THE ETHIOPIAN PROCUREMENT SYSTEM

September/2014
The Importance of Public Procurement

General feature of Public Procurement Legal Framework

Procurement Audit Process

Complaint Handling Mechanism

Use of National Procurement Systems on Donor funded procurements

Major Challenges

The Way Forward
THE IMPORTANCE OF PUBLIC PROCUREMENT
Why Public Procurement is Important?

Expenditure on public procurement take the lion share from the annual Government budget;

- 64% of the Annual budget,
- 14% of the GDP
- Support the country’s economic development by ensuring economy, efficiency and effectiveness in the execution of public procurement,
- It serves as a Government Policy Instrument in terms of encouraging local producers and small and micro-enterprises
Why Public Procurement is important (Cont…)

In Addition It helps:

- To enhance the capacity of Local producers, suppliers, contractors and consultants
- To attract Foreign Direct Investment
- To Enhance Good governance
- To build Trust between Government and Donors and increase the flow of Official Development Assistance (ODA) through Bilateral and Multilateral Channels
Why Public Procurement is important (Cont...)

- To Create a conducive environment for various partnership arrangements between the Government and the private Sector

- To Reduce Trade and non Trade Barriers within the framework of enhancing the competition policy

- As one of the Government Policy instrument to protect the environment by encouraging the purchase of environment friendly goods only
GENERAL FEATURE OF PUBLIC PROCUREMENT LEGAL FRAMEWORK
The Legal Framework

- Public Procurement and Property Administration

- Public Procurement Directive issued in June 2010

They have been prepared in line with UNCITRAL Model Law, The World Bank Guideline and COMESA Regulation and Directive
Various Standard Bidding Documents including SBD for Framework Agreement and Public Procurement Manual have already been prepared and disseminated to Procuring Entities.

The Public Procurement and Property Administration Regulatory functions are now administered by Public Procurement and Property Administration Agency.
The Legal Framework...Cont

- It is clearly stated on the Proclamation and Directive that Open Bidding is a default method in public Procurement.

- Advertising the bid opportunities in widely circulated National Newspaper at least once is a mandatory requirement by law.

- Procuring Entities can also advertise more than once and by using other Medias (Television, Radio, Websites)
## Floating Period of Bids

<table>
<thead>
<tr>
<th>Procurement type</th>
<th>complexity</th>
<th>ICB</th>
<th>NCB</th>
<th>Restricted Bidding International Bidder</th>
<th>Restricted Bidding National Bidder</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Works</strong></td>
<td>Complex Non Co.</td>
<td>45 days 35 days</td>
<td>30 days 21 days</td>
<td>45 days 35 days</td>
<td>30 days 21 days</td>
</tr>
<tr>
<td><strong>Goods</strong></td>
<td>Complex Non Co.</td>
<td>45 days 35 days</td>
<td>30 days 15 days</td>
<td>45 days 35 days</td>
<td>30 days 15 days</td>
</tr>
<tr>
<td><strong>Other Services</strong></td>
<td>Complex Non Co.</td>
<td>45 days 35 days</td>
<td>30 days 15 days</td>
<td>45 days 35 days</td>
<td>30 days 15 days</td>
</tr>
<tr>
<td><strong>Consultancy service</strong></td>
<td>Complex Non Co.</td>
<td>14 days 10 days 45 days 35 days</td>
<td>10 days 7 days 30 days 15 days</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td></td>
<td>Complex Non Co</td>
<td>35 days 21 days</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Complex Non Co</td>
<td></td>
<td></td>
<td></td>
<td>30 days 15 days</td>
</tr>
</tbody>
</table>

---

11
The following six methods of procurement are approved.

- Open bidding
- Two-stage bidding
- Request for proposals
- Restricted bidding
- Request for quotations; and
- Direct Procurement
Procurement may be made by means of ICB if the value of the contract exceeds the threshold indicated below in respect of each type of procurement:

- a) For Works above birr .......... 50,000,000.00
- b) For goods above birr .......... 10,000,000.00
- c) For consultancy service .......... 2,500,000.00
- d) For services above birr .......... 7,000,000.00
The Legal Framework...Cont

- Conditions for the use of Other Methods of Procurement have also been stipulated in the law

- Procurement personnel, including higher Officials of Procuring Entities should abide by the rules of Ethics in Public Procurement stipulated in Article 32 of the proclamation and Article 34 of the Directive in discharging their duties and responsibilities
Registration of Suppliers

- Conditions to be fulfilled by Suppliers for registration in the suppliers list are the following:
  - Valid trade license indicating the stream of business in which the supplier is engaged,
  - A certificate of professional qualification from the appropriate body, if a supplier is a consultant,
  - A contractors’ certificate issued by the Ministry of Works and urban Development indicating the level of such contractor.
  - A certificate issued by the Federal Transport Authority indicating the level of the garage, if a supplier is engaged in the maintenance or repair of motor vehicles.
  - A certificate issued by the Drug Administration and control Authority, if the supplier is engaged in the provision of drugs and medical equipments.
Security

- **Bid Security/Bond**
  - The amount of bid security a Public Body may require shall be in the range of 0.5% to 2% of the total estimated contract price, which the Public Body has to fix and indicate in the invitation to bid and the bidding document. However, the bid security to be fixed by the Public Body shall not exceed 500,000.00 (five hundred thousand) birr.
  - Local contractors engaged in construction service may provide bid security in the form of conditional insurance bond.
The successful bidder shall furnish a performance security in an amount equal to 10% of the price.

A conditional insurance bond shall be accepted as performance security in respect of construction contracts or in respect of contracts for supply of drugs with local contractors or manufacturers of pharmaceutical products.
A Public Body may require a consultant to furnish professional indemnity insurance in respect of consultancy service such consultant renders to that Public Body under a contract, where the Public Body finds it appropriate to make provision for any damage it may sustain as a result of possible default on the part of the consultant.

Small and micro enterprises shall be required to submit a letter of guarantee from the body organizing and overseeing them in lieu of performance.

Enterprises engaged in insurance business and entered into a contract with a Public Body may use their reserve with the National Bank of Ethiopia as performance security, it being necessary for such enterprises to produce a certificate from the bank that the reserve they have with the bank is sufficient to cover the required performance security.
In any Public Procurement advance payment shall not exceed 30% of the contract value. The supplier should provide advance payment Guarantee in an amount equal to Advance payment.
According to the Article 16.20 of the Directive preference shall be granted in any procurement to locally produced goods, to small and micro enterprises established under the relevant proclamation and to local construction and consultancy companies. The margin of preference shall be as follows:

- For procurement of locally produced goods and other products 15%;
- Preference shall be given to small & micro enterprises by a margin of 3% when such enterprises compete with local suppliers in national competitive bidding.
  - For construction and consultancy services 7.5%;
  - For procurement of drugs or pharmaceutical products or medical equipments 25%;
- The above preference is applicable:
  - The procurement to be granted to drugs, medical equipments or other products as per article 16/20/2(a) and (b) shall be effective where it is certified by a competent auditor that no less than 35% of the total value of such products is added in Ethiopia.
PROCUREMENT AUDIT PROCESS
FPPA AUDIT PROCESS

1. Planning
2. Sampling
3. Conduct Auditing
4. Exit Conference
5. Conduct follow up whether corrective measures have been taken by PEs
6. Preparation of Audit Report
7. Submission of Audit Report
Major Audit Findings

- Lack of procurement planning,
- Piece meal Purchasing practices
- Poor Contract administration
PROCUREMENT COMPLAINT MECHANISMS
Bidder Protest Mechanism

- **First Step** The Aggrieved Supplier can lodge his complaint to the Head of the Procuring Entity
- **Second Step,** He can Lodge his Complaint to the Complaint Review Board:
  - The Board Members Comprised of:
    - Private Sector
    - Public Enterprises
    - High Spending Procuring Entities
    - FPPA
  MoFED takes the Chairmanship Role of the Board and FPPA serve as a Secretariat for the Board
- If they are not satisfied by the decision of the Board they can take the case to the court
Complaints filed from 2012-2014

- Decision Made in Favor of the Complainant...74
- Decision Made in Favor of the Procuring Entity...47
- Case Closed because of Agreement between the two Parties to solve the problem Amicably...9
USE OF COUNTRY SYSTEM
The World Bank has allowed the use of Country System for procurements to be conducted by NCB with certain conditions.

New progress is expected in the area of use of Country System because of the ongoing reform both at the World Bank and the Agency.
CHALLENGES
Suppliers lack knowledge of procurement procedures particularly in relation to complaints review.

Lack of information from suppliers side to process complaints.

Poor contract performance by some suppliers, they became deficient in meeting their contractual agreement.
THE WAY FORWARD
The Way Forward

- Introducing e-procurement to increase transparency and efficiency of public procurement performance
- Conduct continuous improvement of Legal Framework.
Thank you