus seems to be fundamentally political - a reluctance to automatically release information that could potentially be damaging to an organization.

### The need for a transparency index

A transparency index serves as a quantitative measure that is comparable across countries or agencies. A benchmarking system assesses a donor against what others are actually doing in practice rather than against an abstract notion of 'good' behaviour. A secondary purpose is to enable research to document the importance of making progress on the transparency agenda.

Almost everyone pays lip-service to the importance of transparency but without specific indicators it is hard to hold donors and implementing agencies accountable for putting their commitments into practice. A transparency index fills this gap by generating a dialogue on which donors are putting a transparency agenda on aid into place and how aggressively they are moving to implement such an agenda.

### The transparency index data and methodology

To create a useful transparency index, we need to focus on data that agencies provide to publicly available, comparable databases.

There are three defining characteristics of a strong transparency index. First, it should only use data that donor agencies proactively put in common databases, such as IATI, so that it can be accessed and compared with other donors. The notion is that transparency

implies data that is readily available, useful to others and comparable across donors so that it can be a tool for greater coordination and accountability. Information buried in an agency's annual report or web-site does not meet the requirement of cross-donor comparability.

The second important characteristic of an index is that it differentiates between complete and partial reporting. In this way, we are able to make judgments on the overall quality and comprehensiveness of aid information and make more nuanced judgments on the degree of transparency.

Third, it should explicitly compare donors to each other, thereby creating a 'best in class' measure and a base year measure of transparency.

The data for the transparency index can be taken from two main sources: the Development Assistance Committee's Creditor Reporting System's database; and AidData, a data source for aid activities launched in March 2010 as an independent organization not affiliated with any donor group.

The existing datasets are poor in a number of regards. First, the datasets are incomplete, especially with regard to coverage of the most important donors from emerging economies and of private aid. Also, variables like disbursements cannot be accurately matched with commitments, so it is hard to know if projects are actually implemented. Second, the datasets are not timely, with up to two years' delay. Third, there are areas which could be important for transparency but where all donors do poorly. Two such examples at the time of writing in 2011 are geo-coding and beneficiary feedback.

The transparency index we designed is one component of a broader effort at assessing aid quality introduced by Birdsall and Kharas that is continually being updated. In its initial construction, our transparency index was an equally weighted average of six indicators, each of which is directly actionable. They were chosen to reflect what can best be thought of as a 'culture of transparency' that we believe is linked to aid effectiveness. The indicators are defined as follows:

1. Whether the donor is a member of the international aid transparency initiative (IATI) - an initiative to agree on common standards and reporting to facilitate sharing of aid information.
2. Proportion of projects for which the project title, its long description and its short description are filled out in the AidData database.
3. Average character count of the project long description in AidData. Although lengthy descriptions are not needed, in general the more detail on the aims of the project is better.

4. Percent of projects reporting the aid delivery channel. It is important to know whether a project is to be implemented by the government, an NGO, a multilateral or another agency.
5. Completeness of project level commitment data. In our analysis, we have found a discrepancy between the reported amount of aid at the aggregate level (what the donor claims to have donated in total to a given beneficiary in a given period) and the sum of aid at the disaggregated, project level (reported disbursements for all individual projects taken together in the same period). The missing or unaccounted aid is not transparent by definition.
6. Share of net ODA that donors give to recipients with a good monitoring and evaluation framework. This indicator rewards donors that support countries with good monitoring and evaluation frameworks.

### Useful findings revealed by a Transparency Index

Based on these indicators, it is possible not only to rank and compare donors but also to spot overall trends. For example, in our initial compilation in 2011 there did not appear to be any strong, systematic difference between multilateral agencies and



Students in a newly constructed school in Banda Aceh, Indonesia, built with funding from the United Nations Children's Fund (UNICEF). **Photo:** UNOPS/Dixie



Goods procured under a multi-donor trust fund administered by the World Bank to support the Government of Southern Sudan to carry out a population census in the run up to their official independence. **Photo:** UNOPS

bilateral donors on transparency. There was a very low correlation between the size of donors and the transparency of their activities. Several large donors were also poor performers on transparency. By 2012, we found that some donors had made a forceful effort and overall global transparency was being improved at a faster pace than any other dimension of aid quality.

Donors who are members of the IATI score higher on other dimensions of transparency as well, suggesting that IATI members are broadly committed to transparency. Indeed, 13 of the top 15 most transparent donors in 2011 were also members of the IATI. View the full ranking and other related research on [www.aiddata.org](http://www.aiddata.org).

## Conclusions

It is not straightforward to measure transparency, partly because norms and standards are still not universally accepted and partly because transparency is an elusive and shifting concept that resists an easy definition.

This paper proposes an index of transparency based on six indicators. We hope that the benchmarking provided by these indicators will help to 'move the needle' in the transparency of agency activities. The downside of the chosen indicators is that we are restricted to available information, which is currently limited in scope.

Greater transparency in aid would help reduce overlap, waste and the lack of coordination between donors. It would also help beneficiary countries plan their public procurement needs and hold their procurement officers, and other holders of the purse strings, to account. Lack of transparency also leads to a lack of opportunities to learn what really works in aid, thus inhibiting rigorous research on aid effectiveness. Because aid is increasingly fragmented, norms and formalized systems of transparency are becoming more important. Informal knowledge sharing among a few large players is no longer a viable alternative, as ever more players need to know what others are doing.





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