

PUBLIC GOVERNANCE AND TERRITORIAL DEVELOPMENT DIRECTORATE  
PUBLIC GOVERNANCE COMMITTEE

## INTEGRITY IN PUBLIC PROCUREMENT

## QUESTIONNAIRE

*Following the Global Forum on Good Governance in November 2004, the OECD has launched a multi-disciplinary project to promote integrity and prevent corruption in procurement. The main outcome of the project will be an operational guide based on identified good practices.*

*The Questionnaire will help collect information on OECD countries' experiences at the central level in fostering integrity, transparency and accountability at all stages of the public procurement process.*

*This activity on integrity in public procurement of the Public Governance Committee will benefit from other efforts in this field carried out in the OECD, by the SIGMA Programme, the Working Group on Bribery of Foreign Public Officials in International Business Transactions and the Aid Effectiveness and Donor Practices Working Party.*

*Please return the completed Questionnaire by Wednesday 5 July, at latest to Elodie Beth.*

*In order to facilitate the process, please provide the name and contact information of the person responsible for responding to the Questionnaire by Wednesday, 31 May.*

For further information, please contact Elodie Beth  
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## INTEGRITY IN PUBLIC PROCUREMENT

### QUESTIONNAIRE

#### Introduction

As a follow-up to the conclusions of the Global Forum\* the expert meeting on Integrity in Public Procurement on 20-21 June 2005 provided insights into countries' views on the relevant focus and methodology for launching the activity on integrity in public procurement:

- Focus: The activity focuses primarily on **practices** - but may also include relevant formal laws and institutions - for promoting integrity in public procurement at **all stages** of the procurement process. There is an increasing recognition that risks of corruption often lie before or after the bidding process, in the definition of needs and the contract management.
- Methodology: The Questionnaire has been developed in close co-operation with volunteer country experts. It will help collect information on OECD countries' experiences at the **central level** in fostering transparency, integrity and accountability in public procurement. Country representatives will review the information collected to **identify good practices**.

#### Approach

The Questionnaire will collect OECD countries' experiences at the central level on three key aspects:

- I. Government practices that help **provide a level playing field for bidders/intermediaries/contractors through an adequate level of transparency** at all stages of the public procurement process. The first part of the Questionnaire explores recent trends in the information disclosed, potential and limits of procedures for providing equal and timely access to information, as well as restrictions on release of privileged information.
- II. Preventative mechanisms that help **identify and address risks of mismanagement and corruption** in procurement. The second part of the Questionnaire focuses on risk management instruments and techniques that increase the predictability, transparency and integrity of procurement processes.
- III. Mechanisms to **ensure control and accountability**, from definition of needs (e.g. planning, budgeting) to contract management (e.g. payment). The third part of the Questionnaire reviews traditional as well as emerging mechanisms to keep public officials and bidders/intermediaries/contractors accountable.

The Questionnaire comprises **10 main questions**. In addition, guidance is provided in the **Annex** to help experts fill in the answers by clarifying the type of information expected.

#### Timetable for follow-up steps

The completion time for the Questionnaire is 6 weeks. Therefore, we would welcome responses to the Questionnaire as early as possible, but not later than **Wednesday 5 July 2006**, to be sent to Elodie Beth ([elodie.beth@oecd.org](mailto:elodie.beth@oecd.org)).

Furthermore, if good practices related to public procurement have been identified in your country (e.g. in a guidebook, audit report, etc.), please also share with us the document(s) that include good practices, preferably in English or in French.

The identified good practices and findings will be discussed at a Seminar on Integrity in Public Procurement in 30 November - 1 December 2006. The results will be included in a draft report and submitted for approval to the Public Governance Committee in spring 2007.

\*[http://www.oecd.org/document/28/0,2340,en\\_2649\\_34135\\_34339740\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/28/0,2340,en_2649_34135_34339740_1_1_1_1,00.html).

## QUESTIONNAIRE

### I. Providing a level playing field for bidders/intermediaries/contractors through an adequate level of transparency in public procurement: From policy to practice

1. How is information made available in practice to bidders/intermediaries/contractors at the different stages of the procurement process?
2. What specific instruments and procedures are used for providing equal, timely and consistent access to information for bidders, and in particular what is the role of information and communication technologies?
3. Under what circumstances is derogation from competitive public tender allowed? In these circumstances, what are the measures available for ensuring a level playing field for bidders/intermediaries/contractors?

### II. Preventative mechanisms to identify and address risks of mismanagement and corruption in public procurement

4. Where have the risks for mismanagement and corruption been identified in the procurement process, from the definition of needs (e.g. planning, budgeting) to contract management (e.g. payment)?
5. What are the internal instruments and techniques for ensuring that public funds are used in public procurement according to the purposes intended, for minimising risks of mismanagement, and for improving value for money?
6. What specific anti-corruption and conflict-of-interest policies help promote integrity in public procurement?

### III. Mechanisms for ensuring control and accountability in the public procurement process

7. What have been the developments in your country in the last five years to balance the discretionary power of public officials (including procurement officers, elected officials, etc.) with the need for accountability?
8. How are public officials and bidders/intermediaries/contractors kept accountable at all stages of the public procurement process?
9. Have stakeholders – in particular private sector, end-users, civil society or the public at large – been involved in the procurement process, and if so, how?
10. How do you ensure fair and timely resolution of formal administrative complaints related to the procurement process?

#### Additional information:

- Please take this opportunity to share **the document(s) that include good practices** related to procurement that might have been developed in your country (e.g. guidebook, audit report, etc.). Please indicate how these good practices have been identified and the conditions for their effective functioning.
- In addition, please provide a description in a few lines of the **relevant legal and institutional frameworks**, including the legislative framework for public procurement processes (e.g. reference to relevant laws and regulations), the central institutions for supervising and monitoring public procurement, the mechanism for handling complaints, and the institutions and procedures for internal and external control and audit.

You might also highlight other important aspects not addressed in the Questionnaire.

**ANNEX**

**GUIDANCE FOR COMPLETING THE QUESTIONNAIRE**

1. The sub questions in the Annex are intended to **help you fill in the answers** by clarifying the type of information expected.
2. The primary aim of the Questionnaire is to collect **good practices** at the **central level**. In order to gain a better understanding of the conditions for ensuring integrity in public procurement, you might also provide examples of problems, highlighting the reasons and factors for failure.
3. In your answers, please focus on the measures used in **daily practice**. You may also include information on formal laws and institutions when relevant.

**1. How information is made available in practice to bidders/intermediaries/contractors at the different stages of the procurement process?**

Please use the **table** below to summarise:

- a) How is **information** made available in: (a) definition of needs/specifications (b) selection and award/criteria (c) debriefing of award results, and (d) contract management/payment.
- b) **Who** can have access to the information (e.g. supplier, unsuccessful bidders).
- c) To what extent procurement regulations define specific **restrictions on release of privileged information** related to procurement.

	<b>How information is made available in practice</b>	<b>To whom</b> (supplier/ bidders/intermediaries/contractors)	<b>Specific restrictions on release of privileged information</b>
<b>Definition of needs/Specifications</b>			
<b>Selection and award/ Criteria</b>			
<b>Debriefing of award results</b>			
<b>Contract management/Payment</b>			

**2. What specific instruments and procedures are used for providing equal, timely and consistent access to information for bidders, and in particular what is the role of information and communication technologies?**

Please specify in particular:

- a) The main features of the **procurement information system** and in particular the contribution of information and communication technologies in providing a level playing field for bidders (e.g. an e-procurement system that provides a one-shop service, avoids personal contact, etc.). Please provide the Web link to the e-procurement system.
- b) What instruments are used for ensuring timely and **consistent disclosure** of information (e.g. model tender documentation including terms and conditions of the contract), how they are tailored to the type of goods and services, updated to reflect the needs of stakeholders and communicated to them.
- c) In case of **change in information**, or **demand for clarification** of information, what are the procedures for ensuring that the same level of information is provided to each bidder (e.g. criteria for defining how to disclose additional information, contact points for enquiries, etc.)

**3. Under what circumstances is derogation from competitive public tender allowed? In these circumstances, what are the measures available for ensuring a level playing field for bidders/intermediaries/contractors?**

Please describe the circumstances and specify what precautionary measures ensure a level playing field (e.g. transparency, additional guidance, monitoring, etc.) in these circumstances, such as:

- a) **When the procedure cannot be fully completed** (e.g. none of the bids fulfil the technical requirements as defined in the call for tender, requirements turn out to be unrealistic in the contract management).
- b) **When public tender procedures do not apply**, i.e. the difference between procurement procedures used **above and below the threshold** as well as the procedures used in **specific circumstances** (e.g. national security, emergency, etc.).
- d) **When using pre-qualification** (e.g. agreed vendors' list, framework agreement etc.).
- e) **When taking into account economic and social considerations in procurement** (e.g. favouring bidders from economically disadvantaged areas).

**4. Where have the risks for mismanagement and corruption been identified in the procurement process, from the definition of needs (e.g. planning, budgeting) to contract management (e.g. payment)?**

Please specify in particular:

- a) **What risks** have been identified in the procurement system, to whom these findings have been disclosed, and whether these findings have resulted in **recommendations** (e.g. suggested modifications in laws, development of specific preventative instruments, etc.).
- b) How the risks have been identified: the **mechanism** used (e.g. government-wide spending control and public finance management programme, internal management accountability framework, audit, etc.), and the **technique** (e.g. random sample testing of risk areas in procurement)
- c) The **focus** of the review, such as contracts below thresholds (e.g. the number of contracts per year just below approval thresholds, aggregated value of procurement contracts over a year to prevent "contract splitting") or circumstances that require the use of exception procedures to the public tender (criteria used under the tender threshold, justification for invoking emergency in procurement contract variations, etc.).

**5. What are the internal instruments and techniques for ensuring that public funds are used in public procurement according to the purposes intended, for minimising risks of mismanagement, and for improving value for money?**

Please specify in particular:

- a) The management mechanisms to ensure that public funds for procurement are **used for the purposes intended** (e.g. procedure for approval and monitoring of funding by government and within departments in accordance with laws and budget documents, ability to report publicly on procurement expenditures, etc.)
- b) The main instruments for improving **the planning and implementation process** in public organisations - particularly in the case of decentralised units (e.g. annual procurement plans, internal control based on materiality<sup>1</sup> and risk, procedures for management approval of business cases to justify major contracts, model for risk sharing between government and bidder, etc.).

<sup>1</sup> Materiality can be defined as the magnitude of an omission or misstatement of accounting information that make it probable that the judgment of a reasonable person relying on the information would have been changed or influenced by the omission or misstatement. Therefore risk is a measure of uncertainty whereas materiality is a measure of magnitude or size.

c) Whether there is a **system/database for collecting statistical information** on public procurement (e.g. national statistical office), the main **objective** of the system (e.g. procurement planning, benchmarking, detection of possible corrupt practices, etc.), and how it is used in **policy making** (type of data collected, integration of data in financial reporting, capacity to analyse patterns and trends in a department or at a government-wide level, data reported publicly and fed back into the system).

d) The accountability chain for **officials working in vulnerable positions** in relation to procurement (e.g. general managers such as budget holder, procurement officials, etc.) and what **capacity-building measures** are in place to ensure **integrity** (e.g. professional training that includes integrity issues) and to respond to a potential need or dilemma (e.g. advisory service).

## 6. What specific anti-corruption and conflict-of-interest policies help promote integrity in public procurement?

Please specify in particular:

a) The general **requirements** for officials/contractual staff involved in procurement to prevent corruption in the process (e.g. clear separation of duties and authorisations between the individuals/bodies, rotation of officials, “four eyes” principle, disclosure requirements such as declarations of financial interests, etc.), and the exceptions to their application (e.g. discretionary power below threshold).

b) What **ethical standards, prohibitions and restrictions** apply to officials/contractual staff involved in procurement as well as bidders/intermediaries/contractors, in what form (e.g. anti-corruption clause, integrity pact, code of conduct, Business Integrity Management Systems, etc.) and how they are communicated and enforced (e.g. condition for entry into an awarding procedure).

c) Whether there are **specific policies to establish or verify the integrity of bidders/intermediaries/contractors** (e.g. “white listing”, assessment of integrity and/or financial competence, disclosure of commissions paid to individuals/firms for services provided in the procurement process) and whether they apply to all contracts.

## 7. What have been the developments in your country in the last five years to balance the discretionary power of public officials (including procurement officers, elected officials, etc.) with the need for accountability?

Please specify in particular:

a) In a context of delegated authority, how **standards, incentives** (e.g. staff performance evaluation process) as well as **accountability mechanisms for procurement officers** help find the right balance between flexibility (e.g. being rapid and responsive) and control (e.g. preventing and detecting corruption) in procurement.

b) **How the integrity of public officials’ decisions is verified** at different stages of the procurement process (e.g. review of how criteria for the selection and evaluation of tenders are determined, whether they are strictly applied in decisions, how selection requirements can be waived, whether specifications are defined in a non-discriminatory manner, reasons for delays in payment, etc.).

**8. How are public officials as well as bidders/intermediaries/contractors kept accountable at all stages of the public procurement process?**

Please specify in particular:

- a) The main **accountability mechanisms** for public officials and bidders/intermediaries/contractors, in particular in the contract management phase (e.g. policies for approving/monitoring/recording/reporting contract variations, policies for ensuring due diligence in payment processes, etc.).
- b) What **internal control processes** over individual transactions ensure the management of the procurement function, and how **co-ordination** is ensured between internal control and external audit of procurement processes.
- c) Whether information is available on the number and type of **breaches** filed (for example, in 2005) and the **sanctions applied** for suppliers/intermediaries as well as public officials.

**9. Have stakeholders – in particular private sector, end-users, civil society or the public at large – been involved in the procurement process, and if so, how?**

Please specify in particular:

- a) Whether their role was rather **advisory** (e.g. consultation of private firms in the definition of needs through preparation of a study, etc.) or **control-oriented** (e.g. verifying the integrity of the process), and at what stage of the procurement process they were involved.
- b) How you ensure that the process for integrating the views of stakeholders is **not biased** (e.g. criteria for selection, representative sample, identification of conflict-of-interest situations, etc.)
- c) Whether **independent oversight bodies** are also involved in monitoring the process (e.g. role of the legislative power in providing a framework for integrity in public procurement, for instance a Parliamentary Committee monitoring the management of large procurement projects).

**10. How do you ensure fair and timely resolution of formal administrative complaints related to the procurement process?**

Please specify in particular:

- a) The internal and external **complaint mechanisms**, in particular whether a procedure to report mismanagement and corruption exists for procurement personnel, suppliers and other stakeholders.
- b) What information is kept in the **records**, the protection available against retaliation when making a complaint, the precautionary measures to limit the number of unfounded complaints.
- c) The **institution(s)** in charge of handling administrative complaints, the average time for resolution, and whether the procedure provides the possibility of challenging government actions prior to or after the award.

**THANK YOU VERY MUCH FOR COMPLETING THE QUESTIONNAIRE**