

## Pakistan

### Legal and institutional framework

As a federal state, Pakistan has different procurement regulations that apply at the national level and within each of the four provinces and two territories. The procurement system at the national level was recently overhauled. This reform culminated in the passing of the Public Procurement Regulatory Authority Ordinance 2002 and the Public Procurement Rules 2004 (PPR 2004), the latter being inspired by the UNCITRAL model law. PPR 2004 applies to all procurement by all procuring agencies of the federal and provincial governments. The Public Procurement Regulatory Authority (PPRA) is, however, entitled to exempt the procurement of any object or class of objects from the application of the rules or any other law regulating public procurement.

This regulatory framework empowers individual government agencies to conduct public procurement, and individual procuring entities to define important rules and policies themselves. The PPRA mainly provides oversight, with a view to improving governance, management, transparency, accountability, and the quality of public procurement of goods, works, and services. To this end, the PPRA may monitor the application of laws and regulations, policies, and procedures; recommend to the federal Government policy changes and amendments to existing laws and rules; and propose regulations and lay down codes of ethics and procedures for public procurement. Also, the PPRA maintains a Web site that lists all invitations for tender. Wide-ranging powers to define rules and policies are left to individual procuring agencies, including rules on blacklisting and review procedures.

### Procurement methods and procedures

The standard procurement method for contracts worth more than PKR100,000 (about USD1675) is competitive bidding. Direct purchase is permitted for procurement not exceeding PKR25,000 (USD325), and request for quotations, for procurement not exceeding PKR40,000 (USD670), if other conditions are met. The value limits can be extended for specific agencies by the federal Government at the request of the concerned agency. Direct contracting is also permitted for emergency procurement. To prevent abuse of this exemption from the standard procurement procedures, the emergency must be declared by an

authority vested with that power. However, what constitutes an emergency is not defined. Negotiated tendering is permitted in cases of extreme urgency that do not result from the procuring agency's action, and other cases. Under such circumstances, to prevent abuse of this method, the reasons for the decision to resort to negotiated tendering must be recorded. Also, the procurement rules require procuring agencies to plan upcoming projects in detail one year in advance, to avoid unnecessary emergency procurement.

Ample participation in tenders contributes to preventing corruption risks. It avoids tender failure, which would result in direct contracting, and typically increases scrutiny of the procedures. The Procurement Rules 2004 require the advertising of tender opportunities in relation to the value of the contracts that are to be awarded. Tenders worth up to PKR2 million (about USD34,000) must be advertised on the PPRA's central Web site and may also be publicized in print media. Tenders beyond this value should be published in both print media and on the central Web site and may in addition be posted on the procuring agency's own Web site. Once approved by the PPRA, procurement related to national security is dispensed from any form of public announcement; this exception is, however, limited to situations in which the publication of the tender would jeopardize national security.

Model tender documents have been developed to increase transparency and uniformity of the procurement process in certain sectors. At present, however, they are not mandatory and are sporadically used.

Procuring authorities are empowered to determine the bidding period, which depends on the complexity of the project. Minimum periods of 15 working days for national competitive bidding and 30 working days for international competitive bidding are mandatory. The bids must be opened in the presence of bidders on the day the tender period ends. The procurement rules, however, do not provide for bid opening right after the tendering period, and hence court fraud or misconduct.

PPR 2004 defines the procedures for the evaluation of bids. In principle, the lowest evaluated bid has to be accepted unless this results in a "conflict with laws, rules, regulations or policies of the federal Government." This clause can be variously interpreted, and the award decision could become less transparent. Post-award negotiations with the winning bidder are explicitly prohibited.

### Safeguarding and enforcing integrity

Pakistan has preventive and repressive mechanisms in place to ensure the integrity of procuring agency staff and bidders. To prevent corruption in procurement, Pakistan's procurement framework at the national level requires the use of integrity pacts for public purchases worth more than PKR10 million (about USD170,000).

As additional mechanisms to deter corrupt practices on the bidders' side, PPR 2004 provides for disqualification and blacklisting for improper conduct. A bidder can be disqualified from participation in a single tender for submitting incomplete information—a rather broad category of noncompliance that may itself lead to abuse for corrupt purposes. Suppliers or contractors who are found to have committed corrupt or fraudulent practices can be debarred temporarily or permanently from future contracts with the procuring entity. As mentioned, the procurement rules leave it to the individual procuring agencies to define procedures for debarment, and this practice could be abused for the purpose of eliminating unwanted competitors. Also, no review mechanism for this decision is established; recourse to the judiciary appears to be available, however.

Complaint mechanisms, important in detecting and deterring corruption in public procurement, exist at the administrative and judicial levels. Judicial review must be preceded by an administrative review. It appears that administrative review only covers decisions made during a tender and cannot be used to challenge, for instance, the choice of the procurement method or decisions made in adjudication procedures other than tendering. Also, no administrative review mechanism was established by the procurement rules. Instead, each procuring agency sets its own procedures. To allow public scrutiny, PPR 2004 grants public access to information regarding awarded contracts. Information about prequalification procedures and debarment is not publicly available. Complete documentation of the procurement procedures and decisions has to be kept by the procuring entity for at least five years to give effect to the complaint and review mechanisms.

### A way forward

Pakistan's procurement framework contains various mechanisms that help prevent corrupt practices. Pakistan is invited to stabilize its procurement system by passing a comprehensive framework for public procurement as parliamentary law. Pakistan may also consider reviewing

and modernizing the procurement frameworks in place at the subnational levels, where a large percentage of procurement decisions are made.

Pakistan is further encouraged to strengthen some elements of the current framework. Standard tender documents would contribute to greater transparency of bidding. A clear and uniform definition of conditions for disqualification and debarment would limit the risk of abuse of these mechanisms. A standardized review mechanism at the administrative level would ensure greater consistency and is likely to bolster trust in the fairness of the process.

#### Relevant documentation

Public Procurement Regulatory Authority: <http://www.ppra.org.pk>