

Nepal

Legal and institutional framework

Nepal's government procurement is worth about USD650 million a year. A comprehensive legislative framework governing procurement, however, is yet to be established. Currently, the basic elements of a public procurement framework for the central government level are set out in the Financial Administration (Related) Rules of 1999, a regulation passed at the executive level. Public Procurement Guidelines supplement these rules. Local governments as well as state-owned enterprises conduct procurement under their own rules. To remedy identified deficiencies in the current framework, the Government of Nepal has brought a Public Procurement Bill before the House of Representatives. Among other objectives, the Bill seeks to render the Government's expenditure more transparent and to avoid losses through corruption.

Procurement is carried out by individual government departments or agencies. No central body is responsible for developing procurement policies or supervising procedures.

Procurement methods and procedures

At the central government level, procurement is done through open tendering, sealed quotation, or direct purchase. The choice of the procurement method depends on the value of the contract. Contracts for works and goods worth more than NPR1 million (about USD15,000) have to be awarded through open tendering; contracts worth between NPR100,000 (about USD1,500) and NPR1 million are awarded through sealed quotation; purchases worth less than NPR100,000 are made directly. Prequalification is conducted for the procurement of goods worth more than NPR10 million (about USD150,000) and works worth more than NPR60 million (about USD900,000). When awarding contracts for consulting services, quality and cost must be considered.

To attract the greatest possible number of bidders, tender opportunities must be published at least twice in the national print media. For the sake of transparency, these advertisements must mention the selection criteria. Nepal formally forbids post-tender negotiations.

Safeguarding and enforcing integrity

Specific measures to safeguard integrity in public procurement are of central importance, given the features of this process and the particular corruption risks that prevail therein. In Nepal, most regulations that may

provide for preventive or repressive mechanisms to ensure the integrity of bidders and procuring agency staff are not procurement-specific. Procurement staff are required to respect the general code of conduct applicable to all public servants; this code and other regulations that apply to certain areas of procurement regulate the handling of gifts and prohibit the acceptance of facilitation payments. Nepal regularly rotates public officials involved in public procurement to prevent the establishment of relations between procurement staff and potential suppliers that could lead to favoritism.

The mechanisms in place to deter and sanction corruption in public procurement are essentially based on provisions of the criminal code. To date, Nepal has not passed procurement-specific sanctions. While disqualification of a tenderer from bidding for a specific contract is a possible sanction for improper conduct, debarment from future contracts, a mechanism with substantial potential to deter suppliers, is neither regulated nor practiced.

Complaint and review mechanisms, essential ingredients in detecting, preventing, and deterring corruption in public procurement, are not established or regulated by law. It appears that in practice aggrieved bidders can only seek judicial review. Internal and external audit of procurement decisions is conducted at the end of every year to verify the proper conduct of procurement.

All documents relating to the procurement proceedings are recorded and preserved for 20 years, thereby allowing a later review where necessary. Only a restricted number of officials, however, have access to such documents.

A way forward

Nepal is encouraged to pursue its efforts to establish a comprehensive legal framework for fair and transparent public procurement in the form of a parliamentary law applicable to procurement conducted by all public entities.. This framework should notably define procurement procedures, selection criteria and their application, meaningful sanctions for improper conduct by both suppliers and public officials, and review and complaint mechanisms.

Nepal should also consider reviewing the existing codes of conduct for public officials with a view to amending them with procurement-specific rules, and developing specific codes of conduct that take into account the particular mechanisms and corruption risks of public procurement. Nepal is encouraged to establish a central procurement

policies office to develop procurement policies and supervise procurement procedures.

Documentation

World Bank Country Procurement Assessment Report (April 2002)