

# Abbreviations and Acronyms

ADB	Asian Development Bank
APEC	Asia-Pacific Economic Co-operation
AUD	Australian dollar
BDT	Bangladesh taka
CFCPP	Committee for Financial Control and Public Procurement (Kazakhstan)
COGS	Controller of Government Supplies (Fiji Islands)
CPAR	Country Procurement Assessment Report (published by the World Bank)
CPGs	Commonwealth Procurement Guidelines, January 2005
CPTU	Central Procurement Technical Unit (Bangladesh)
CVC	Central Vigilance Commission (India)
FMA Act	Financial Management and Accountability Act 1997 (Australia)
GFPPM	Government Financial Policies and Procedures Manual (Cook Islands)
GPL	Government Procurement Law (P.R. China)
HKD	Hong Kong dollar
ICGP	Institution for Centralized Government Procurement (P.R. China)
IDR	Indonesian rupiah
INR	Indian rupee
JPY	Japanese yen
KGS	Kyrgyz som
KHR	Cambodia riel
LPP	Law on Public Procurement (Kazakhstan)
MPI	Ministry of Planning and Investment (Vietnam)
MYR	Malaysian ringgit
NGO	nongovernmental organization
NPR	Nepalese rupee
OECD	Organisation for Economic Co-operation and Development
OPA	Office of the Public Auditor (Palau)
PBO	Prevention of Bribery Ordinance (Hong Kong, China)
PFMA	Public Finance Management Act 2001 (Samoa)

PGs	Procurement Guidelines (Samoa)
PKR	Pakistan rupee
PPCD	Procurement Policy and Coordination Department, Ministry of Finance (Mongolia)
PPLM	Public Procurement Law of Mongolia
PPR 2004	Public Procurement Rules 2004 (Pakistan)
PPRA	Public Procurement Regulatory Authority (Pakistan)
PPS	Public Procurement Service (Korea)
PRA	procurement regulatory authority (P.R. China)
PSA	Public Service Act (Samoa)
ROPMP	Regulation of the Office of the Prime Minister on Procurement 1992, as amended to Regulation of the Office of the Prime Minister on Procurement No. 6, 2002 (Thailand)
SGD	Singapore dollar
SOE	state-owned enterprise
SPR	Stores and Procurement Regulations (Hong Kong, China)
THB	Thai baht
UN	United Nations Organisation
UNCITRAL	United Nations Commission on International Trade Law
USD	United States dollar
VND	Vietnamese dong
WST	Samoa tala
WTO	World Trade Organization
WTO-GPA	World Trade Organization Government Procurement Agreement

# Foreword

Today, the fight against corruption enjoys governments' and societies' highest attention throughout the Asia-Pacific region. As of September 2006, 27 countries and economies of the region have taken action against corruption and committed to establish and maintain the high standards for safeguards against corruption of the Anti-Corruption Action Plan for Asia and the Pacific.

By endorsing the Action Plan, the Initiative's member countries have committed to establish "appropriate transparent procedures for public procurement that promote fair competition and deter corrupt activity," as defined under the Anti-Corruption Action Plan's first pillar. The countries have also committed to "review laws and regulations governing public licenses, government procurement contracts or other public undertakings, so that access to public sector contracts could be denied as a sanction for bribery of public officials," as stated under the Action Plan's second pillar.

The member countries of the ADB/OECD Anti-Corruption Initiative for Asia and the Pacific attach high priority to the fight against corruption in public procurement. In July 2004, member countries of the Initiative decided to dedicate the Initiative's first thematic review to curbing corruption in public procurement. The review seeks to assist governments in understanding better the corruption risks inherent in their countries' institutional settings and procurement practices. It also strives to provide governments with an analytical framework to design rules, procedures, and policies to bolster transparency and integrity in public procurement.

The review was based on self-assessment reports that the Initiative's then 25 member countries submitted to the Secretariat; on discussions that the Initiative's Steering Group had during their 6th, 7th, and 8th meetings in 2005 and early 2006; and on information collected by various international and regional organizations of which the 25 countries are members. Some of these organizations have conducted reviews of procurement systems with regard to aspects other than countering corruption risks. For example, the World Bank has published a series of Country Procurement Assessment Reports; the OECD has conducted roundtables jointly with the World Bank to strengthen procurement capacity in developing countries and has, in November 2004, conducted a Global Forum on Governance: Fighting Corruption and Promoting Integrity in Public Procurement; the APEC Government Procurement

Experts Group has undertaken a review of its member countries' procurement systems to monitor the application of the APEC Non-binding Principles on Government Procurement; and the World Trade Organization has conducted country studies to assess compliance with its rules and agreements. The present publication complements these studies of procurement systems.

This report was prepared by the Secretariat of the ADB/OECD Anti-Corruption Initiative for Asia and the Pacific. It describes the procurement systems as of May 2006; however, changes in Vietnam's regulatory framework that came with the entry into force of Vietnam's Law on Procurement on 1 April 2006, are not reflected in this document. The report was approved in written procedure by the Initiative's Steering Group in September 2006. Given the rapid reform in the area in many Asian and Pacific countries, some of the information contained in this report may quickly require updating.

The report is the result of the collaborative efforts of several individuals, notably Frédéric Wehrlé, Coordinator for Asia-Pacific, Anti-Corruption Division, OECD, and Jak Jabes, then Director of the Capacity Development and Governance Division at ADB, who jointly directed the project. The report was prepared by Joachim Pohl, Project Coordinator, Anti-Corruption Initiative for Asia-Pacific, Anti-Corruption Division, OECD. Every effort has been made to verify the information contained in this report. However, the authors disclaim any responsibility regarding the accuracy of the information or the effectiveness of the regulations and institutions mentioned therein. ADB's Board and members and the OECD and its member countries cannot accept responsibility for the consequences of its use for other purposes or in other contexts.

The term "country" as used in this report also refers, as appropriate, to territories; the designations employed and the presentation of the material do not imply the expression of any opinion whatsoever concerning the legal status of any country or territory on the part of ADB's Board and members and the OECD and its member countries. For convenience, monetary values mentioned in the document have been converted from the respective national currencies to United States dollars by the reporting countries themselves or according to the approximate exchange rates as of August 2006.

# Executive summary

Addressing corruption in public procurement is an important component of any effective anti-corruption strategy. Recognizing this, the 27 member countries of the ADB/OECD Anti-Corruption Initiative for Asia and the Pacific have given this area high priority on their reform agenda. To assist governments in understanding better the corruption risks inherent in their countries' institutional settings and procurement practices and to identify priorities for reform, 25 member countries of the Initiative conducted an in-depth thematic review of the mechanisms in place for checking corruption in their procurement frameworks under the umbrella of the Initiative. The thematic review, completed in the first half of 2006, was also done to provide governments with an analytical framework to design rules, procedures, and policies to bolster transparency and integrity in public procurement.

This report is an outcome of that thematic review and is based on the Initiative's member countries' self-assessment reports, publicly available information, and discussions held by experts and policy makers from the Initiative's member countries in 2005 and 2006. The report constitutes the first region-wide analytical review of procurement systems with the goal of identifying and eliminating risks of corruption. It complements the studies of procurement systems conducted by other regional and international institutions and initiatives, such as the OECD<sup>1</sup>, the World Bank, APEC, and the WTO.

The report's first section presents a horizontal, cross-regional analysis. The second part contains individual country reports that show the various national mechanisms for ensuring integrity in a given country's procurement framework.

## Recent years have brought about significant progress...

The priority that Asia-Pacific countries attach to anti-corruption reform in public procurement is demonstrated by the magnitude of recent efforts to reform procurement systems. These reforms have moved many countries forward in the process of establishing regulations,

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<sup>1</sup> Such as the OECD "Global Forum on Governance: Fighting Corruption and Promoting Integrity in Public Procurement", 29-30 November 2004, and the roundtables that the OECD conducted jointly with the World Bank to strengthen procurement capacity in developing countries.

strengthening institutions, standardizing practices and procedures, and implementing these rules.

Progress has been particularly encouraging in the area of establishing regulatory frameworks. About one-third of the countries that participated in the review passed new or substantially overhauled rules between 2000 and 2006; reform efforts were still ongoing in a number of other countries at the time of publication of this report. In the design of these frameworks, a significant proportion of countries embraced the standards of good practice that were developed internationally. These efforts to establish regulatory frameworks are particularly rewarding, as stable and operational regulations constitute the basis for all efforts to protect public procurement systems against corruption risks.

Significant progress has also been made in the standardization of procurement processes. Standardization makes processes more transparent, reduces room for discretion and malicious altering of procedures, and greatly facilitates external review. A number of countries have established centralized bodies that define and harmonize the development of procurement policies, standard documents, and manuals, and oversee the uniform implementation of these policies and staff training.

As another measure to standardize procurement processes, some countries have introduced anonymous, Internet-based procurement procedures. The Internet is increasingly used to disseminate information about procurement opportunities, transfer documents, and provide information about finalized procedures, thus allowing wide access to information at low cost. Efforts to further enhance the use of the Internet continue.

Most countries recognize the importance of bolstering integrity within procurement entities and among their staff. Institutional arrangements such as staff rotation and the designation of panels entrusted with decisions instead of individual agents are gaining ground. "Integrity pacts," comprehensive agreements concluded for individual procurement procedures, have also become ever more common in many countries, especially in countries where corruption is generally a significant challenge.

Sound frameworks are an indispensable basis for curbing corruption in public procurement; yet if these frameworks are not implemented thoroughly, they will provide no safeguards against corruption. Many countries have made progress in ensuring that regulations are followed strictly and uniformly. Model documentation is being developed and

procurement staff in many countries are being trained in the rules and in professional conduct to give the reforms full effect.

### ...but challenges remain

Despite these efforts, challenges in curbing the risks of corruption inherent in government purchases still lie ahead for many countries in the region. Most of these challenges concern the existence, scope, and thoroughness of regulation of procurement frameworks.

A number of countries have only rudimentary frameworks for procurement. In many countries, spending policies and procedures remain too often dispersed in several decrees, executive orders, or even nonbinding guidelines, and great discretion is left to the lower echelons of the administration. Conflicts with higher-ranking legislation and between numerous executive orders sometimes render these frameworks vulnerable to ambiguity.

Some countries have passed detailed procurement regulations but do not apply these to certain sectors, such as security or military procurement. Other countries exempt certain procuring entities or certain goods and services from the application of procurement rules. These exempt areas may constitute very large proportions of public purchases. However, substitute regulations that define the procurement framework in these exempt areas seldom exist.

Also, the procurement frameworks of a significant number of countries remain somewhat incomplete in the procurement phases they regulate. Instead of covering the whole procurement cycle from planning to implementation control, regulation is often limited in these countries to specific phases of the process, such as selection. Often, planning or implementation is not regulated at all, or is subject to general contract laws that may be decades old. Experience has shown that the definition of “needs” and the delivery of the purchased goods or services are particularly prone to corruption: these procurement phases also often escape the scrutiny of auditors and the general public. Hence, the fight against corruption in procurement would benefit amply from regulatory efforts in these areas.

Particular challenges also remain in the regulation of sanctions for corruption, a popular mechanism to deter corruption. In some countries, the preconditions for the application of sanctions are not regulated diligently enough. Ambiguous preconditions and unclear competencies and procedures for debarment, for instance, create significant new corruption risks, and may affect the trust of honest suppliers in the

procurement process, and lack of trust could in turn lead to their abstention.

Many countries must also boost their efforts in ensuring thorough and uniform implementation of procurement regulations. Training, enhanced administrative and judicial review systems, and efforts to tackle bribery on the supply side of corruption all lead the way to significantly reduced corruption in public procurement.

### Recommendations for the way ahead

As a result of the findings of this review, member countries of the ADB/OECD Anti-Corruption Initiative have agreed on two sets of recommendations to policy makers. The first set focuses on areas that the horizontal analysis identified as priorities for reform for the whole Asia-Pacific region. The second set of recommendations seeks to encourage anti-corruption reform in public procurement at the country level.