



OFFICIAL USE ONLY

R2008-0036/5

June 19, 2008

FROM: Vice President and Corporate Secretary

**Use of Country Procurement Systems in Bank-Supported Operations:
Proposed Piloting Program**

Final Text for Disclosure

1. Following discussion of the document 'Use of Country Procurement Systems in Bank-Supported Operations: Proposed Piloting Program' (R2008-0036) and the 'Supplemental Note' (R2008-0036/4) at the meeting of Executive Directors held on April 24, 2008, the fully revised document is now available on eBoard and will be made publicly available.
2. Questions on this document may be referred to Mr. Harrold (ext. 36048) or Mr. Becq (ext. 34392).

Distribution:

Executive Directors and Alternates
President
Bank Group Senior Management
Vice Presidents, Bank, IFC and MIGA
Directors and Department Heads, Bank, IFC and MIGA

**USE OF COUNTRY PROCUREMENT SYSTEMS IN
BANK-SUPPORTED OPERATIONS:
PROPOSED PILOTING PROGRAM**

**OPERATIONS POLICY AND COUNTRY SERVICES
MAY 20, 2008**

ABBREVIATIONS AND ACRONYMS

BOT/BOO	Build-operate-transfer/Build-own-operate
CAS	Country Assistance Strategy
CFAA	Country Financial Accountability Assessment
CLSs	Core labor standards
CPAR	Country Procurement Assessment Report
DPL	Development policy loan
eGP	Electronic government procurement
ESRP	Environmentally and socially responsible procurement
GAC	Governance and anticorruption
IBRD	International Bank for Reconstruction and Development
ICB	International competitive bidding
IDA	International Development Association
ISR	Implementation Status and Results Report
MDB	Multilateral development bank
NCB	National competitive bidding
NSBD	National sample bidding document
OECD-DAC	Organisation for Economic Co-operation and Development- Development Assistance Committee
OPCS	Operations Policy and Country Services
OPRC	Operations Procurement Review Committee
PEFA	Public Expenditure and Financial Accountability report
PER	Public Expenditure Review
PFM	Public Financial Management
PP	Procurement plan
PPP	Private-Public Partnership
PREM	Poverty Reduction and Economic Management Network
PSB	Procurement Sector Board
QBS	Quality-based selection
RPM	Regional procurement manager
SBD	Standard bidding document
UCS	Use of country systems

USE OF COUNTRY PROCUREMENT SYSTEMS IN BANK-SUPPORTED OPERATIONS:

PROPOSED PILOTING PROGRAM

CONTENTS

EXECUTIVE SUMMARY	iii
I. INTRODUCTION	1
II. BACKGROUND AND CONSULTATIONS	2
<i>A. Compatibility with Bank's Mandate</i>	3
<i>B. Proposed Pilot Program</i>	3
<i>C. Results of Public Consultation</i>	4
III. PROPOSED METHODOLOGY	7
<i>A. Stage I: Selection of a Pool of Candidate Countries</i>	8
<i>B. Stage II. Consistency and Equivalence with Bank Procurement Policies</i>	12
<i>C. Stage III: Assessment at the Sector/Project Level</i>	15
<i>D. Additional Considerations</i>	18
IV. IMPLEMENTATION OF THE PILOTING PROGRAM AND NEXT STEPS	23
V. RECOMMENDATION	27
ANNEX A: PUBLIC CONSULTATION	30
ANNEX B: COUNTRY-LEVEL PROCUREMENT SYSTEMS ASSESSMENT	56
ANNEX C: DETAILED METHODOLOGY TO CARRY OUT THE CONSISTENCY AND EQUIVALENCE ASSESSMENT OF COUNTRY SYSTEMS VIS-À-VIS THE BANK PROCUREMENT POLICIES FOR WORKS, GOODS, AND NON-CONSULTING SERVICES	67
ANNEX D: ASSESSMENT OF COMPLIANCE, PERFORMANCE, CAPACITY, AND FIDUCIARY RISKS AT THE PROJECT LEVEL	76
ANNEX E: BANK INTERNAL PROCUREMENT REVIEW, CLEARANCE AND CONTROL PROCESS	82

USE OF COUNTRY PROCUREMENT SYSTEMS IN BANK-SUPPORTED OPERATIONS

PROPOSED PILOTING PROGRAM

EXECUTIVE SUMMARY

1. Building strong national institutions that have effective systems and sound capacity is a fundamental aspect of the development process and a key element in the sustainability of our development efforts. As part of such institutional development, strengthening country procurement systems is core to improving the development effectiveness of public expenditure, whether it be financed with taxes, with World Bank funds, or with resources from other partners. This is the fundamental basis of the Bank's country systems initiative, as the Bank works with its clients to strengthen their fiduciary and safeguard capacities.

2. **Country Procurement Systems.** The challenge is how to bring together the Bank's diagnostic tools, its capacity-building support and advice, and its project design and implementation skills to support such efforts. There are particular challenges in doing this in the area of international competitive bidding (ICB), where there are higher technical requirements and a great need for genuine open competition. The present paper proposes a methodology by which the Bank could promote stronger country procurement systems by introducing a piloting program under which national procurement systems would be relied upon for ICB contracts in countries that have achieved procurement standards equivalent to those embodied in the Bank's Procurement Guidelines and have demonstrated capacity to carry out such procurement.

3. **Discussions and Consultation.** The Executive Directors discussed the question of the use of country systems (UCS) for procurement under Bank-supported operations on June 19, 2007, on the basis of the paper *Use of Country Systems in Bank-Supported Operations: Status Report* (R2007-0079/4). At that meeting, they expressed their broad support for the Bank's further role in UCS, and asked staff to prepare an assessment methodology for use in the proposed piloting program for UCS in procurement, and to conduct a wide and substantive process of external consultations on this proposal. The consultations began in mid-September 2007 and ended in early January 2008. Stakeholders in 78 member countries of the Bank were consulted, and many individuals and organizations submitted comments and concerns. Records of all these meetings and all comments received have been posted on the Bank's website. Naturally, a wide range of views were expressed, both for and against the proposal, and many constructive suggestions have been incorporated into the revised proposal.

4. **Bank Procurement Standards.** The Bank is required by its Articles of Agreement to "ensure that the proceeds of any loan are used only for the purposes for which the loan was granted, with due attention to considerations of economy and efficiency." It carries out this requirement through a set of procurement policies and guidelines that are designed to ensure that under the financing the Bank provides, goods,

works, and services are procured in such a way as to maximize the efficiency and effectiveness of public expenditure. In parallel, the Bank hopes that through its procurement dialogue and support it can assist countries to develop well-performing procurement systems. The proposed approach to the UCS piloting program does not imply any reduction in the Bank's obligation to comply with the Articles, or in its procurement standards; on the contrary, it is an integral part of encouraging excellence in procurement practices. The methodology therefore has an essentially straightforward task: to identify a group of countries, and a set of projects in those countries, in which national procurement systems are of sufficient quality and capacity to achieve generally the same results in terms of economy and efficiency as can be achieved through application of the World Bank's procedures.

5. ***Selection Methodology.*** This paper therefore sets out a methodology for selecting candidates for a proposed piloting program for UCS in procurement in an initial 8-10 countries, with a range of country types and incomes, and at least one in each Region. The core features of this methodology would be as follows:

- An assessment of the quality of country procurement systems, using the knowledge the Bank has gained through public finance management assessments, Country Procurement Assessment Reviews, procurement reform programs, and the application of the OECD/DAC Procurement Benchmarking Tool;
- A detailed examination of the extent to which the country's procurement policies are equivalent to and consistent with the principles of the Bank's procurement policies as set out in its Procurement Guidelines;
- A review of compliance with the country's policies and procedures, and the past performance and overall capacity of the government agencies designated to be responsible for the proposed projects to be covered by country pilots;
- An assessment of the fiduciary risks of pilot projects;
- Launching of a process of limited national competitive bidding for the selection of consultants in the pilot countries;
- Incorporating a strong program of gap-filling analysis and capacity building in procurement; and
- Maintenance of a regular reporting framework, an international advisory panel, and a transparent mechanism for the continued participation of stakeholders during the pilot program.

6. ***Launch of the Proposed Piloting Program.*** If it is resolved to proceed with such a piloting program, the next steps would be for the Bank's country directors and Regional procurement managers to interact with clients and identify a set of potential countries to be considered for the piloting program. Over the following 3-6 months, the candidates would be assessed and then selected to enter the pool of participating countries in the piloting program. Potential pilot projects would be identified in the selected countries on the basis of the Bank's intended program with that country as set out in the Country Assistance Strategy or Partnership Strategy. As pilots were selected and vetted, the

Board would be notified. Pilots would then be launched as projects were approved. In many cases, such pilots would include capacity-building measures, which the Bank and other development partners would support.

7. ***Cooperation and Harmonization.*** The proposed piloting program and associated capacity building activities would be carried out in very close cooperation with other development partners, and in particular with the multilateral development banks, and could represent an important milestone towards the international objectives with respect to harmonization, and to meeting the targets of the Paris Declaration on Aid Effectiveness.

USE OF COUNTRY PROCUREMENT SYSTEMS IN BANK-SUPPORTED OPERATIONS:

PROPOSED PILOTING PROGRAM

I. INTRODUCTION

1. The Executive Directors have discussed the use of country systems in Bank-supported operations on a number of occasions. Most recently, on June 19, 2007, the Board considered two papers: *Use of Country Systems in Bank-Supported Operations: Status Report* (R2007-0079) and a *Supplemental Note* (R2007-0079/3). (These papers were subsequently combined and issued as R2007-0079/4, and publicly disclosed, and are referred to in this paper collectively as the June 2007 paper.) At the June 2007 meeting, the Executive Directors expressed their broad support for the Bank's further role in the use of country systems, and asked staff to take four actions:

- (a) Evaluate progress in the ongoing pilot in the use of country systems for environmental and social safeguards, as the basis for decisions on the next steps in this program. This report—Evaluation of the Initial Phase of the Pilot Program for Use of Country Systems for Environmental and Social Safeguards: Lessons Learned and Management Proposal for An Incremental Scale Up of the Program (R2008-0005), January 9, 2008—was discussed by the Board on January 31, 2008.
- (b) Prepare an assessment methodology for the proposed introduction of a piloting program for the use of country systems in procurement. "Detailed Methodology for Procurement Country Systems Piloting Program: Draft for Consultations" (referred to in this paper as the September 2007 paper) was published on the Bank's external website on September 17, 2007, with a response form for those who would wish to comment on the proposal.
- (c) Conduct a wide and substantial process of external consultations on the proposed methodology with interested stakeholders, including client and partner governments, the private sector, civil society, and subject experts. This process was launched with the publication of the draft and continued until early January 2008. Section II.C. of the present paper reports on the process in detail.
- (d) Modify as appropriate the draft methodology based on the results of these consultations and bring it to the Board for its consideration. This is the purpose of the current paper.

2. **Structure of This Paper.** Following this introduction, Section II of the paper provides background—the rationale for using country systems, compatibility of such use with the Bank's fiduciary responsibilities, and the rationale for a piloting program—and

summarizes the results of the consultations. Section III discusses the proposed methodology for selecting pilot countries and projects for this proposed program, and a few related considerations. Section IV sets out the responsibilities of management and staff in the piloting program; explains the changes to the Procurement and Consultant Guidelines that would be required to establish a policy framework for the piloting program; and discusses the later potential extension of the piloting program, including selection of additional countries, reporting to the Board, and the overall timeline and estimated costs. Section V asks the Executive Directors to approve the proposed program, and annexes provide additional details.

II. BACKGROUND AND CONSULTATIONS

3. The core rationale for the use of country systems (UCS) was explained in the paper presented to the Board in June 2007 (para. 2):

- (a) ***Scale up development impact.*** By moving from using Bank systems and ring-fencing projects with project implementation units (PIUs) to focusing on improving the capacity of ministries and central systems, the Bank expects to help improve the efficiency of all government expenditures, not just the use of the funds provided by the Bank.
- (b) ***Increase country ownership.*** A country's ownership of development programs and projects is stronger when its own systems, rather than externally imposed systems, are used. In addition, the country has greater incentives to focus on strengthening these systems. Many countries now have good procurement laws on the books, but the implementation of these legal frameworks often remains weak. If improved implementation of such frameworks can be the mutually agreed objective, overall development outcomes would be expected to be better.
- (c) ***Facilitate harmonization.*** If—as often happens—all development partners impose their own different procurement systems, there is a strong risk of overwhelming developing countries' already relatively weak administrations. To reduce this burden of “development bureaucracy,” donors can most effectively harmonize their requirements around a country's own system, once it has achieved acceptable levels of performance.
- (d) ***Simplify and reduce costs.*** For the longer term, there is significant scope for reducing the costs of aid—both the costs for countries to do business with the Bank, and the Bank's own costs of project preparation—if borrowers can use their own systems and procedures, rather than having to use the Bank's system as well. The amount of paperwork in the procurement process would be significantly reduced.

4. Through the consultation process it has become clear that one purpose overrides all others: stronger procurement systems are core to improving the development

effectiveness of public expenditure, whether it be financed with taxes, World Bank funds, or resources from other partners.

A. Compatibility with Bank's Mandate

5. Under its Articles of Agreement, the World Bank is required to “ensure that the proceeds of any loan are used only for the purposes for which the loan was granted, with due attention to considerations of economy and efficiency.” In preparing a proposal for UCS, Management has been guided by the requirements of the Articles. Therefore, country systems would be used only when the country has in place equivalent policies and procedures, as well as the capacity to achieve results that satisfy these Articles requirements. In this way, the procurement staff at the Bank will be ensuring the appropriate balance in their work between their fiduciary responsibilities and their role of promoting development effectiveness, which they see as mutually reinforcing.

6. ***Bank Role in UCS.*** The core effect of using country systems in the area of international competitive bidding (ICB) is to shift the Bank's role from providing prior review of procurement proposals to providing primarily post review: that is, review after transactions have occurred. The Bank would remain responsible for ensuring that such transactions have taken place in line with legal agreements with the Bank, and would continue to be able to declare misprocurement and invoke its remedies should a breach of such agreements be discovered. As in the safeguards pilots, the Bank would retain the right to revert to the use of standard Bank systems if a pilot country or project dropped below generally accepted international benchmarks, or reversed policies after being granted UCS rights (see para. 50).

7. ***Compatibility with Other Bank Initiatives.*** Many people have asked whether the proposed use of country systems is compatible with the Bank's Governance and Anticorruption (GAC) Strategy: could a shift in the Bank's role not raise the danger of more corruption under Bank-financed operations? As the GAC strategy explained, the only real assurance of reduced risk of corruption is strong country systems, coupled with countries' firm commitment to ensure that their systems are free of corruption. The June 2007 paper also linked the proposed piloting program to other Bank initiatives, including the middle-income country initiative and, of key importance, the Paris Declaration. Since then, the Bank has also seen renewed interest in the area of trade and its role in promoting growth. Strengthened country systems that are equivalent to Bank policies would contribute significantly to the trade objectives, through greater openness. By adopting Bank-equivalent policies for all public procurement, countries will be less likely to use such procurement inappropriately for purposes of domestic protection, and more likely to provide increased opportunities for participation.

B. Proposed Pilot Program

8. The June 2007 paper proposed the introduction of UCS pilots in the areas of ICB and selection of consultants. Such a program would operate at both the country level—that is, much of the indicative lending program in that country would be assessed for its suitability for inclusion—and at the individual project entity level. Under the pilot, the

country's own system would be used for international¹ and national competitive bidding, and there would be no prior review by the Bank of the contracts it would finance. Rather, the Bank's review would be on an ex-post basis. Countries would still seek international participation in their bidding processes, and the contracts to be subject to international bidding would still be determined by legal agreements and annual procurement plans.

9. ***Rationale for a Piloting Program.*** In contemplating a move to greater use of country systems, there are significant benefits to beginning with a piloting program rather than embarking on an immediate full reform of the Bank's procurement policies. We can learn, and avoid what could potentially be costly errors if, for example, a full reform were to lead to a lowering of fiduciary standards under Bank-financed projects. Moreover, a piloting program permits testing the use of capacity-building measures to fill gaps in countries' systems.

C. Results of Public Consultation

10. The draft methodology for selecting pilot countries and assessing the acceptability of their procurement systems was posted on a publicly available website on September 17, 2007, opening the formal period of consultation. The consultation period was originally scheduled to conclude in mid-November, but was extended through early January 2008 at the request of the many interested stakeholders. Consultations involved individuals and groups from 78 countries (both Part I and Part II): representatives from the private sector, donors, civil society organizations, and, most importantly, from the country governments that would be the ultimate beneficiaries of the piloting program. (See Annex A for a complete listing of the consultations conducted.) In addition, the Bank contacted a group of independent experts in government/public procurement whose contributions to the field—including publications and commitment to education—are internationally recognized. The comments of the experts, summaries of all the consultation meetings, and the comments that many individuals and organizations submitted directly to the Bank have been posted on the Bank's public website.

11. ***Key Messages and Their Effect.*** Given the wide range of stakeholders and experts consulted, it is to be expected that the comments received by the Bank also varied widely (a summary is also included in Annex A). The Bank responded to the comments by addressing all aspects of the proposed methodology, as the following points indicate:

¹ International competition in procurement is defined as a bidding process that would normally be expected to attract foreign participation because of the nature of the works, goods, and non-consulting services to be procured. Monetary thresholds determine the most efficient method of procurement to be used and are set for each country to maximize competition. The setting of these thresholds is done on the basis of the potential interest of foreign bidders to participate in domestic markets, an analysis of the conditions, size and depth of the market, as well as the level of procurement risk --this is usually carried out as part of fiduciary diagnostic work and market analysis, and set by the Regional Procurement Managers. The country-specific thresholds are established at different levels for goods, works or services, depending also on: (i) the types and quantities purchased by Government; (ii) the overall efficiency and economy that may stem from simplified procurement procedures; and (iii) market activity and availability.

- (a) ***Structure of the methodology.*** Many commented that the structure of the methodology was not sufficiently defined to enable a full understanding of the various steps in the process. This document divides the methodology into three distinct stages.
- (b) ***Country selection process.*** Some commented that the tools and procedures proposed for this initial phase were not well defined, or that they established an overly complex process under which few or no countries would meet the stated requirements. This document better describes the tools and methods that would be used to identify the pool of potential pilot countries and projects.
- (c) ***Assessment process.*** In response to comments about the tools for assessing and selecting countries and sectors/projects, the revision modifies the use of the OECD-DAC benchmarking tool to provide some additional flexibility in its application and to clarify that it is not a blind scoring of indicators to determine a pass/fail outcome. It also clarifies the role that the Country Procurement Assessment Report (CPAR) would play, and makes it clear that the Bank would use the full range of country information it has available in selecting pilot countries and sectors/projects within those countries.
- (d) ***Capacity development.*** The revised paper clarifies the importance of capacity development as a primary outcome of the pilots, and discusses capacity development as it relates to the opportunity for countries and their donor partners to take responsibility, learn, and pilot.
- (e) ***Harmonization.*** In response to many comments expressing concern about the effect of the proposed methodology on harmonization, the paper clarifies that harmonization at the country level is a key pillar of the proposed methodology. This includes harmonization of the country's system of procurement policies and procedures around generally accepted international practices, as well as harmonization of donors within the country with regard to capacity development and reliance on the country system.
- (f) ***Fraud and corruption.*** Many comments expressed concern that UCS might bring a heightened risk of fraud and corruption. While acknowledging that there could be risks at the project and sector levels, the paper responds by identifying the monitoring, control, and oversight features that would address these risks. It stresses that the Bank's Guidelines on Preventing and Combating Fraud and Corruption in Projects Financed by IBRD Loans and IDA Credits and Grants (Anticorruption Guidelines) and the fraud and corruption provisions of the Procurement and Consultant Guidelines would apply to procurement using country systems.

- (g) ***Equivalence.*** Many comments concerned the concept of “equivalence” and how it applies to the use of country systems in procurement. This paper clarifies that “equivalence” does not mean that a country’s policy and procedures need to be the exact same as the Bank’s; rather, they must be consistent with the Bank’s guidelines and substantially achieve the same outcomes.
- (h) ***Use of standard bidding documents.*** Major concerns were raised about the fact that the Bank’s standard bidding documents (SBDs), use of which is mandated under ICB and which incorporate many of the Bank’s ICB policies, would not be used under UCS. This paper makes it clear that bidding documents deemed acceptable to the Bank after a review against a checklist of provisions would be required for use in all projects under the piloting program.
- (i) ***Complex and non-standardized procurement.*** The September 2007 paper proposed excluding complex procurement from the piloting program. Many respondents commented on this provision, some in favor but more against. The revised methodology distinguishes between complex *projects*, and complicated *bids and contracts* within a straightforward project (see para 38). Complex projects (multi-sector operations, executing agencies inexperienced in complex procurement, borrower *preference for* Bank oversight) would be excluded from the piloting program. Complex procurement within regular operations would be included, and such bids and contracts would be identified at project preparation stage and included in the Procurement Plan for the pilot project with the particular arrangements that would have been agreed. This will allow the treatment of complex and non-standardized procurement to be tailored to the country’s particular capacity and conditions, following its policies and procedures, and to the type of procurement that is envisioned in the selected pilot projects.
- (j) ***Selection and employment of consultants.*** The September 2007 document proposed a process for selection of consultants that would be the equivalent of national competitive bidding—that is, the country would use its own system for assignments below a threshold (a level judged not to be of interest to international consultants, although some private sector firms mentioned that even low-value assignments may be of interest to some small firms.), and would follow the Bank’s requirements for assignments above that threshold. This proposal found favor with most of those who participated in the consultations. The proposal also noted the conclusion that a generalized system of UCS for consultants above that threshold would be unlikely, and the present methodology does not propose any steps in this regard beyond the “NCB” process mentioned.
- (k) ***Implementation procedures.*** Many comments made it clear that the discussion on implementing the pilots needed more clarification. In

response, this paper covers in greater detail many important issues of monitoring, oversight, and control in the revised methodology.

- (l) ***Remedies.*** Many respondents raised concerns about the Bank's ability to apply its legal remedies under the piloting program. Under UCS, however, the Bank would continue to be able to invoke its normal remedies—including cancellation for misprocurement—should there be noncompliance with the requirements of the legal agreement. In addition, remedies specific to the pilot would be introduced (see para. 50).
- (m) ***Performance monitoring.*** Many respondents considered the monitoring of actual performance under the selected pilot projects to be a very important area that did not receive adequate attention. The revised methodology addresses this area in much greater detail.
- (n) ***Roll-out process.*** Many respondents asked how the Bank intends to move forward after identifying the initial group of countries and projects. This paper addresses this area in greater detail, with a proposal to ensure that key information is gathered before the piloting program in procurement is mainstreamed in any way.
- (o) ***Involvement of stakeholders.*** Throughout the consultation process, private sector organizations and firms, civil society organizations, and individuals conveyed a clear message that they wanted a greater role in the piloting program. In the main, these various stakeholders want a way to communicate their experiences as counterparts and stakeholders in the implementation of Bank-financed projects. This paper recognizes that this input would be a key contribution to understanding the lessons learned from the piloting program, and it proposes ways to achieve this communication, not least through the creation of an International Technical Advisory Group.

III. PROPOSED METHODOLOGY

12. The Bank has a set of procurement policies and guidelines that are designed to ensure that under the financing it provides, goods, works, and services are procured in such a way as to maximize the efficiency and effectiveness of public expenditure. In parallel, the Bank hopes that through its procurement dialogue and support it can assist countries to develop well-performing procurement systems. The same principles apply to the piloting program in procurement: the UCS approach does not imply any reduction of procurement standards; on the contrary, it is an integral part of encouraging excellence in procurement practices. The methodology therefore has an essentially straightforward task: to identify a group of countries, and a set of projects in those countries, in which

national procurement systems are of sufficient quality and capacity to achieve generally the same results as the application of the World Bank's procedures².

13. **Assessments.** The methodology therefore proposes various types of assessments—using available information and specific evaluation tools—to determine which countries, and which projects in which sectors within those countries, are best suited for the use of country procurement systems. It involves a series of three well-defined stages, moving from a broader initial list of candidate countries to a restricted number of countries that have demonstrated the overall quality of their procurement systems, and to pilot projects whose executing agencies have demonstrated their overall capacity and competence in procurement. This approach may seem at first rather daunting, but consultations with client countries have revealed that it is practical, and would be able to generate a list of countries and projects for piloting. It is proposed to identify an initial group of 8-10 countries for piloting, with a range of country types and incomes (including IDA countries³), and at least one in each of the Bank's Regions.

14. **Three Stages.** The three stages of the methodology are as follows:

Stage I: Selection of a pool of potential countries for piloting of UCS in procurement, and assessment of the overall quality of each country's procurement system.

Stage II: Assessment of the consistency and equivalence of the country's procurement system with the principles of the Bank's procurement policies.

Stage III: Assessment of compliance, performance, capacity, and fiduciary risks at the sector/executing agency level.

15. The following paragraphs describe these stages, which are presented graphically in Figure 1.

A. Stage I: Selection of a Pool of Candidate Countries

16. To select a pool of candidate countries for the piloting program, the Bank's Regions would be asked to ascertain their countries' interest and, drawing on their knowledge of the countries' systems, provide a long list of candidate countries. Three aspects of each country on the list would then be reviewed: (a) the overall public finance management (PFM) system, since it is very difficult for sound public procurement to take place within a poor public finance system; (b) the Bank's past assessments and knowledge of the procurement system in the country; and (c) findings from the detailed OECD-DAC assessment tool. While this review may seem challenging and time-consuming, it is expected that in many cases it could be accomplished relatively quickly.

² In parallel, there is an ongoing and very similar pilot for the Use of Country Systems in environmental and social safeguards. These pilots would be coordinated, and there would be an attempt to ensure that there were some common countries in the two piloting programs.

³ Staff consider that some IDA countries will be able to qualify for this pilot. In some cases, it may be that this would only be after some gap-filling measures. If that is the case, space in the pilot would be "reserved" for the country to ensure this mix, which is considered important for the validity of the piloting program.

1. Review of the PFM System

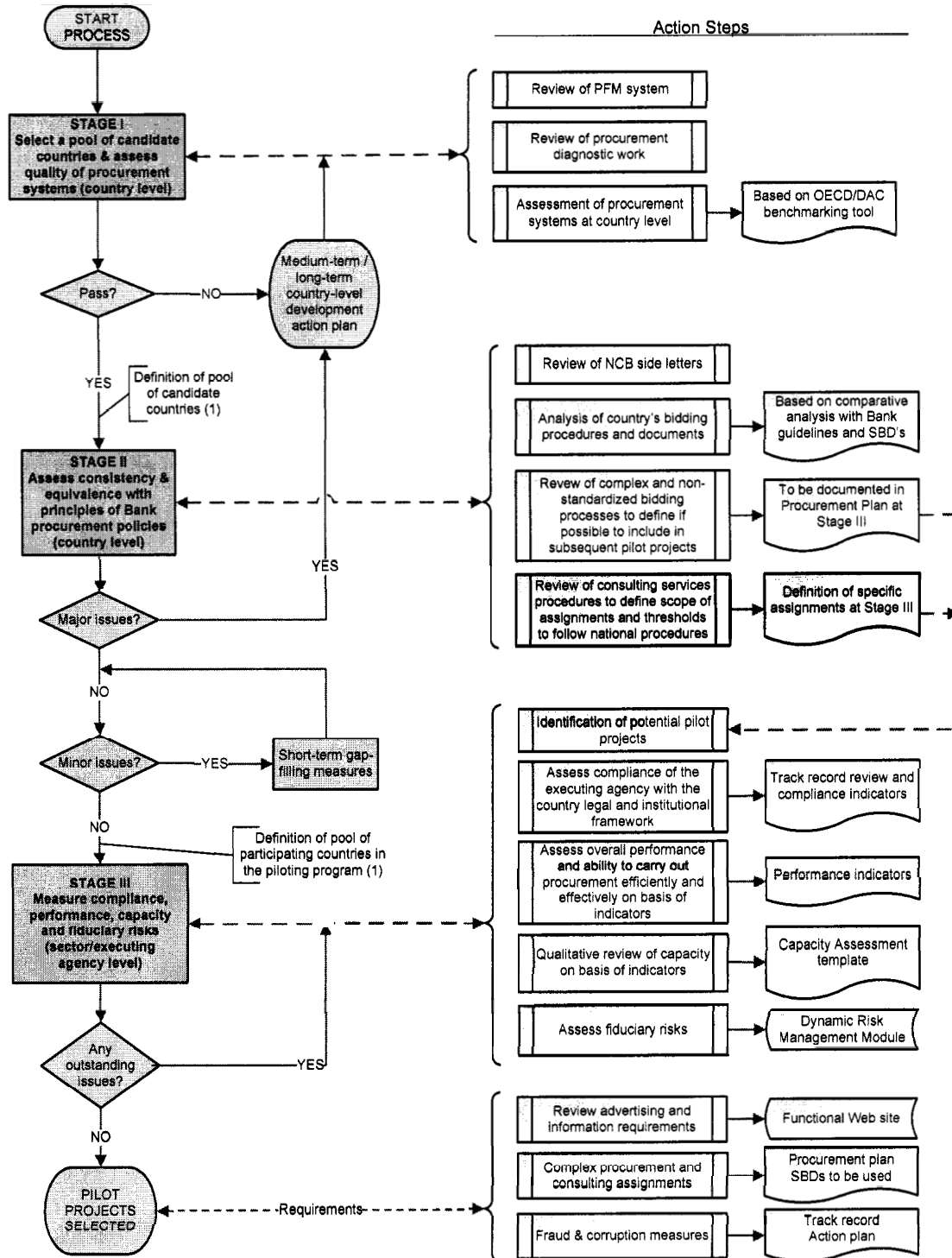
17. To assess the overall environment in which the procurement system operates, the Bank would review the country's public financial management system, using Country Financial Accountability Assessments (CFAAs) and any available Public Expenditure and Financial Accountability (PEFA) reports and related PFM Performance Measurement Frameworks. It is expected that procurement pilot projects would take place in countries whose financial management systems have been considered acceptable by the Bank following on assessments carried out by the Regional financial Management Managers as per the Financial Management Sector Board rules to rely on country systems, which is considered the default.

2. Review of Procurement Diagnostic Work

18. This step would consist of reviewing the country's CPAR and the status of implementation of its action plans and procurement reforms as well as other fiduciary diagnostic reports conducted by the Bank or its partners. While it is acknowledged that quality varies and that some are a little out of date, these reports remain the best source of detailed information on a country's procurement system, and provide a broad qualitative analysis of the country conditions, in particular its legal and organizational framework and the performance of its institutions and procurement agencies. Consistent with the Independent Evaluation Group (IEG) evaluation of Country Financial Accountability Assessments (CFAAs) and Country Procurement Assessment Reports (CPARs), the most recent CPARs were, however, carried out jointly with CFAAs and in some cases Public Expenditures Reviews (PERs), and/or older ones have been updated as part of the follow-up on reforms agreed with Governments. This review would look at procurement within the broader context of public sector modernization efforts.

19. ***CPAR and Related Government Initiatives.*** Of particular importance at this stage is the status of implementation of the action plan established to address key weaknesses noted in the CPAR and agreed upon by the Bank and the government as a way to improve procurement policies and practice in the country. Country initiatives in implementing procurement reforms, including capacity-development efforts and transparent procurement and contract management monitoring systems, would also be taken into consideration. The Bank has, for example, provided a large number of follow-up IDF grants to countries for such actions, and procurement issues have increasingly been part of the program of policy reform supported by development policy loans (DPLs). The Bank would also note other procurement reform initiatives that the country may have implemented, including through project components (e.g., public sector management projects), and the strategic use of technological tools such as E-procurement. This assessment would contribute to a better understanding of the quality of the country's procurement policies and procedures and its government's commitment to building and sustaining well-functioning procurement systems. Countries whose governments have agreed to the disclosure of the CPAR or an updated version and whose proactive implementation of the CPAR action plan and other initiatives demonstrates commitment to procurement reform, would remain in the pool. The Bank would ensure that these reports are posted on its external procurement website.

Figure 1: Process for Procurement Country Systems Piloting Program



(1): These countries may be subject to an action plan of corrective measures to be implemented during execution of pilot project to address minor issues identified at Stage I.

3. *Country-level Procurement Systems Assessment*

20. For countries that are judged to have acceptable overall standards of PFM and procurement, the Bank would carry out a more comprehensive review and detailed analysis of the country procurement systems. The Bank would assess those systems against generally accepted international practice, largely relying on the OECD-DAC procurement benchmarking tool.⁴ This tool, which has been vetted internationally by donors and aid recipient countries, is complementary to the CPAR. It focuses on the qualitative aspects of a procurement system in four areas; legal framework, institutional framework and management capacity, operations and market practices, and integrity and transparency.⁵ In addition, this tool is designed to identify weaknesses in the procurement system and gaps in its conformance with generally accepted international practice—information that would form the basis for the medium- to long-term capacity-development action plan that would be needed for further consideration to participate in the piloting program.

21. **Assessment.** The assessment would entail evaluating the country's system using the 54 sub-indicators of the OECD-DAC benchmarking tool. The Bank would in general conduct the benchmarking exercise itself, preferably in collaboration with donors which are active in the country, in particular MDBs with which it traditionally jointly conducts fiduciary assessments. It may rely on exercises that have already been completed, provided that they were carried out with or by other donors and that the Bank was also involved. The Bank would in any case validate the results (outcome and scoring of the sub-indicators) before proceeding to the next step. The proposed method would not rely on defining any aggregate "passing" rating for accepting a country procurement system in the pool of candidate countries. Rather, all sub-indicators would be classified in four categories and assessed on their own merits. The assessment of the sub-indicators would not be applied mechanistically, but rather would aim at striking the proper balance between the objective measurement of the sub-indicators against generally accepted international practices and the necessary judgment of the overall quality of the system. The assessment would follow the detailed procedure described in Annex B and would rely on:

- (a) 17 core sub-indicators which should be assessed to meet the criteria of the corresponding benchmarks indicated for a "3" rating;

⁴ This tool was developed by the OECD-DAC Joint Venture in Procurement, which was established as part of the follow-up to the Paris Declaration on Aid Effectiveness; it is cochaired by the World Bank, Canada, and South Africa, and involves partner countries as well as multilateral and bilateral donors. With such wide participation (including the Bank) in developing this tool, it is expected to promote harmonization of the assessments conducted by various donors and to yield results that many donors can use in increasing their use of country systems. A number of countries have used this tool, and others are now conducting the exercise. The OECD-DAC is monitoring the results.

⁵ The four areas (or "pillars") are defined further by 12 indicators, each of which has sub-indicators (a total of 54). Scoring is done at the sub-indicator level, according to a defined scoring criterion, on a 0-3 scale; a score of 3 indicates full achievement of the stated standard. A score of 2 is given when the system exhibits less than full achievement and needs more improvements in the area being assessed, but still reflects substantive compliance with the standard.

- (b) 10 sub-indicators which could be assessed to only meet the criteria of the corresponding benchmarks indicated for a “2” rating, provided the country agrees to put in place an action plan of corrective measures to bring those sub-indicators to a “3” benchmark rating during implementation;
- (c) 25 sub-indicators which should be assessed to meet the criteria of the corresponding benchmarks indicated for a 2” rating; and
- (d) 2 sub-indicators (4-d and 10-e, regarding respectively the regulatory body and the complaints review body) for which only a “3” or “0” rating can be obtained. If the country does not fully meet these criteria but would otherwise qualify, corrective measures could be included in the action plan.

22. ***Pool of Potential Candidate Countries.*** The Bank considers that a country that substantially meets the above requirements is highly likely to be able to implement pilot projects successfully, including when an action plan of corrective measures is necessary to bring selected sub-indicators in category (b) above to a “3” benchmark rating during implementation. If a candidate country is rated at less than “2” for a few sub-indicators in category (c) above, the Bank would work with the country to quickly address the related gaps or weaknesses in the short term before further evaluating its capacity to participate in the piloting program. If a country’s procurement system does not receive an acceptable rating, at the government’s request the Bank may help it develop a medium-term plan of corrective action, including a capacity-development plan, to address the key areas that need strengthening.⁶ The Bank would then work closely with other donors to develop, coordinate, and finance a wide-ranging capacity-development program to support those countries in strengthening their procurement systems; a number of donors have already expressed interest in providing funding for this purpose. The Bank would establish a “clearing house” for such support: generating and receiving commitments from development partners for their support, and then directing this support once the capacity-building needs have been identified. This was thought in this case to be more appropriate than a Trust Fund, since in many cases partners will be making available expertise from within their own procurement agencies, who would not normally be available as consultants. These candidate countries would be reconsidered for the piloting program once they had successfully implemented the agreed medium-term country-level development action plans and achieved generally accepted international benchmarks.

B. Stage II. Consistency and Equivalence with Bank Procurement Policies

23. The second stage in the methodology would determine whether the procurement policies and procedures of potential pilot countries are consistent with and equivalent to the principles of the Bank’s procurement policies. The Bank recognizes that each country’s procurement system is somewhat different and that its own procurement rules do not provide the only procurement policy framework or benchmarks. However, the

⁶ Indeed, countries that recognize that they are unlikely to qualify for the piloting program at this stage could be encouraged to request an assessment for the explicit purpose of defining a program of capacity building to permit participation at a later time.

Bank is required by its Articles of Agreement to ensure that loan proceeds are used for their intended purposes, with due attention to economy and efficiency, and believes that open competition is the basis for efficient and economical public procurement. In particular, the Bank must ensure that there is a fair and level playing field for foreign firms to participate under procurement processes that are expected to attract international competition. Therefore, it will assess that procurement under the country's policies achieves substantially the same results as procurement under the Bank's policies. This assessment is independent from the previous stage, although it may rely on similar sources of information and could be conducted simultaneously. In addition, while assessment of equivalence is conducted at the country level, the selection of executing agencies of pilot projects will also rely on compliance and performance indicators, some of which are based on Bank guidelines and SBDs (see Stage III below).

24. ***Principles of the Bank's Procurement Policies.*** The Bank's procurement policies for works, goods, and nonconsulting services are based on four key principles (set out in para. 1.2 (a)-(d) of the Guidelines):

- (a) Economy and efficiency in the procurement process and in contract execution;
- (b) Information and equal opportunity to compete for all eligible bidders from developed and developing countries;
- (c) Support to the development of domestic contracting and manufacturing industries in the borrowing countries; and
- (d) Transparency in the procurement process.

25. ***Comparison with Procurement Guidelines.*** To ensure that procurement under UCS would continue to be guided by these fundamental considerations, the Bank would carry out a step-by-step comparison of the country's bidding procedures and documents with the Bank's ICB requirements that apply when international competition is sought for goods, works, and non-consulting services (see Annex C for the detailed procedure). Given the significant differences in national procurement markets among potential participating countries, no specific contract value or size can be determined across the board to define contracts for which international competition is sought, the Bank will rely on its own ICB thresholds as benchmarks to identify contracts likely to attract international interest.

- In the area of national competitive bidding (NCB), the Bank includes in its legal agreements the modifications required to bridge any gaps between the Bank's Guidelines and the national competitive bidding procedure, to assure economy, efficiency, transparency and broad consistency with the provisions in Section I of the Guidelines. The Bank would begin the Stage II assessment by looking at these NCB modifications as a primary source of information about any inconsistencies with Bank policies that have been previously documented. The legal agreement for any pilot would make applicable the

provisions of Section I of the Procurement Guidelines, including those related to misprocurement eligibility, fraud and corruption, and procurement plans, for all the pilot projects.

- The ICB requirements set out in Section II of the Procurement Guidelines cover such key areas as notification, prequalification, bidding documents, bid validity, pricing and price adjustment, transport costs, currency for bids and payments, and bid opening procedures. In other words, this Section of the Procurement Guidelines covers the key elements that translate the Bank principles and policies into reality, and set the standards against which the equivalence of the country procurement institutional and legal framework will be assessed in detail as explained in Annex C (equivalence table).
- Provisions of Section III regarding procurement and inspection agents, financial intermediaries, procurement from UN agencies, Private-Public Partnership (PPP) arrangements, performance-based procurement, and community participation in procurement, as well as those of appendixes to the guidelines regarding Bank review, domestic preference, and guidance to bidders, would also be reviewed as indicated in Annex C. Many countries have used the Bank's approach as their model in this regard, so in many cases comparisons would be relatively straightforward.

26. ***Areas of Deviation.*** However, in three particular areas it would be necessary to accept a deviation from a strict interpretation of the provisions of the Bank's Guidelines: (a) use of Standard Bidding Documents (SBDs), (b) language, and (c) currency. It would be proposed to deal with those elements as follows:

- (a) Mandating that a country use the Bank's SBDs for all its own-financed transactions would clearly not be reasonable. It is true, however, that the existence of national sample bidding documents (NSBDs) is a feature of a sound procurement system, and the Bank has frequently helped its clients to develop such documents. The Bank would require the existence of relevant NSBDs for the pilot projects, consistent with the principles set out in paragraph 2.12 of the Bank's Procurement Guidelines. The Bank has developed a checklist of mandatory provisions that would be used to assess that such NSBDs are broadly consistent with the Bank-issued documents. Use of such NSBDs would be mandatory for contracts that have been identified in the procurement plan as likely to attract foreign competition.⁷ The country/executing agency could use the Bank's SBDs or harmonized Master Bidding Documents if it does not have its own for use under the piloting program.
- (b) Advertisement and bidding documents may be in the national language, or the language used nationwide for commercial transactions, but the borrower would be required to make available a translation in English, French or

⁷ The benchmarks would be the current ICB thresholds for goods and works for the country.

Spanish for those contracts that have been identified in the procurement plan as likely to attract international interest. The procurement regional offices will monitor the quality and timing of translations as part of the continued Bank fiduciary oversight. Contracts with foreign entities should be signed in the international language the bidders used for their bids.

- (c) The currency of the bid could be the national currency, provided that it is freely and fully convertible and that the country does not apply restrictions or control on foreign exchange⁸. The Bank would, in addition, require that the bidding documents accepted for use under pilot projects when international competition is anticipated allow payments to be made in foreign currency—directly and/or as percentages of the contract price at exchange rates defined at bidding, in no more than three currencies. This would be consistent with the provisions of paras. 2.28-33 of the Procurement Guidelines, which aim at fully protecting the contractor or supplier against changes from the exchange rate governing its bid price.

27. ***Meeting the Requirements.*** Countries that meet the criteria specified under Stages I and II would qualify for use of country systems for any project financed by the Bank in that country as long as the project in question meets the requirements of Stage III, and would be included in the pool of participating countries in the piloting program. The Bank anticipates that countries that substantially meet the criteria—even if their procurement systems are not yet fully consistent with and equivalent to the Bank’s policies—would be able to address weaknesses quickly through gap-filling measures. The Bank would identify the necessary changes that could be easily acted upon: for example, the issuance of regulations or instructions, or amendments or supplementation of existing regulations. Those countries will remain in the pool of countries for consideration in the piloting program, and could be reconsidered to the next assessment stage once they have implemented the identified gap-filling measures. Finally, countries with major systemic issues of consistency and equivalence that must be addressed through a longer-term capacity-development program would not be selected for the piloting program; however, the Bank and donors would support them in strengthening their procurement systems, and they could be reconsidered at a future date.

C. Stage III: Assessment at the Sector/Project Level

28. For the countries whose procurement systems met the criteria of Stage II (with, in some cases, an action plan of corrective measures to bring selected sub-indicators to a “3” benchmark rating to be implemented during the execution of the pilot projects), the Bank would then move to an assessment of compliance, performance, capacity, and fiduciary risks of the executing agencies of the proposed pilot projects. It would not be necessary or practical for the Bank to assess past procurement performance in every sector in every state or province of the pilot countries. Rather, the assessment should be centered on those areas, sectoral or regional, in which the Bank’s lending program is expected to focus.

⁸ As defined in IMF Article 14.

29. ***Initial Identification of Pilot Projects.*** For each candidate country remaining in the pool of potential participants in the piloting program, the country director, in coordination with the country team, the sector directors and managers, and the RPM, would consult with the country to determine which sectors/projects could tentatively be included in the piloting program. To ensure consistency with the overall development strategy agreed with the country, the sectors selected should figure among those identified in the Country Assistance Strategy (CAS), and projects should be identified in the Bank's portfolio pipeline as having good potential because of past implementation performance, including in particular good financial management procedures and fiduciary performance. To avoid difficult retrofitting of existing projects, particularly with regard to the fiduciary rules that would apply, only new projects would be considered at this time. Some countries may propose a single candidate project, others may propose looking at all the operations in the CAS, and still others may propose certain provinces or major lending sectors. It is therefore not possible to predict the number of pilot projects in total, but this could be expected to be in the range of 20-40. Once the core country and equivalence assessments have been done, the additional work involved for each potential pilot project is only a minor addition to regular project preparation work.

30. ***Agency Assessment.*** Procurement management is usually handled by different executing agencies of the government, each with its own ability to comply with the legal and institutional framework, performance history and operational procurement capacity, and exposure to fiduciary risks. Given the importance of the capacity, quality, and experience of executing agencies to a successful outcome, it is necessary to go beyond the country-level assessment to assess the sector and the project-level executing agency, focusing on outcomes and performance. Thus Stage III has a twofold objective: (a) to assess the executing agency's compliance with the country's legal and institutional framework, and its past performance and overall ability to carry out procurement processes in a diligent, effective, and efficient manner; and (b) to evaluate its overall capacity, as well as to assess the fiduciary risks of pilot projects it would implement. This is in effect the core work of the Bank's procurement staff on the ground—the basic procurement work they carry out for every project the Bank finances. Following this due diligence, a key result for each sector/project that is retained in the pilot program would be the identification of indicators to measure and track performance and risks throughout the pilot project life cycle. The approach to conduct this assessment process at the executing agency level is described below, and its details are included in Annex D.

1. Compliance and Performance Assessment

31. A good country procurement system must be able to demonstrate that implementation practices are in compliance with requirements. This requires collecting and analyzing data. Executing agencies in countries that have moved toward the use of electronic government procurement platforms would be in a better position to generate reliable performance data from information automatically generated by the system. Otherwise, executing agencies of pilot projects would be required to develop specific procedures to collect information from transaction records and generate performance data. The performance information would enable setting initial baselines and monitoring performance to ensure that it does not degrade over time, and would help show where the

executing agency needs work to improve compliance and performance. It would also provide Bank staff with a guide to conducting post-reviews.

32. ***Agency Compliance with Legal Obligations.*** The Bank would review the executing agency's records, implementation practices, and initiatives that are being implemented, and would interview members of the business community, to assess the executing agency's track record in complying with its own legal procurement obligations. The Bank would in particular review conditions related to the time allocated to prepare bids and to the extension of the bid validity against the requirements set out in Section II of the Guidelines (respectively in paras. 2.43 and 2.57), and would also examine specific conditions included in the Bank's SBDs (time allowed for the advertisement of opportunities, for bid preparation, and for bid evaluation and award; reliance on less competitive methods; and the respect of stated criteria in awarding contracts).

33. ***Performance.*** To assess the executing agency's effectiveness and efficiency in carrying out the procurement process, the Bank would look at indicators related to the bidding process and to contract management capacity and oversight. The Bank would in particular review conditions related to the time to resolve complaints and to make interim and final contract payments. In addition, outputs would be reviewed as follows: (a) final cost of contracts (vis-à-vis cost estimates, which would have to be recorded and tracked by the executing agency, with flags for cases where the final contract price is 15 percent higher or more than the original contract price) and comparison with the prices of similar contracts managed by other executing agencies; (b) contract schedules (vis-à-vis contract duration estimates, which would have to be recorded and tracked by the executing agency), and contract amendments; and (c) compliance with specifications (ex-post technical review). Finally, the Bank will monitor the participation of foreign bidders in the pilot projects, analyzing the circumstances under which such participation took place and assessing whether it has decreased in the sectors of the pilot projects as compared to what happened, or still happens, in the same sectors for Bank-financed projects falling under Bank procurement guidelines.

34. ***Monitoring.*** The compliance and performance assessment (see details in Annex D) would serve to assess past performance and establish a baseline to be monitored during project implementation. A template for recording and tracking all of these aspects would be prepared during project preparation and approved at project negotiations. Throughout project implementation annual post-completion inspection and audits would be conducted, the terms of reference of which would include specific provisions to review all sets of indicators.

2. Capacity and Fiduciary Risks Assessment

35. ***Capacity.*** The Bank would continue to rely on the capacity assessment of the executing agency—which is required for all projects—focusing in particular on coordination of contractor activities; provision of guidance to personnel; response to contractors' technical, legal, or administrative inquiries; interpretation of contractual language and compliance with contract requirements; resolution of technical issues or ambiguities in bidding specifications; quality assurance such as interim and final

inspections; review of certificates and invoices; resolution of contractual disputes; and bookkeeping capacity. It would also look for the availability of a cadre of experienced personnel of demonstrable personal and institutional integrity, receiving appropriate incentives. To be further considered for the piloting program, the executing agency would be required to quickly address any personnel and administrative inadequacies.

36. ***Fiduciary Risks.*** To identify fiduciary risks more comprehensively, the Bank would⁹ use a new project-level dynamic risk management tool—a web-based application that would identify the risk profile of each pilot project based on the country, portfolio and project characteristics, the overall procurement risk rating of the pilot project, and a list of key procurement risks, define risk mitigation measures, and track key risk factors (and the effectiveness of the mitigation measures) throughout the life of the project. The initial baseline risk assessment would be updated throughout the life of each project based on supervision and post-review findings and Implementation Status and Results (ISR) Reports. Staff would conduct enhanced ex-post supervision throughout project implementation relying on a new web-based template that will incorporate risk ratings. Risk factors would be grouped into two categories: inherent risks and control risks. *Inherent* risks are intrinsic to the business activity or enterprise, irrespective of the effects of any controls, and relate primarily to the overall procurement capacity of the borrower country, to other conditions in the country that affect the conduct of business, or to the nature of the project design itself. *Control* risks relate to inherent limitations of *any* control structure, because an entity's internal control structure, policies, or procedures will not prevent or detect on a timely basis every undesirable procurement outcome.

D. Additional Considerations

37. Beyond the three-stage assessment of quality and performance, a number of other considerations would apply to countries and projects in the piloting program.

1. Complex and Non-standardized Procurement

38. While a number of countries have adequate procedures and sample bidding documents for routine and small-value procurement, many rely on and value the Bank's procedures and SBDs for complex and non-standardized procurement. The Bank would look carefully at country policies and specific procedures with regard to the handling of complex, high-value, and non-standardized bidding processes that would potentially attract the participation of foreign bidders. It is expected that a number of countries selected to participate in the piloting program have overall capacity and experience in handling complex and non-standardized bids. In addition, it would be difficult to have different procurement policies and rules applying to the same pilot project, not least from a legal perspective, and there is a strong rationale that the UCS approach should be an integrated approach for each pilot project.

⁹ The Bank has traditionally relied on CPARs to provide a broad view of the overall procurement risk associated with the country, and on the capacity assessment of executing agencies to identify specific project risks

39. In contrast, complex projects would be excluded from selection for the piloting program. These would be projects such as (i) those that are to be executed by several executing agencies, are multi-sector and/or cover multiple programs; (ii) projects in which there is a preponderance of complex procurement, such as dams, IT projects, or large PPP operations; or (iii) those in which the borrower prefers to rely on Bank technical advice and oversight for complex and non-standardized procurement, and therefore, on its procurement policies, procedures and SBDs.

2. Consulting Services

40. The Bank has learned that most countries (a) have not developed policies and procedures for selection of consultants distinct from those that govern the procurement for goods and works, and/or (b) do not differentiate between consulting services, which are of an intellectual or advisory nature, and services of a nonintellectual nature in which the physical aspects of the activity predominate. Even countries whose procurement rules recognize the specificity of consulting services often have policies and procedures that differ significantly from those set out in the Bank's Consultant Guidelines. Thus, the Bank does not intend in general at this point to rely on country systems for the selection of consultants in pilot countries and projects.¹⁰

41. ***Introduction of Procedures for Lower Value Consulting Contracts:*** While generalized use of country systems for selection of consultants does not seem feasible at this time, nevertheless it is the case that there are many contracts for which only local firms are interested, and no international firms will participate. It is thus proposed to introduce a process akin to a form of NCB for consultants' selection, which is not currently available as a method under the Consultant Guidelines. This approach would have a limited scope as the country would mostly continue to rely on Bank selection methods for the majority of consulting assignments, and in particular those of significant importance to foreign firms, (inter alia complex assignments, technical assistance, conceptual and design services), while services of low value and simple scope of work that are usually provided by local firms or individual consultants could be handled through national procedures. This would build on the existing policy, under which, below a certain financial ceiling, countries may limit the shortlist of consultants to national or local companies. Consequently, the Bank proposes to handle the selection of consultants in the following manner:

¹⁰ The Bank's conclusion that the range of country systems for selection of consultants is too wide for reasonable piloting found wide acceptance. Many respondents suggested that the Bank should lead an effort to explore the scope for reaching a wider international consensus on approaches to this area of procurement. This was in sharp contrast to procurement of goods and works, in which there was widespread consensus on sound international practices.

- (a) For consulting services that exceed the ceiling¹¹ for establishing shortlists of consultants comprising national firms only, the Bank's Selection and Employment of Consultant Guidelines would apply.¹²
- (b) For consulting services that fall below the stated ceiling, the country may use national procedures if they exist and after they have been assessed and deemed acceptable to the Bank.¹³ This would follow a simple assessment, based on the review of laws, regulations and methods applying to consulting services, the review of the relevant sub-indicators of the OCED/DAC benchmarking tool, and the broad consistency with the principles of the Bank Selection and Employment of Consultants Guidelines.

42. In addition, the procurement plan review process would identify any contracts for which international attention would be likely or desirable even for contracts whose cost estimates would be below the ceiling—for example, in niche skills areas, when no local capacity is known to exist, or when quality issues are paramount. This would in particular include the independent third party audits. In such cases, the Bank's procedures would apply. Similarly, some contracts whose cost estimates would be above the ceiling but with a simple or standard scope of services could be considered not to be of international interest and would be identified in the procurement plan as subject to the national procedures. This would allow the necessary flexibility that a fixed ceiling does not provide. The procurement plan, which would be published both on the relevant national website and on the Bank's website for the piloting program, would specify the proposed treatment of all consulting contracts, and objections to such proposals would be accepted in advance of any steps in the procurement process.

3. Advertising and Information Requirements

43. The Bank would require that, for every pilot project, a procurement plan be prepared, published, and regularly updated to enable it to monitor the implementation of the project in accordance with the legal agreements. The Bank would work with the executing agencies of the pilot project to ensure quality procurement plans.

44. ***Support to Electronic Government Procurement.*** During the past few years, CPARs have reviewed the country's use of electronic government procurement (eGP) to support project implementation and provide for more efficient and transparent procurement. The Bank participated in developing an eGP readiness assessment tool to provide the benefit of best practice to countries interested in implementing eGP. Even in countries not ready for eGP, the Bank has supported the use of technology, such as

¹¹ This ceiling, which is specific to each country, is set and regularly updated by the RPM on the basis of the CPAR and information about the local consulting industry market. The ceiling would be reviewed for each pilot project.

¹² Typically, those using Quality- and Cost-Based Selection (QCBS) or a method set forth in Section III of the Consultant Guidelines other than (a) Consultants' Qualifications (CQS) or (b) Single-Source Selection (SSS) for small assignments.

¹³ This would also usually include those that would fall under the following methods: (a) Consultants' Qualifications (CQS), (b) Single-Source Selection (SSS) for small assignments, and (c) individual consultants.

dedicated websites, to improve access to information on the policies governing procurement systems, procurement opportunities, and award of contracts. The piloting program would further support this area, which can have a long-term beneficial effect on procurement in the country, through assistance in developing e-procurement platforms and e-bidding functionality, in particular for off-the-shelf goods and framework contracts.

45. ***Requirements for Executing Agencies.*** The executing agency for each pilot project would be required to have (a) a functioning electronic system for retaining information on its procurement processes and managing invoices and certificates payments; and (b) a fully functional website that is freely accessible to all stakeholders, including bidders and civil society, for posting information regarding its organization, procurement regulations, SBDs, procurement opportunities, and the award of contracts (consistent with para. 2.60 of the Guidelines), as well as procurement plans. (Procurement plans would also be posted on the Bank website about the piloting program.) The executing agency would also be required to comply with the Bank's requirements relating to notification and advertising, and thus to publish (a) a General Procurement Notice on UN Development Business online; and (b) Specific Procurement Notices for contracts identified in the procurement plan as likely to attract foreign competition (above the current ICB threshold for the country) on both UN Development Business online and on an electronic free access portal. The Bank would monitor respect of the publication time requirements, and would facilitate access to procurement information for the pilot projects by identifying and providing links to the country and executing agency information sources.

4. Governance and Anticorruption

46. The Bank and the other MDBs have recently adopted new and expanded fraud and corruption language and provisions. The Bank's legal agreements—including those for pilot projects—include the definitions of fraud and corruption set forth in the Procurement and Consultant Guidelines. The Guidelines on Preventing and Combating Fraud and Corruption in Projects Financed by IBRD Loans and IDA Credits and Grants (Anticorruption Guidelines) that were approved as part of the Sanctions Reform package in June 2006 would also apply to all pilot projects and would be included by reference in all legal agreements. The Bank would also retain its role in the handling of complaints in line with the provisions of Appendix 3 of the Guidelines. It will, however, enhance its attention in this regard, relying on new improvements in the procedures to maintain the computerized complaints database that have just been approved by the Procurement Sector Board (PSB), and identifying particular issues that could have arisen in both the annual procurement report and the report to the Board on the implementation of the piloting program.

47. ***GAC Strategy.*** The Bank has recently defined a GAC strategy and prepared an implementation plan for it. Both the strategy and the implementation plan support increased reliance on country systems: indeed, it is one of the key pillars of the strategy. No country would be considered for the piloting program if it does not have an acceptable governance environment (as assessed in Stage I, in particular with regard to indicators 8, 10 and 12 of the OECD/DAC benchmarking tool). The procurement-related

recommendations of the GAC Implementation Plan would be incorporated into the pilot projects as follows:

- (a) Include capacity and institution building for country systems in procurement;
- (b) Address governance and corruption risk to development effectiveness throughout project preparation and implementation through such means as systematic analysis of corruption risk in project preparation; “smart project design”; enhanced information disclosure; stronger supervision, including review of GAC-related aspects of each operation; more systematic pursuit of remedies; and as appropriate, development of project-specific anticorruption plans;
- (c) Review GAC-related aspects: each Implementation Status and Results report (ISR) would explicitly report on progress in implementing project-related measures to improve governance and mitigate corruption; and
- (d) Establish a track record of establishing and enforcing standards of conduct, conflict of interest, and ethics.

5. Safeguards and Socially Responsible Procurement

48. The Bank’s environmental and social safeguards policies would still apply to all pilot projects. In addition, the Bank has included two of the core labor standards (CLSs) – those related to forced/compulsory labor and child labor -- in the general conditions of its standard bidding documents and contract forms for civil works. In addition, the Bank has included the two other CLSs (Worker’s Organizations and Non-Discrimination and Equal Opportunity) in the Particular Conditions of Contract (PC) of its SBD for Works, but these are not mandatory. The Bank would therefore propose to maintain the same policy in the piloting program: the first two CLSs would be mandatory, and the second two CLSs would be encouraged.

6. Independent Procurement Audits

49. Each legal agreement would contain, in addition to the current requirements to audit accounts, a requirement for pilot projects to include a specific procurement audit conducted by a qualified third party, and to be financed under the project. The audit would serve many functions, one of which would be to add to the lessons learned from the piloting program. The terms of reference would include specific requirements to review all performance and output indicators and conduct technical reviews. The audits would supplement post review, which would continue to be a key procurement contribution to project support and supervision. The Bank would as indicated above conduct enhanced ex-post supervision, including annual inspection as may be needed, throughout project implementation relying on a new web-based template incorporating risk ratings and post-review reports as attachments. The Financial Management Board and the Procurement Sector Board would propose joint annual audits in a few selected sectors under the piloting program.

7. *Additional Remedies*

50. In the legal agreement, the borrower would undertake to inform the Bank of any developments in relevant legislation, regulations, rules, or procedures. The legal agreement would provide that if, during project implementation, there were changes in applicable legislation, regulations, rules, or procedures—that is, changes in the borrower’s agreed legal framework for UCS, or changes in the capacity of the borrower’s implementing agencies—Bank staff would assess the effect of those changes and discuss them with the borrower; and if the country system (legal framework or capacity of implementing agencies) were changed in a manner inconsistent with the framework agreed with the Bank, the Bank’s contractual remedies would apply. As an alternative to exercising these remedies, the Bank and the borrower could agree under these circumstances to revert to the standard Bank procurement methods.

8. *Complaints Process*

51. OPCPR oversees the handling of complaints and queries from bidders and the offices of the Executive Directors, and provides debriefings for bidders who request information on why their bids were not successful. The full extent of the guidelines (Appendix 3) in this regard would apply to the UCS piloting program by reference in the legal agreements of the pilot projects. The procedures embedded in Appendix 3 are very precise as to the process that firms can follow to see their concerns addressed. The standard treatment of complaints would therefore apply to any pilot project.¹⁴

IV. IMPLEMENTATION OF THE PILOTING PROGRAM AND NEXT STEPS

52. The proposed pilot program would entail new or enhanced roles for Bank staff and expanded responsibilities for oversight bodies. Annex E provides a comparative analysis of “what we do now” with regard to control and oversight of the procurement in projects as compared to “what we would do differently” with regard to using country procurement systems.

53. ***Roles and Responsibilities.*** Some of the key role and responsibilities of management and staff in support of the three stages of this methodology are as follows:

- ***Country director and management team.*** The country director and the management team would play critical roles throughout the pilot process: they would make the initial nomination to include their country in the pool of

¹⁴ Upon the receipt of a written complaint, the procurement specialist who is responsible for the project will work with the task team leader (TTL) to review the complaint and forward the complaint correspondence to the concerned pilot project executing agency for its due attention. A notice of acknowledgement of receipt of the complaint and the request for the Borrower’s follow-up is sent to the complainant by the TTL. Bank staff thereafter follow-up, update the resolution status during the process, and only close the case when a final resolution has been reached. All complaint cases are filed in an electronic Complaint System for internal tracking and monitoring purposes. New features have recently been brought to the system, including inter alia enhanced data entries to cover all possible scenarios and resolutions mapping, as well as an INT functionality to handle fraud and corruption cases. OPCPR issued guidance to staff on internal review process and procedures.

candidate countries, and would select from the CAS the potential pilot sectors and projects within the country. Through their continuing dialogue, they would make country counterparts aware of the opportunities and responsibilities that will be part of the pilot program. They would work closely with other donors in the country to focus capacity-development activities, monitor pilots, share lessons, and identify and mitigate any effect the pilots may have on ongoing programs in the country.

- ***Country counterparts.*** Only countries that express an interest would be designated for inclusion in the pool of candidate countries. Each country would need to evaluate the benefits and the potential costs of participation, and to realistically assess whether it has the system and the capacity to participate in the pilots. Although some interested countries would not be selected, they would still benefit from participation through increased coordination of capacity-development activities to address issues noted during the assessment and selection stage.
- ***Regional Procurement Managers.*** The RPMs and the regional management team would need to support each stage of the process. They would support the collection and analysis of key diagnostic information for countries nominated in their Region. They would coordinate with the Regional financial management manager and PREM colleagues to assess the status of the PFM and governance systems in the country. They would advise on project selection and draw on their experiences in the country to provide information on implementing agency performance. RPMs would ensure that well-qualified procurement staff were assigned to each selected pilot. Through their collective participation on the Procurement Sector Board (PSB), RPMs would play a role in advising and supporting the piloting process and supporting their counterparts in other Regions in implementing the various stages of the piloting process.
- ***Procurement Sector Board.*** The PSB would provide important advisory support to the process, including making decisions as a group, analyzing lessons learned, and helping to mitigate issues that may arise during the implementation of the pilots. The PSB would provide a key support function to ensure that the methodology is being implemented as intended.
- ***Operations Procurement Review Committee.*** The Operations Procurement Review Committee (OPRC) would make final decisions on the selection of the countries and pilot projects. They would be asked to consider each country and the sectors nominated for inclusion in a manner similar to the way they address specific procurement cases, by reviewing the facts of the case and ensuring that the recommendations are supported and justified, and that the defined process has been followed.

54. ***Staff Incentives.*** In the earlier safeguards pilots, staff incentives to carry out work of this type, and to propose pilots were not clear. In this case, three clear incentives

are present and expected to be more than sufficient. First, if the proposal is approved, there would be strong management signals of support, and, indeed, senior managers have already indicated their very strong support for the proposal. Second, as noted below, resources would be made available to support the preparation of the pilots. Finally, this pilot responds to the demands of many clients, so the existence of an authorizing environment will encourage staff to respond to these demands.

55. ***Policy Framework.*** It is the Bank's Procurement Guidelines which provide the policy framework for procurement activities under Bank-financed operations, and which provide key aspects of the enabling environment such as the Anti-Corruption Guidelines, remedies and complaints mechanisms. To ensure that the Bank can take this new approach to procurement under Bank-sponsored operations without relinquishing its fiduciary obligations, it is proposed that UCS would be incorporated into the Bank's Procurement and Consultant Guidelines, but would be limited to the pilot countries and for an initial period of two years until the major review at the end of the second year of the proposed pilot, and all procurement outside the selected pilot operations would be excluded from UCS, as described in this document.. If the proposed pilot program is approved, LEG and OPCS would prepare the required policy framework. The proposed amendments to the Guidelines, along with other updates to the Guidelines that have been identified as being required for other purposes, would be submitted to the Board for approval in the coming months. A revised OP/BP 11.00 would be submitted for information at the same time.

56. ***Roll-out Strategy.*** It is premature to have a fully defined roll-out strategy for the use of country systems. The Bank would develop a strategy for mainstreaming the approach only after rigorously assessing experience with the pilots, taking into account the results of multistakeholder monitoring, conducting detailed reviews, and holding broad-based consultations on issues encountered and potential solutions. A rapid mainstreaming of the approach is not envisaged, as the ongoing pilot program for the use of country environmental and social safeguards has shown that understanding and analyzing the information from pilot projects takes time. However, some evaluation criteria have already been determined for monitoring the impact of the piloting program:

- Cost to both the borrower and the Bank;
- Effect on harmonization at the country level;
- Effect on efficient and effective project implementation;
- Effect of capacity development on the country's institutions and on development effectiveness; and
- Changes in the pattern of trade and of international participation in procurement in the pilot country.

57. ***Reporting.*** To keep Bank staff, the Board, and stakeholders fully informed about the piloting program, reporting would include the following:

- (a) The assessment and equivalence report on any proposed pilot country, once approved by the OPRC, would be sent to the Board for information and simultaneously posted on the Bank's website.¹⁵
- (b) Many international stakeholders have expressed a desire to maintain a role in this process. Therefore, the Bank would develop a system for alerts to inform all interested stakeholders when such reports are posted on the Bank's website. There would be a period after such postings to allow for comments.
- (c) An annual report on progress with the piloting program would be submitted to the Board for information and posted on the websites. For the second annual report, Management would schedule a Board discussion to review any necessary changes in the piloting program and determine next steps (as was recently done for the safeguards pilot).

58. ***International Technical Advisory Group:*** The independent international panel of experts that advised on this proposal was found to be a very useful source of advice. Its members' reports have been published. The Bank would therefore propose to create an International Technical Advisory Group which would include about 12 members representing industry, professional associations, civil society organizations, and development partners and/or international organizations. While most of its interventions would be virtual, the group would be assembled 1-2 times a year for meetings, including to discuss the draft annual progress report. Members of the Technical Advisory Group would receive alerts to intervene in a timely manner on the following items:

- (i) provide comments on the Procurement Country Systems assessments that will be posted on the Bank external dedicated website;
- (ii) advise on the countries/sectors/projects that would be appropriate for inclusion in the piloting program;
- (iii) provide comments on the performance/compliance assessments of executing agencies that will be used to set baseline data --the Advisory Group could advise on appropriate benchmarks for performance and compliance on a country basis;
- (iv) alert the Bank on any rescinding by participating countries of laws, regulations, procedures and procurement methods that were assessed to meet the standards set in the methodology;
- (v) help monitor the performance of pilot projects and raise concerns when they assess that performance standards are not being maintained at the agreed level;

¹⁵ Only reports on the countries selected for the piloting program would be posted; reports on rejected countries or pilots would be sent only to the government concerned.

(vi) provide advice on measures and opportunities for capacity building in this context, including for countries which have not qualified for the pilot; and

(vii) comment on annual progress reports on the piloting.

59. **Indicative Timing.** The implementation of the methodology would have some time implications that would affect each stage of the process. We can only estimate the time, as the actual impact would be country- and project-specific. For Stages I and II, which would include the collection and analysis of information and the assessment of the procurement system and environment in the country, up to 4 weeks may be required; and Stage III, which would involve the equivalence and enhanced project assessments, may require 6-8 weeks. During the actual implementation of the project, we anticipate no additional time requirements.

60. **Costs.** Although it is clear that implementing the pilot methodology would entail costs related to identification, assessment, and implementation, the actual amount would be highly dependent on the countries. Many countries have undergone recent and comprehensive diagnostics, including application of the PEFA assessment of the PFM system and the OECD/DAC benchmarking of the procurement system; and for these countries, the cost implications of inclusion in the piloting program would be reduced. For sectors and projects in which the Bank has experience with the prospective implementing agencies, the cost of implementing the methodology will also be reduced. A realistic estimate of the additional cost varies from \$100,000 to \$150,000 per country. This is consistent with the lessons learned from the ongoing environmental safeguard pilots. Management has made special provisions to address these costs in the FY09 budget if the proposal is approved.

V. RECOMMENDATION

61. In line with the request of the Executive Directors of June 19, 2007, this report and its annexes have set out a proposed methodology for the proposed pilot program, which has been subject to a very rigorous process of international consultation. Based on this paper, it is recommended that the Executive Directors approve the following:

- (a) A change in the Bank's policy to introduce the use of country systems under the Procurement and Consultant Guidelines.
- (b) The methodology set out in this paper, which has the following salient features:
 - an assessment of the quality of country procurement systems, using the Bank's knowledge gained through public finance management assessments, Country Procurement Assessment Reviews, procurement reform programs, and the application of the OECD/DAC Procurement Benchmarking Tool;

- a detailed examination of the equivalence and consistency of a country's procurement policies with the principles of the Bank's procurement policies as stipulated in its procurement guidelines;
 - a review of compliance with country policies and procedures, and of the past performance and overall capacity of the government agencies that would be responsible for the proposed projects to be covered by country pilots;
 - an assessment of fiduciary risks of pilot projects;
 - launching of a process of limited national competitive bidding for the selection of consultants in the pilot countries;
 - incorporating a strong program of gap-filling analysis and capacity building in procurement; and
 - maintenance of a regular reporting framework, an international advisory panel, and a transparent mechanism for the continued participation of stakeholders during the pilot program.
- (c) A pilot program, which is intended to include an initial 8-10 countries, with a range of country types and incomes, and at least one in each Region, selected using this methodology.

62. **Implementation Steps.** Management will prepare for Board approval the necessary revisions to the Procurement and Consultant Guidelines and at the same time submit the revised OP/BP 11.00 for information. Management will inform the Board as each pilot program is approved and will provide annual progress reporting and conduct a review after two years' experience.

ANNEXES

ANNEX A: PUBLIC CONSULTATION

I Complete listing of the consultations conducted

The World Bank has conducted a wide range of consultations on the proposed methodology with government officials, private sector stakeholders, recognized professional associations, and civil society organizations from 78 countries, as well as multilateral development partners, as detailed below. The consultations took place from September 17, 2007, to January 11, 2008.

Regional Consultations (with location)

Europe

Denmark, Norway, Finland, and Sweden (Copenhagen)
 France (Paris)
 Germany (Berlin)
 Italy (Rome)
 Netherlands (Amsterdam)
 Turkey, Macedonia, and Albania (Ankara); 2 meetings
 United Kingdom (London)

North America

Canada (Ottawa); 2 meetings
 United States (Chicago)
 United States (Los Angeles)
 United States (New York)
 United States (Washington, D.C.); 3 meetings

Africa and the Middle East

Ghana, Nigeria, Gambia, and Sierra Leone (from Accra)
 Kenya, Malawi, Zambia, Ethiopia, Rwanda, Mozambique, and Lesotho (from Nairobi)
 Kenya, Uganda, Tanzania, and Sudan (from Nairobi)
 Morocco, Algeria (from Rabat); 2 meetings
 Senegal, Benin, Burkina Faso, Mali, Niger, Guinea-Bissau, and Cape Verde (from Dakar)
 Senegal, Democratic Republic of Congo, Republic of Congo, Republic of Central Africa and Cameroon (from Dakar)
 Senegal, Mauritania, Cote d'Ivoire, and Guinea (from Dakar)
 Senegal, Togo, Burundi, Madagascar and Comoros (from Dakar)

Latin America

Argentina, Uruguay, Chile, Paraguay, Peru, Bolivia, Ecuador and the Inter-American Development Bank (in Buenos Aires); 2 meetings

Brazil (Brasilia); 2 meetings

Mexico, Panama, Costa Rica, Nicaragua, Honduras, Guatemala, El Salvador Colombia and Venezuela (Mexico City); 2 meetings

Asia

Bangladesh, and Sri Lanka (from New Delhi)

Japan (Tokyo)

Philippines, Vietnam, LAO, Thailand, Mongolia, China, Cambodia (from Manila)

Australia

Australia (Sydney)

Australia, Papua New Guinea, Timor Leste (from Sydney)

Global Consultations (with location)

Asian Development Bank (Manila)

Business Industry Advisory Committee of the OECD/DAC (BIAC); on OECD/DAC tool only (Copenhagen)

Confederation of International Contractors Associations (CICA) (Paris)

Fédération Internationale des Ingénieurs Conseil (FIDIC) (Paris)

Multi-lateral Development Banks; Heads of Procurement Group meeting (Tunis)

OECD/DAC Procurement Joint Venture; Paris Declaration partner countries and donors; (Copenhagen)

II Summary of consultations

The following is a comprehensive summary of the many comments received during the consultations. It provides a breakdown of the source of the comment and a brief indication as to how the comment was addressed in the revised approach and methodology. The format follows the one used during consultations, and all comments have been regrouped under the same six headings. Full summaries of the consultations are posted online on the World Bank's website.¹

Issue 1: The World Bank has proposed a detailed methodology for a procurement country system piloting program in 8-10 countries. What remaining questions need to be addressed or clarified about this program?

Comment summary		Source	Treatment in the revised methodology
Should reflect WTO and UNCITRAL good practice	1	Private sector (PS)	The principles of WTO and UNCITRAL good practice are embedded in both the CPAR instructions and the OECD/DAC benchmarking tool that will be used in assessing the quality of the country system.
Should require the use of the harmonized SBDs	1	PS	The Bank intends to ensure the quality of the bidding documents to be used when international competition is anticipated using the procedure described in the "consistency and equivalence" assessment process, i.e. reviewing bidding documents to be used for pilot projects against key provisions of the Guidelines and a checklist based on cross-harmonized provisions of the harmonized Master Procurement Documents (MPDs). The option to use Bank SBDs at the borrower request remains. The Bank will monitor the use of agreed SBDs as one element of performance monitoring.
Adapting to the systems of many different countries complicates doing business under Bank supported projects	1	PS	The Bank will seek to reduce potential differences by ensuring that all pilot countries adhere to generally-accepted international practices, and use bidding documents of quality which will be cleared by the Bank after review and incorporation of all key clauses/provisions as per the above-captioned procedure.
Many procedures and conditions of Bank standard bidding documents (SBDs) and resulting contracts could be lost under use of country systems.	1	PS	The Bank intends to closely review the bidding documents and procedures to be used in the pilot projects, and conduct a consistency and equivalence assessment to help ensure fair procedures, market access, F&C coverage and fair conditions of contract. Annex C covers equivalence and includes a checklist against which to clear bidding documents when international competition is anticipated.

¹ <http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/PROCUREMENT>

<p>Use of country systems will reduce international competition and make it difficult for external firms to win contracts, especially SMEs. Concern about maintaining unbiased and fair competition under Bank-financed projects without a convincing record of good governance.</p>	1	PS	<p>The Bank would only accept systems which do not discriminate against non-national firms, and closely monitor compliance in this regard, using the procurement plan (PP) to ensure that bidding procedures are fair and ensure open access to both national and foreign firms.</p> <p>The assessment of country procurement systems relies on a significant number of sub-indicators that relate to governance issues (dispute resolution, complaints mechanisms, fraud and corruption, and ethics). In addition, the Bank would enhance its oversight through additional mechanisms (e.g. independent audits, tracking and monitoring indicators, enhanced post-reviews...) and retain the right to apply remedies as well as its role in handling complaints.</p> <p>All large contracts (ICB-equivalent) would be advertised on UNDB online, and PPs would be posted on the Bank and executing agency websites.</p> <p>Some complex, high-value and non-standardized procurement processes may use Bank SBDs at the country's request.</p> <p>Most consulting assignments above specified ceilings to be determined at the country level will still be subject to the Bank Selection and Employment of Consultants Guidelines and the standard RFP.</p>
<p>Social and environmental conditions seem to be lost.</p>	1	PS	<p>The Bank environmental safeguards policy would apply to all pilot projects.</p> <p>The Bank will require the use of two CLS (child labor, forced labor) in the general conditions of contract for civil works contracts under pilot projects. It will continue to encourage the use of the other two CLSs (workers organizations and non-discrimination/equal opportunity) but will not make these mandatory.</p>
<p>Bank should concentrate on harmonization with other donors on a set of documents and procedures for use in the countries.</p>	1	PS	<p>The Bank will continue to promote harmonization within the framework of both the Multilateral Development Banks (MDBs) -- Heads of Procurement (HoP) Group, and the OECD/DAC follow-up to the Paris declaration on Aid Effectiveness --Joint Venture on Procurement.</p> <p>Donors (including MDBs) have agreed to harmonize around country systems, and the OECD/DAC benchmarking tool is based on generally-accepted international practices.</p> <p>The Bank will rely on harmonized MPDs for ensuring acceptability of bidding documents to be used under pilot projects.</p>

How will the Bank deal with small and medium-size firms (SMEs) which find the new proposal difficult and are concerned with access to Bank-financed contracts.	1	PS	<p>The Bank's procurement policies currently do not distinguish on the basis of the size of companies (except in terms of qualifications) in the sense that its policies are based on broad eligibility and access for all firms, which will continue to apply.</p> <p>The Bank will facilitate access to information on procurement opportunities through advertising and publication requirements for pilot projects (UNDB, website of the executing agencies, PP posted).</p> <p>Many SMEs from all countries participate in contracts for civil works, goods supply and services (in particular under NCB) as well as for consulting services that will still largely rely on Bank Consultants Guidelines and selection methods.</p>
Will capacity development be ex ante or ex post?	1	PS	<p>Capacity development work would take place in countries continuously regardless of their status as pilot countries. Those countries which would not meet the criteria to participate in the piloting program would benefit from capacity development action plans to be targeted to address areas of weakness and gaps identified in the various assessments the Bank will conduct.</p>
Should make clearer in the Use of Country Systems (UCS) approach paper how long the piloting program will continue.	1	PS	<p>The revised paper has clarified both the assessment process and the various stages it will follow, the implementation phase focusing at first on a selection of 8 to 10 countries and then rolling out depending on lessons learnt and in any case only after further Board review.</p>
Many concerns were raised with regard to F&C, Bank standards, harmonization, cost implications, oversight and control, and capacity development.	1	Private Sector Assoc. (PSA)	<p>The Bank has taken all of these concerns into consideration in the revised document (see above comments for detailed responses to specific issues).</p> <p>Bank F&C and right to audit policy provisions have been retained, and oversight and control procedures overhauled through the adoption of new performance and risks evaluation tools as well as tracking and monitoring measures.</p>
Questions regarding the Bank's capacity to implement.	1	PSA	<p>The Bank adopted a prudent piloting approach, limiting the number of pilot countries and projects to maintain consistency with its implementation capacity, both at the assessment and implementation phases of the piloting program.</p>

MDBs express concern that the Bank is moving ahead without sufficient consultations and setting a path that they will have to follow.	1	Donors (D)	<p>The Bank shared the proposed methodology with MDBs early on and discussed its main features at the last HoP Group meeting in October 2007.</p> <p>The Bank is proposing a piloting program allowing donor partners to participate in country level assessments, and to fully coordinate with all donors in sharing results and lessons learned.</p> <p>The methodology is based on a country-level assessment process that relies on internationally-accepted tools (OECD/DAC benchmarking tool, fiduciary diagnostics --CPARs, CFARs-- that are as a standard carried out jointly with the concerned MDB) and on assessments of equivalence with the Bank procurement policy that has already been harmonized with those of the other MDBs (their procurement guidelines are very similar, if not identical).</p>
Some donors expressed concern that selecting a country as a pilot could have an impact on ongoing harmonization taking place at the country level.	1	D	<p>Harmonization at the country level is a key objective of the proposal, in line with the Paris declaration on Aid Effectiveness that has been signed by most donors.</p> <p>The country commitment and the Bank's country team support are essential elements in the selection of countries participating in the piloting program. This will provide incentives to coordinate with donors active in the country and to rely on activities already underway.</p> <p>The revised document recognizes that capacity development objectives can only be met with the full cooperation and coordination of active donors, in full coordination with partner countries.</p>
Harmonization at the country level remains a concern for the countries.	1	CC	<p>One of the most important objectives of increased reliance on country systems is capacity development at the country level to improve harmonization and coordination, and reduce transaction costs associated with the mandatory application of different fiduciary policies, to the benefit of the country.</p>
The number of pilots proposed is not large enough to learn significant lessons	1	Client Country (CC)	<p>The Bank intends to rely on an initial number of 8 to 10 countries but the number of pilot projects per participating country (once its systems have been deemed acceptable and equivalent to Bank policies) is flexible to strike the right balance. All projects meeting the criteria set for the selection of pilot projects would be included in the piloting program, which should ensure that both the Bank and its partners have the capacity to implement. The program will be closely monitored and rolled out depending on the first results.</p>

Will use of country systems be possible at the sub-national level?	1	CC	In principle, yes, in particular to account for the specificity of federal countries. It would, however, be difficult in practice under the initial implementation of the piloting program as it would require assessing many different systems in a given country.
Equivalence seems to require a country to conform to the WB guidelines rather than having the Bank accept country systems.	1	CC	The Bank has committed to its Board to maintain its standards for procurement, and that is what it must ensure. The consistency and equivalence assessment is to provide assurances that the key principles of the WB guidelines and policies are addressed by the procurement system of any participating country. The country system must, however, be consistent and equivalent with, not identical to, the Bank policies.
Some suggested that the selection be based on sectors rather than projects if meaningful lessons are to be drawn from this exercise. Others believed that the piloting program should either (i) include countries from each region; (ii) include both middle income countries and low income countries; and (iii) not only well performing countries.	1	CC	The Bank will initially select 8 to 10 countries. The current document commits the Bank to select at least one country per operational region and to ensure diversity in selected countries. To allow more countries to potentially participate, the revised methodology relies on (i) short-term gap-filling measures to quickly address minor deficiencies identified during the equivalence assessment before countries can enter the pool of participating countries; and (ii) action plans of corrective measures to remedy during project implementation minor weaknesses identified during the benchmarking assessment. The methodology also allows longer-term country-level development action plans to build capacity and facilitate necessary procurement reforms countries that would not be selected to participate in the piloting program, and hence provide incentives and potential to be reconsidered when weaknesses have been addressed.
How will the Bank deal with countries that are not selected as pilots but still want to be considered for the future?	1	CC	The Bank will continue to provide support for capacity development and procurement reforms, and will coordinate in this regard with other donors active in those countries.

Many countries wanted to see the Bank involve other donors in this exercise in line with the Paris Declaration on Aid Effectiveness. They wanted all donors to agree on the same set of standards. They pointed out that the use of country systems by the Bank alone does not eliminate the multiplicity of donors' procedures in a country which poses a major problem to most countries.	1	CC	<p>The Bank pointed out that this initiative is in line with the Paris Declaration on Aid Effectiveness. A key principle of UCS is for all donors to align around the system in the client country once it has been found to be acceptable. To this effect, the country-level assessment process is expected to associate other donors and/or be shared with them. All donors/aid agencies will, however, have to define their own risk tolerance at the sector/project level and rely on their own decision making process in this regard.</p> <p>Other donors will be invited to participate in or review the country systems assessment exercises, and to support coordinated capacity development initiatives and actions plans aimed at addressing weaknesses of procurement systems and strengthening them.</p>
How will E-procurement be evaluated and will it be an eliminating criterion?	1	CC	<p>The executing agencies of the pilot projects are expected to have at least functional websites that would be used to disseminate information on procurement opportunities and contract awards, procedures and bidding documents. They are also expected to put in place information systems that generate reliable data for measuring performance of the implementing agencies. The revised proposal has defined the requirements in this regard with more specificity as to what must be made available on-line.</p>
<p>General clarifications were sought on:</p> <p>(i) the duration of the piloting phase and the next steps;</p> <p>(ii) the capacity enhancement program that will accompany the exercise; and</p> <p>(iii) how the use of country systems fits in the overall reforms that the Bank and other donors are financing and other initiatives on anti-corruption etc. not mentioned in the methodology.</p>	1	CC	<p>The revised proposal is more explicit on these matters and explains in particular the implementation and roll-out of the piloting program.</p> <p>The Bank will continue to provide technical and financial assistance to countries committed to improving their national procurement systems.</p> <p>The Bank will also coordinate with other donors, at the country level, support to capacity development initiatives -- through dedicated technical assistance-- as well as to procurement reforms that may have been deemed necessary by the various assessments.</p> <p>The revised paper explains the links with the Governance and Anti-Corruption (GAC) implementation plan.</p>
How would/could the Bank declare mis-procurement?	1	CC	<p>The Legal Agreement of each pilot project will make applicable Section I of the guidelines that defines the remedies.</p>

Why will the Bank stop conducting prior reviews?	1	Civil Society (CSO)	<p>The extent of prior review is based on the Bank assessment of the fiduciary risks for a particular project, and usually applies to ICB contracts and a share of the contracts under NCB or other methods above a monetary level specified in the Legal Agreement. Given that the UCS approach is based on an assessment of low overall procurement risks for selected pilot projects --in a context of acceptable procurement systems meeting generally-accepted international benchmarks and deemed broadly equivalent and consistent with the Bank policies and procedures-- it would be counter-productive, and inconsistent with its key objectives, for the Bank to continue prior-reviewing contracts that would fall under country policies.</p> <p>The Bank will rely on post review which is part of its supervision responsibilities, and independent third party audits instead. Prior review will still apply for the selection of consultants above the ceilings set for use of national procedures.</p>
--	---	---------------------	--

Issue 2: The OECD/DAC benchmarking index provides for scoring of 54 sub-indicators on a 0-3 scale with a score of 3 representing best practice. 30 of 54 sub-indicators in the OECD/DAC tool have been identified as critical and require achieving the highest score of 3 for 22 of the sub-indicators or a score of 2 with an agreed action plan for 8 of the sub-indicators. Is this achievement level appropriate and if not, why?

Comment summary		Source	Treatment in the revised methodology
How can sub-indicators be non-critical?	2	Private Sector Assoc. (PSA)	<p>The designation of critical/non-critical was for purposes of the Bank's use of the OECD/DAC tool only. The terms critical/non-critical are no longer used as they were confusing.</p> <p>The new designation of core indicators relates to what the Bank perceives as essential elements of a country procurement system, in particular the legal and institutional framework; dispute resolution and complaints mechanisms; control and audit procedures; and ethics and anticorruption measures.</p> <p>All sub-indicators must meet minimum benchmarks on their own merit.</p>
Giving certain sub-indicators a higher priority than is currently proposed.	2	PSA	<p>Many comments related to this issue, although there was no consensus among the advocates of such more stringent requirements as to which should require a top rating. In addition, a majority of stakeholders expressed a contrary opinion.</p> <p>The Bank has looked closely at the full range of comments received and the rationale behind them when revising the methodology, in order to ensure a fair treatment of all countries and strike a balance between country-level and project-level requirements.</p>
Criteria such as compliance with international agreements in several key areas (anti corruption, environment, human rights, etc.) should be added and made mandatory requirements.	2	PSA	<p>The approach makes mandatory the compliance with the Bank fraud and corruption and environmental policies.</p> <p>It also includes additional anti-corruption measures and GAC action plans that go beyond what is currently required under standard projects. International agreements are not contemplated in Bank procurement policies and do not currently apply to Bank-financed projects, so that the signing of international agreements cannot be imposed by the Bank onto its borrowers.</p>

One group stated that the OECD/DAC tool indicators should be based on best international practice or a gold standard of best possible practice. Others stated that there is a lack of best international practice standards.	2	PSA	<p>The OECD/DAC benchmarking tool has been vetted and approved by a large group of donors and partner countries, and represents a unique set of generally-accepted international practices, and as such represents a certain consensus although some industry representatives have raised concerns with parts of the tool.</p> <p>Issues related to the tool are handled by the OECD/DAC JV for Procurement of which the Bank is only one member. The JV will eventually revise the tool and the sub-indicators based on lessons learnt. While the Bank's UCS methodology relies on the OECD/DAC tool to some extent (same sub-indicators but different rating mechanism), its assessment of country systems goes well beyond the information provided by the OECD/DAC tool. The proposal also focuses on pilot projects to ensure quality procurement under the UCS piloting program.</p>
There is concern that the OECD/DAC tool does not set minimum standards.	2	PSA	<p>While good procurement principles are generally shared, there are no generally-accepted international standards per se as most countries have different environments and legal frameworks, and procurement procedures may vary.</p> <p>The Bank has defined how the tool will contribute to its methodology, but will also rely on a specific review of country systems to assess their consistency and equivalence with its own standards as stipulated in the Bank procurement guidelines.</p>
The overall methodology sets a high "bar" that may not be attainable by many countries.	2	PSA	<p>The Bank has adopted a strict, yet flexible, approach at the country level, and has enhanced its requirements for compliance, performance, capacity and risk at the project level where procurement actually takes place, including inter alia through the mandatory application of risk mitigation measures and oversight procedures, as well as increased monitoring based on performance and compliance indicators.</p>

More sub-indicators should be designated as critical, especially with regard to transparency and F&C.	2	Private Sector (PS)	<p>The Bank received varying comments on this issue and has carefully considered them when revising the methodology. The majority of comments, however, were that the requirements, and in particular those relating to critical sub-indicators, were too stringent. The revised country level assessment based on the OECD/DAC benchmarking tool sub-indicators has been slightly revised to account for such comments, focusing on 4 categories of sub-indicators for which different ratings will be required, although all ratings should meet acceptable benchmarks.</p> <p>The Bank would make the F&C provisions of its procurement guidelines, as well as the new Anti-corruption guidelines, applicable to all pilot projects through Legal Agreements, and would make mandatory their inclusion in the bidding documents to be agreed and used under pilot projects.</p>
Too much emphasis placed on the OECD/DAC benchmarking tool with regard to quality.	2	PS	<p>The OECD/DAC tool is complementary to other analysis conducted as part of the assessment of country systems. The Bank will inter alia use all available information from CPARs and other diagnostics, as well as review the status of procurement reforms and CPAR action plans, to make a determination with regard to the acceptability of the country systems.</p> <p>Moreover, the primary use of the OECD/DAC benchmarking tool in the revised methodology is to screen out candidate countries at the onset of the assessment to be conducted at the country level rather than using it as the sole tool to determine whether country systems would be acceptable to the Bank.</p>
Concern expressed over "grade creep" to enable countries to be included in the pool of eligible countries.	2	Donor (D)	<p>The WB intends to conduct a careful vetting/validation of all assessments, and would rely on stringent internal review procedures involving the most senior procurement staff as well as outside expertise to do so. It will, in addition, largely consult at all stages with concerned stakeholders, and has proposed a very robust transparency and monitoring process for the piloting program.</p>
Some donors felt the methodology is complex and should be revised to take into account differing country conditions.	2	D	<p>This is a common concern raised and the Bank has adapted the current proposal in this regard. The revised country level assessment, in particular, has been revised to provide more flexibility for countries to remain in the pool of candidate countries, while more stringent requirements have been made at the pilot project level in terms of compliance with legal obligations and performance to complement the country-level assessments.</p>

Concern that the methodology does not provide for a flexible approach.	2	Client Country (CC)	The Bank has addressed this area based on the many comments received and has adopted a more flexible approach in consideration of the various strengths and weaknesses of the potential participating countries.
There is a need for more guidance on conducting the OECD/DAC assessment	2	CC	<p>The OECD/DAC Procurement JV has already engaged in preparing guidance for using the benchmarking tool, and the Bank participates in the process. More is forthcoming in the form of a sharing of experiences and good practices note currently under preparation by the JV.</p> <p>The Bank will, however, prepare a special guidance note to staff on how to conduct the assessment of UCS. This guidance will, in addition, go beyond how to use the OECD/DAC tool and rate sub-indicators, including inter alia guidance to equivalence assessments, and assessment of the executing agencies of pilot projects with regard to compliance with their legal obligations, past performance, overall capacity and procurement risks of the particular projects.</p>
Not many countries will be able to achieve the levels of standards set by the OECD/DAC benchmarking tool (number of critical sub-indicators and minimum score required are too high).	2	CC	<p>The Bank agreed that the requirements are high and has revised the methodology taking into consideration all comments received. While all sub-indicators would still need to meet a "3" or a "2" rating, only specific core indicators should be rated at the maximum possible score while all others should at least achieve a "2" rating. The methodology has been made more flexible in allowing for short-term gap-filling measures to achieve the minimum "2" or "3" ratings before countries can be considered for the pool of candidate countries, and for medium-term action plans of corrective measures to address minor issues during implementation of the pilot projects.</p>
Modification of the OECD/DAC tool to take into account suggestions for improvement based on their actual experiences. Some wanted the tool to include some country specificity.	2	CC	<p>The reliance on the tool is essential to harmonization among donors.</p> <p>The OECD/DAC tool will be revised at some point in the future based on experience and usage by the "Paris declaration on Aid Effectiveness" partner countries under the guidance of the JV for Procurement. The Bank will provide inputs in this exercise, including its own experience in countries participating in the Bank piloting program.</p> <p>The Bank may consider aligning with potential revisions of the sub-indicators of the OCD/DAC benchmarking tool once they have been internationally-validated during implementation of the piloting program to ensure continuing harmonization of country-level assessments.</p>

Some questioned the rationale for the additional equivalence test and wanted to know if the Bank was not de facto pushing country systems to align with its procedures, and the possibility for country procurement systems to achieve equivalence with Bank policies.	2	CC	The proposed methodology is solely for Bank-financed pilot projects and the test of equivalence and consistency with Bank policies is required to ensure that their guiding principles are satisfied. Equivalence does not mean that the policies/rules/procedures are the same, but that policies are consistent with those of the Bank, while procedures may differ if they are considered to achieve the same outcomes and are broadly consistent with those contemplated in the Bank Guidelines.
Some countries wanted to know if the Bank would require countries to adopt some of the specificity of Bank's ICB such as language, currency of bid payment, time for bidding, international advertising.	2	CC	A revised coverage of equivalence and use of bidding documents acceptable to the Bank has been included in the revised document, including a checklist that will be used when reviewing at bidding documents to be used when international competition is anticipated. All these areas are specifically addressed.
Questions were asked as to the role of the CPAR and of assessments that have been conducted as part of the OECD/DAC pilot program.	2	Civil Society (CSO)	The CPAR will remain an important tool in the process as it will be the main diagnostic tool used to identify potential candidate countries for the piloting program. The assessments conducted by other donors or by the partner countries themselves that have not included Bank participation will undergo a specific WB assessment. All assessments will undergo a strict internal validation process in accordance with the methodology.

Issue 3: Under this proposal, not all procurement would be included in these pilots. Should the Bank include complex, high value procurement such as those (e.g. highway construction, power generation equipment, information technology) now cleared by the Operations Procurement Review Committee (OPRC) in the use of pilot country procurement systems?

Comment summary		Source	Treatment in the revised methodology
Support for the exclusion of complex projects	3	Private Sector Assoc. (PSA)	The Bank considers that complex projects (as opposed to specific bids and contracts) will not be the best fit for the piloting program and will therefore be excluded from the piloting program. The current proposal is more explicit on the handling of complex, non-standardized and high value contracts expected to attract international competition.
General support from the private sector to exclude complex procurement (bids and contracts) from the piloting process.	3	Private Sector (PS)	The Bank further considered complex and non-standardized contracts (not simply high-value contracts which may be fairly straightforward in scope), and amended the proposal to consider how such bids/contracts could be included in the pilot projects. The decision will be country and project specific, and will be documented in the Procurement Plan of the pilot project. The Bank will consider the possible use of Bank SBDs or harmonized MPDs at the request of the countries.
Complex procurement, especially PPP, should not be excluded from the use of country systems.	3	Donor	The Bank agrees with the rationale that UCS should be made whole, and amended the proposal in this regard as explained above.
Support for the exclusion of complex procurement varied depending on the country and their perceived capacity for handling such procurement.	3	Client Country (CC)	Countries that have been selected to participate in the piloting program have overall capacity and acceptable/equivalent systems, and are expected to have in most cases experience in handling complex and non-standardized bids. The Bank has, therefore, defined a flexible approach based on carrying out a review of the specific country procedures regarding complex and non-standardized bids/contracts, will make a determination depending on its findings and the particular conditions prevailing for the selected sectors and projects.

While some countries were concerned with the prospect of having a multiplicity of procedures within one project, others agreed that it may be important to exclude complex contracts if they believed their countries do not have the knowledge and capacity to handle such contracts or if there is too much corruption in certain types of procurement (concessions etc). Others believed a progressive approach is needed until they have the capacity to handle complex projects.	3	CC	<p>The Bank agrees that it would be difficult to have different procurement policies and rules applying to the procurement of works, goods and services under the same project, and that it would make the elaboration of legal agreements more complicated. This would, however, occur regarding the selection and employment of consultants (see Issue 4).</p> <p>Bank advice and guidance will, in addition, remain available to clients, especially with regard to complex and non-standardized bids and contracts.</p>
Most participants wanted a clearer definition of complex projects and wanted to know who will determine what is considered complex.	3	CC	<p>The Bank view is that what constitutes complex procurement differs from one country to the next, and that a rigid definition would not be effective. The intention is rather to pay particular attention to non routine procurement for which countries have traditionally relied on the Bank's expertise.</p> <p>Complex bids/contracts will, therefore, be determined with the countries and executing agencies at the time of finalizing the procurement plans.</p> <p>The Bank has not prepared a positive list but the following types of procurement processes would receive special attention: specialized goods in the medical and IT sectors; PPP, concessions and BOT/BOO operations; Supply/Install/turnkey contracts; and large or complex technical assistance and consultants contracts.</p>
Suggestion to adopt a standard threshold of US\$ 15millions for the Bank to continue exercising its prior-review of contracts, hereby reflecting the reality of local markets under which large firms are not interested and not competitive and country systems could be a good option, as opposed to global markets where they compete and the UCS proposal would run against the principles of harmonization and make access more difficult.		PSA	<p>Adopting an across-the-board worldwide threshold is contrary to the effective and current Bank practice to set thresholds based on an analysis of each national market. In addition the proposed threshold is way too low compared to those currently in use in certain economies while it would be too high in others.</p>

Issue 4: Is the proposed handling of the Selection of Consultants in the pilots satisfactory? If not, how can this be strengthened?

Comment summary	4	Source	Treatment in the revised methodology
Lack of clear understanding and consensus on the method proposed for selection of consultants.	4	Private Sector (PS)	<p>The Bank has evaluated the range of comments received in this area and noted that they are often contradictory. A clearer articulation of how the selection and employment of consultants would be handled is included in the revised document.</p> <p>The revised methodology proposes to create a process that will enable the use of acceptable country procedures on a limited basis for assignments below pre-determined monetary ceilings. This “NCB-type” approach will apply to small assignments which usually rely on simple selection methods for consulting firms, and to the selection of individual consultants. All such contracts will be identified in the Procurement Plan.</p>
Wide variation with regard to monetary thresholds. Many would like to see a progressive approach in setting the thresholds for using country systems until the system is fully equivalent to the Bank’s or different thresholds for different types of consultancies.	4	PS	<p>The revised approach still includes monetary thresholds (so-called ceilings) to be defined based on an analysis of the broad in-country capacity in the consulting services area and available local expertise, on the recognition that only certain types of assignments --generally of higher value-- attract the participation of the international consulting community, and the complexity of each assignment (the benchmarks will be the ceilings in effect to prepare short-lists solely constituted of local consulting firms).</p>
Need to define an acceptable system for selection of consultants as the current proposal is lacking.	4	Donor	<p>The selection methods constitute an area of discussion which goes beyond UCS. A dialogue with various stakeholders has been engaged for several years, and will be pursued.</p> <p>The Bank experience is that most countries do not have procedures to select consultants that are equivalent to those of the Bank, hence the proposal to pilot on a limited basis a “NCB-type” approach for small assignments which usually rely on simple methods and individual consultants, while larger and complex assignments will follow standard Bank procedures according to its Guidelines.</p>
Consensus on the proposal for how to handle selection of consultants was mixed. Many countries stated that they do not have equivalent national procedures, and agreed with the proposal to exclude consultant’s selection.	4	Client Country (CC)	<p>The Bank has considered the many varied comments in this area and has defined a clearer and more flexible approach (review of scope of assignments and setting of ceilings, identification of contracts in the PP) to addresses the concerns.</p>

Some countries did not like the idea of having a multiplicity of procedures within one project.	4	CC	Again there was no consensus on how to respond to this concern. The Bank will prepare templates for legal agreements that would account for the use of different rules and procedures for the selection of consultants (Bank policies and guidelines above defined ceilings, national procedures below such ceilings and pre-identified contracts).
Questions with regard to: (i) TORs to provide contractors with necessary data and documents (concept of turnkey site); and (ii) sufficient budget to carry out its duties.		Private Sector Assoc. (PSA)	These are contractual issues that are being discussed between the Bank and Private Sector Associations as part of their broad dialogue regarding conditions of contract.

Issue 5: Are the proposed performance based measures sufficient to address transparency, access to information and governance and anti-corruption issues (GAC) that have been raised with regard to the pilots of country systems in procurement?

Comment summary		Source	Treatment in the revised methodology
The Bank's proposed risk model does not have a cut off point where risk is determined to be unacceptable	5	Private Sector (PS)	<p>The new risk model is a web-based dynamic procurement risk assessment and management tool set up to track risks in a comprehensive manner and to define effective risk mitigation measures. It would be applied once a project has been identified and would be used as part of the capacity assessment of the executing agency.</p> <p>This would come as part of an enhanced and detailed assessment of the overall ability of the executing agency of the pilot project to manage procurement effectively and efficiently, focusing on compliance with the country legal and institutional framework, performance and capacity. Indicators have been defined to allow monitoring such compliance and performance during project implementation.</p> <p>Unacceptable risks can be addressed by mitigation measures to be implemented before or during the implementation of the pilot project.</p> <p>The Bank will maintain the application of all its remedies under pilot projects, including sanctions for fraud and corruption and misprocurement.</p> <p>The Bank will also retain the right to withdraw the UCS pilot status whenever the country system is not operating as was assessed, and pilot projects are not performing as anticipated.</p>
Proposal should be enhanced with mandatory inclusion in bidding documents of penalties and sanctions for non-performance, or misleading clauses leading to corruption.	5	Private Sector Assoc. (PSA)	<p>The TI index is not currently applied in determining countries ability to carry out procurement under Bank-financed projects, and has not been further considered for the piloting program as it would require a Bank procedure to validate the index ratings and to define passing ratings for being considered under the UCS piloting program, which would be quite difficult to do.</p>
Use TI index to help determine eligible countries.	5	PSA	<p>This is current Bank policy for all bank-financed projects and an enhanced version would be relied upon in the piloting program.</p>
Support the capacity assessment of the implementing agency.	5	PSA	<p>The Bank had already included this suggestion in its proposal, which was amended to provide more details on how such audits would be conducted.</p>
Support the use of independent audits	5	PSA	

Only countries with reliable and transparent procurement systems should be included.	5	PSA	<p>The Bank agrees, and has made that very clear in the revised document. The methodology includes a robust assessment of procurement systems at the country level. The Bank would in addition render mandatory the use of a fully functional website at the executing agency level, and maintain its advertising requirements for contracts expected to attract international competition.</p> <p>The Bank proposal makes mandatory the use of the fraud and corruption provisions of its guidelines and SBDs, and has been amended to make clearer the links with the implementation of its Governance and Anti-corruption (GAC) strategy.</p> <p>These concerns are also addressed within the broader context of the ongoing dialogue with the industry regarding contractual provisions of bidding documents.</p>
Recommendation to adopt a wider approach not solely focusing on repression and coercion, but directly addressing the causes of unethical behaviors, primarily through balanced contractual clauses in bidding documents, and using best integrity practice.		PSA	<p>While additional sub-indicators cannot be included in the OECD/DAC tool which has been validated by a representation of the international community, consideration has been given in the revised proposal to the substance of some of the recommendations.</p> <p>All ethical, anti-corruption and complaint/dispute resolution aspects are given attention when assessing country systems (many sub-indicators relate to those aspects) and the Bank proposes to include enhanced monitoring --inter alia through the fiduciary risk management model and various indicators-- and anti-corruption measures that would apply to all pilot projects.</p> <p>International arbitration is not mandatory according to our current policies, which will not be amended in this regard for the purposes of the piloting program.</p>
Recommendation to add 4 sub-indicators: (i) setting up of a committee to analyze structural causes of corruption, with a related performance indicator; (ii) manual of procedures regarding ethical issues; (iii) challenges to decisions regarding the preparation of the bid, the selection of bidders, and the award of contracts; and (iv) international arbitration.		PSA	<p>The Bank does not at this point consider including in its methodology particular requirements that are not currently contemplated in its procurement policies, and cannot make mandatory the signing of international treaties as conditions for being considered for the pilot projects, but is open to continue the dialogue with the private sector on those issues.</p> <p>These are related initiatives to be implemented in consideration of each other.</p> <p>The revised paper includes a more complete description of how GAC implementation will be rolled out in the pilot projects under UCS as mentioned above.</p>
Suggestion that international conventions such as the ICSID convention, the NY convention in the Recognition and Enforcement of Foreign Arbitral Awards, and the UN Anti-Corruption convention be signed by pilot countries.		PSA	
Will GAC and country systems be integrated?	5	Civil Society (CSO)	

Not enough emphasis on performance. The OECD/DAC tool looks at qualitative factors and not at performance.	5	Client Country (CC)	<p>The Bank has significantly enhanced the review and assessment of performance. The focus would be at the pilot project level where performance occurs, as opposed to simply at the country level, to account for the many differences in capacity and performance among government agencies, even in countries with otherwise good procurement systems.</p> <p>The assessment of the executing agencies of the pilot projects includes compliance with their country's procurement policies, performance to carry out procurement effectively and efficiently, and capacity to manage procurement.</p> <p>Performance will be monitored during implementation through indicators and the fiduciary risk management tool.</p>
Assessment focusing too much on the quality of the system (procedures and compliance) and not enough on impact. Need for more performance criteria to measure quality of output, including performance during contract execution and to fight corruption.	5	CC	<p>The Bank has proposed an additional series of indicators in the revised document that are related to outputs (final cost of contracts vis-à-vis cost estimates; contract schedules vis-à-vis contract duration estimates and contract amendments; and compliance with specifications). The Bank will also monitor access of foreign bidders to procurement under the pilot projects.</p> <p>The revised methodology proposes to include additional compliance and performance indicators that will be monitored during project implementation.</p> <p>The approach also includes a review of lessons from the pilots and the impact of the methodology.</p>
Systems include not only rules and regulations but also institutions, capacity and enforcement.	5	CC	<p>The Bank has modified its methodology to provide for an increased focus on compliance and performance of executing agencies of pilot projects, including demonstrated capacity to enforce national and agency rules and regulations and overall capacity to manage procurement effectively and efficiently.</p>

Issue 6: Do you have other suggestions that will strengthen the World Bank Group's efforts to help countries improve their procurement systems and help us learn from these pilots?

Comment summary		Source	Treatment in the revised methodology
Firms want to be consulted on the process and want a mechanism that will enable them to report on conditions and experiences they may have under the pilots.	6	Private Sector (PS)	<p>The Bank plans to rely inter alia on an International Technical Advisory Group including representatives of the private sector, as well as on other stakeholders, to maintain a voice by concerned and interested parties in the piloting process. This commitment has been strengthened and clarified in the revised paper.</p> <p>Assessment reports of countries that are proposed to participate in the piloting program will be published by the Bank on a dedicated website, and the International Technical Advisory Group as well as other interested stakeholders will be requested to comment.</p> <p>Civil Society Organizations (CSOs) will be represented in the International Technical Advisory Group and will be associated with the monitoring of pilot projects under procedures to be agreed between the Bank and the borrower country for each pilot project.</p>
Firms have expressed concern about the Bank's ability to manage the piloting process and to undertake the assessments, and this was seen as leading to accepting countries that do not meet the criteria.	6	PS	<p>The Bank has proposed the involvement of its Procurement Sector Board (PSB) and its Operational Procurement Review Committee (OPRC) -- the highest level committee in the Bank-- in the internal validation of the quality of the country assessment process.</p> <p>With regard to the ability to undertake the implementation of the full methodology and resource implications, the Bank has reviewed the needs and clarified the way it intends to deal with resource requirements in the revised paper. The Bank would, in addition, draw lessons from the piloting program, and adjust accordingly when rolling out the UCS if approved by its Board of Executive Directors.</p>
Many systems require profound reforms outside of the procurement system such as judicial or civil service reform.	6	PS	<p>The Bank would first look at the country as a whole and use to that effect many sources of information, including the OECD/DAC assessment and the CPAR and related action plans, but also the CFAA/PEFA and other relevant diagnostics, as well as broader governance and public sector reviews and information. This broad approach is expected to allow the Bank to be able to identify good candidate countries.</p>
The CSO and private sector want to be part of an advisory group or working group to contribute more directly to the implementation and monitoring of the pilots.	6	PS & CSO	<p>This suggestion has been significantly addressed in the revised paper, although not to the extent proposed. In the meantime, the Bank will continue to consult and will expand information posted.</p>

Premature approach to move forward with regard to use of country procurement systems as best practice still needs to be better defined.	6	PS Assoc. (PSA)	<p>The Bank believes that the various assessments it relies upon to assess country systems represent best available international practice, and that jointly with the assessment of equivalence and consistency with its policies, they provide a robust methodology aligned with generally-accepted international benchmarks. It is clear, however, that universally-recognized procurement standards do not and cannot exist given the largely differing governance and legal frameworks within which procurement is carried out.</p> <p>The Bank is proposing to move forward on a limited scale with a piloting program to learn lessons, and would roll it out if the methodology is proven adequate to support the process.</p>
Suggestion to delay moving forward and to instead start a new process to identify international best practice.	6	PSA	<p>The Bank has received clearance from its Board to move forward in a step by step approach, and has prepared a revised methodology that addresses concerns raised during the very extensive consultations process –most participants broadly supported the proposal. The consultations also involved the participation of internationally-recognized experts.</p>
Should expand NCB as a first step then move forward with other steps.	6	PSA	<p>NCB usage has already been in use for many years in all borrowing countries, and the Bank has already gained a lot of experience in country procurement systems through NCB. With the wealth of fiduciary diagnostics already available, as well as with experience in the implementation of project components or grants in support of procurement reforms and programmatic approaches (e.g. SWAPs), the Bank is already well past such first step.</p>
Recommendation to adopt: (i) balanced contractual clauses in bidding documents eliminating practices fostering irresponsibility; (ii) a turnkey approach to civil works; (iii) fair and transparent arbitration practices (even possibly making international arbitration mandatory; and (iv) quality assurance plans.		PSA	<p>The Bank will ensure that bidding documents to be used under pilot projects include balanced contractual clauses, consistently with its own policies and SBDs.</p> <p>The Bank will not at this point adopt new procurement methods or include requirements that are not contemplated in its current procurement policies.</p> <p>The Bank remains open to continue the dialogue with the private sector on those issues.</p>
Suggestion that participating countries be required to prepare a manual of practices and procedures to be managed according to ISO standards.		PSA	<p>Implementation manuals are standard practice under Bank-financed projects, and may include particular procedures agreed with the borrower during negotiations. Such an approach would apply to the pilot projects.</p> <p>The Bank does not take a position on any particular standards.</p>

Have standards been set to determine success or failure of the pilots.	6	PSA	The Bank has prepared a methodology that it believes robust, objective, and feasible, with the objective to strike the right balance between capacity development objectives and fiduciary risks. The Bank intends to learn lessons from the piloting program. Clear indicators of performance and monitoring procedures have been included in the revised document.
Explicit guidance to prevent use of arbitrary and personal discretion in the assessments.	6	PSA	The Bank has explicitly indicated that the most senior specialists in the RPM offices, under the guidance of the RPMs and with the support of the PSB, would be responsible for the assessments. As for any other procurement activity, the application of good judgment to support assessment tools will be essential, and the anchor unit will prepare a guidance note to staff to assist in the process. The Bank will also rely on the PSB and the OPRC to ensure quality and consistency of the country assessments. Assessments will be posted and the Bank will be open to the advice and comments from the International Technical Advisory Group and other concerned stakeholders.
The Bank's policies do not have clear methods for evaluation on non-price factors.	6	PSA	This is a theme that some industry representatives have raised before with the current Bank policy and does not specifically refer to the UCS methodology. The Bank disagrees with that statement as all Bank methods include an evaluation of bidders qualifications. This theme is also part of the broader procurement dialogue with concerned stakeholders.
Issues raised around how the Bank currently does business.	6	PSA	This is a matter to be addressed separately as part of the Bank's general oversight and project supervision model, and could be considered when updating existing policies and procedures. The UCS proposal includes enhanced supervision and oversight procedures, inter alia the use of a fiduciary risk management model, streamlined post-review procedures, and third party independent audits.
Support the Bank's current clearance and supervision procedures.	6	PSA	Supervision will continue as will post-review while prior-review will only apply to consulting assignments falling under Bank Guidelines. Oversight and monitoring will, however, be strengthened through various requirements, including inter alia those mentioned above.
Small firms may have differing views from associations.		PSA	The Bank took this consideration into account when making a final determination and revising the methodology.
Good startup training should be conducted for the pilots.	6	Donor (D)	The Bank agrees that this is important and will initiate such activities if and when the proposal is approved by its Board of Executive Directors.

Bank needs to ensure fair and non-discriminatory competition.	6	D	<p>It is the intention of the Bank to ensure that this key principle of its procurement policy in addition to open and non-restricted competition, apply to the UCS program.</p> <p>Participating countries would not be allowed to discriminate and would have had to demonstrate that their award procedures are based on objective cost-related criteria which must be clearly indicated in the bidding documents –which will be reviewed and approved by the Bank before being used in pilot projects.</p>
Preference that the Bank relies on sectors and not individual projects	6	Client Country(CC)	<p>It is the Bank's intention to rely on sectors as much as possible as it is in principle better to have a whole sector portfolio in a participating country falling under the same rules and procedures. This could occur provided that the executing agencies in a given sector have all been deemed compliant, high-performing, capable, and presenting low fiduciary risks.</p> <p>Final decisions would, however, vary from country to country, and pilot projects would be selected on the basis of the CAS pipeline.</p>
Most countries wanted to know why the Bank is seeking a third party audit and strengthening the capacity of the national internal and external (audit) controls. Some pointed out countries that do not have reliable audit capacity.	6	CC	<p>The Bank intends to maintain its fiduciary obligations and continue to strengthen the national control institutions in parallel, the intent being that in due course there will be more reliance on control, oversight and audit mechanisms of the countries.</p> <p>The proposal regarding the independent handling of audits has been addressed more clearly in the revised document.</p>
Some countries suggested independent observers such as the civil society to monitor progress in areas measured by the indicators (specially those in Pillar 4 – Integrity)	6	CC	<p>The Bank believes it is a good idea but that it should not be imposed on the country. Decisions in this regard will be made during the preparation of the pilot projects.</p>
Concerns raised about the possible negative impact and associated costs of being a pilot country.	6	CC	<p>This is a country decision. The Bank has stated that a country should express its desire to participate before being considered, in which case the country should be aware of the potential for both negative and positive impacts and assess the overall value to itself.</p> <p>The proposal includes a strong emphasis on capacity development that should be seen as a strong incentive.</p>

The methodology is just increasing thresholds for NCB	6	CC	<p>The Bank proposed methodology goes well beyond a simple alignment of thresholds as the focus would be to use country procurement systems for all bidding processes except for a handful of consulting assignments which would be determined on the basis of their estimated cost, nature and scope.</p> <p>Prior review will not be used; instead the Bank will rely on post reviews, supervision and audit along with regular performance monitoring. This is quite different from NCB.</p> <p>The concept of NCB will be introduced for the selection of consultants that will enable smaller assignments to be handled following country procedures.</p>
The issue of third party audits raised many concerns regarding payment of the costs and who performs the audits. It was suggested that the Bank cover this cost for the pilots.	6	CC	<p>Third party audits are seen as essential to the discharge of the fiduciary oversight in the context of the UCS piloting program, and as contributing to the control framework for the pilot projects.</p> <p>The current proposal is that the cost be covered under the projects as currently is the case for required financial audits.</p>

ANNEX B: COUNTRY-LEVEL PROCUREMENT SYSTEMS ASSESSMENT

METHODOLOGY TO USE THE OECD/DAC BENCHMARKING TOOL

The main objective of this step of the first stage is to establish a pool of potential participating countries in the piloting program on the basis of a detailed and objective assessment of the procurement systems, relying on the same set of pillars, indicators and sub-indicators as the OECD-DAC benchmarking tool approved and published in June 2006 and available on the OECD or Bank external websites.

The OECD-DAC benchmarking tool provides some guidance on how to score each sub-indicator as well as a broad-banding approach to produce a single rating for the purposes of indicator 2(b) of the monitoring exercise under the Paris Declaration in preparation of the High-level Accra forum to be held later this year.

The Bank methodology relies on a different approach to rating, and does not define any aggregate “passing” rating for accepting a country procurement system in the pool of candidate countries. No aggregate rating will be computed at the level of the 12 indicators, the four pillars, or the whole system. The fifty-four (54) sub-indicators) will be evaluated and rated individually.

Rating will still be based on a 0-3 scale, according to the defined criteria indicated in the June 2006 OECD/DAC paper. A score of 3 indicates full achievement of the stated generally-accepted international practice for each sub-indicator. A score of 2 is given when the system exhibits less than full achievement and needs more improvements in the area being assessed, but still reflects substantive compliance with the standard.

The Bank classifies the 54 sub-indicators in four categories which reflect the relative importance of the sub-indicators and the indicators under which they fall:

1. seventeen core sub-indicators which should be assessed to meet the criteria of the corresponding benchmarks indicated for a “3” rating;
2. ten sub-indicators which could be assessed to only meet the criteria of the corresponding benchmarks indicated for a “2” rating, provided the country agrees to put in place an action plan of corrective measures to bring those sub-indicators to a “3” benchmark rating during implementation;
3. twenty five sub-indicators which should be assessed to meet the criteria of the corresponding benchmarks indicated for a 2” rating; and
4. two sub-indicators (4-d and 10-e regarding respectively the regulatory body and the complaints review body, and for which only a “3” or “0” rating can be obtained)

could be subject to inclusion in the above-captioned action plan of corrective measures if the country does not fully meet the criteria of the corresponding benchmarks but would otherwise qualify.

The following box indicates the sub-indicators in each of the first three categories above, and provides the rationale for such classification vis-à-vis two main principles: (i) whether the requirement is deemed essential, or is even considered, under the Bank procurement policies; and (ii) whether the requirement, if not deemed core at the national level, can be fulfilled in a more meaningful manner as the project level, in which case specific requirements will be reviewed as part of the sub-sequent assessment of performance and capacity of the executing agencies of pilot projects (stage III of the overall assessment). It also identifies the manner in which the Bank will review sub-indicators 4(d) and 10 (e).

The new designation of core indicators relates to what the Bank perceives as essential elements of a country procurement system. All core indicators refer to the procurement process per se, as opposed for example to budget and PFM-related aspects, training and organization of the government agencies. Moreover, they bear on four aspects: 1) the legal and institutional framework; 2) dispute resolution and complaints mechanisms; 3) control and audit procedures; and 4) ethics and anticorruption measures, which are all directly linked to the key transparency and economy principles of Bank procurement policy, and are at the nexus project implementation.

Country Assessment Benchmarking Sub-Indicators

Core Sub-Indicators for which a "3" rating is mandatory	Sub-Indicators for which a "2" rating will be considered if accompanied by an action plan of corrective measures	Sub-indicators for which a minimum "2" rating is required	Rationale for required rating
Indicator 1 – Public procurement legislative and regulatory framework achieves the agreed standards and complies with applicable obligations			This is a critical indicator for which most requirements should meet the conditions for a "3" rating
Sub-indicator 1(a) - Scope of application and coverage of the legislative and regulatory framework.			
	Sub-indicator 1(b) - Procurement Methods		Procurement methods could be adapted to the country's context and will also be reviewed in the context of consistency and equivalence with Bank guidelines
Sub-indicator 1(c) - Advertising rules and time limits			
Sub-indicator 1(d) - Rules on participation			
Sub-indicator 1(e) - Tender documentation and technical specifications			
Sub-indicator 1(f) - Tender evaluation and award criteria			
Sub-indicator 1(g) - Submission, receipt and opening of tenders			
Sub-indicator 1(h) - Complaints			

Indicator 2 – Existence of Implementing Regulations and Documentation			Many countries, including the most developed, do not have regulations at the central government level.
		Sub-indicator 2(a) – Implementing regulation that provide defined processes and procedures not included in higher-level legislation	Various instruments may be used and differ for different agencies.
		Sub-indicator 2(b) – Model tender documents for goods, works, and services	Many countries rely on templates or sample bidding documents which may vary from sector to sector and agency to agency. Bidding documents to be used under the piloting program will be assessed against Bank SBDs/MPDs when reviewing equivalence/consistency with Bank policies and guidelines.
	Sub-indicator 2(c) - Procedures for pre-qualification		Specific procedures will also be reviewed as part of the test of equivalence/consistency with Bank policies and guidelines.
	Sub-indicator 2(d) - Procedures suitable for contracting for services or other requirements in which technical capacity is a key criterion.		National procedures will be assessed to review whether they could be considered under the piloting program, and how the specific proposal to use them under certain ceilings would work. Consultants will be selected mostly according to Bank Selection and Employment of Consultants Guidelines.
		Sub-indicator 2(e) – User’s guide or manual for contracting entities	This is not deemed key at the country level but would be re-assessed when reviewing the capacity of a pilot project executing agency.
Sub-indicator 2(f) - General Conditions of Contracts (GCC) for public sector contracts covering goods, works and services consistent with national requirements and, when applicable, international requirements			This will be reviewed in light of the findings regarding Indicator 1.

Indicator 3 – The public procurement system is mainstreamed and well integrated into the public sector governance system			PFM systems would have already been reviewed by the Bank, and deemed acceptable.
		Sub-indicator 3(a) – Procurement planning and associated expenditures are part of the budget formulation process and contribute to multiyear planning	A detailed Procurement Plan would be required for all pilot projects, irrespective of country requirements.
		Sub-indicator 3(b) – Budget law and financial procedures support timely procurement, contract execution, and payment	The late and no-payment issue will be further assessed at the pilot project executing agency level, and be one of the performance indicators to be tracked during project implementation.
		Sub-indicator 3(c) – No initiation of procurement actions without existing budget appropriations	This is an important issue but not seen as critical given that Bank funding would remain identified for pilot projects...
		Sub-indicator 3(d) – Systematic completion reports are prepared for certification of budget execution and for reconciliation of delivery with budget programming	PFM review
Indicator 4 – The country has a functional normative/regulatory body			Many countries, including the most advanced, do not have such a body at the central level.
		Sub-indicator 4(a) – The status and basis for the normative/regulatory body is covered in the legislative and regulatory framework	In case such a body does not exist, the Bank would identify existing regulations or instructions governing various agencies in this regard.
		Sub-indicator 4 (b) - The body has a defined set of responsibilities	
		Sub-indicator 4(c) - The body's organization, funding, staffing, and level of independence and authority (formal power) to exercise its duties should be sufficient and consistent with the responsibilities	
Sub-indicator 4(d) – The responsibilities should also provide for separation and clarity so as to avoid conflict of interest and direct involvement in the execution of procurement transactions			This will be reviewed on a pass or fail basis in light of the evaluation of the other sub-indicators above.

Indicator 5 – Existence of institutional development capacity			This is an important aspect, and it is expected that donor support will be provided for participating countries
		Sub indicator 5(a) - The country has a system for collecting and disseminating procurement information, including tender invitations, requests for proposals, and contract award information.	Many advanced countries have only recently developed such systems at the national level. A fully functional and accessible website will be required at the executing agency level to provide such information, plus everything that is required under Bank policy (step 5 of Stage III).
		Sub-indicator 5(b) – The country has systems and procedures for collecting and monitoring national procurement statistics	Many advanced countries have only recently developed such systems at the national level. Although there are no Bank requirements in this regard, executing agencies of pilot projects will be required to collect statistics --for the project/sector purposes only-- as part of the tracking and monitoring of performance indicators (step 2 of Stage III).
		Sub-indicator 5(c) – A sustainable strategy and training capacity exists to provide training, advice and assistance to develop the capacity of government and private sector participants to understand the rules and regulations and how they should be implemented	This is usually a decentralized process. The pilot project website will be required to include information and guidance regarding bidding procedures.
		Sub-indicator 5(d) – Quality control standards are disseminated and used to evaluate staff performance and address capacity development issues	This will be assessed in details when reviewing the capacity of a pilot project executing agency (step 3 of Stage III).

Indicator 6 – The country's procurement operations and practices are efficient			The Bank will also rely on its assessment of the capacity of the executing agencies of the pilot projects (step 3 of Stage III).
		Sub-indicator 6(a) – The level of procurement competence among government officials within the entity is consistent with their procurement responsibilities	This is a problematic area in most countries. The most important for the piloting program is the capacity of executing agencies of the pilot projects which will be thoroughly assessed by the Bank..
		Sub-indicator 6(b) – The procurement training and information programs for government officials and for private sector participants are consistent with demand	This is also a problematic area in most countries. Donor support, as part of capacity development, will be elicited. Short-term strengthening may be required by the Bank as a result of the project level capacity assessment.
	Sub-indicator 6(c) - There are established norms for the safekeeping of records and documents related to transactions and contract management		The Bank will require executing agencies of the pilot projects to meet minimum standards consistent with Bank policy.
		Sub-indicator 6(d) – There are provisions for delegating authority to others who have the capacity to exercise responsibilities	

Indicator 7 – Functionality of the public procurement market			
		Sub-indicator 7(a) – There are effective mechanisms for partnerships between the public and private sector	These are difficult in most countries, including those with experience in this regard. Few such mechanisms are working on a regular basis.
		Sub-indicator 7(b) – Private sector institutions are well organized and able to facilitate access to the market	This is an area of general weakness in many countries which do not benefit from organized private sector representative associations.
	Sub-indicator 7(c) - There are no major systemic constraints (e.g. inadequate access to credit, contracting practices, etc.) inhibiting the private sector's capacity to access the procurement market		Competition and open access are important aspects of the Bank procurement policy, hence the required rating, although there are many aspects to be considered and open to various initiatives for strengthening and improving.
		Sub-indicator 7(c) - There are clear and transparent rules to engage national or international markets	The review will also be covered under the eligibility rules of the assessment of equivalence/consistency.
Indicator 8 – Existence of contract administration and dispute resolution			Critical indicator for open competition and transparency of the country systems.
		Sub-indicator 8(a) - Procedures are clearly defined for undertaking contract administration responsibilities that include inspection and acceptance procedures, quality control procedures, and methods to review and issue contract amendments in a timely manner	Overall performance criteria bear on contract management issues, and will be evaluated further at the project level as part of the capacity assessment of the executing agency of the pilot project. The assessment by the Bank of the capacity of the executing agencies of the pilot projects includes a review of those criteria.
Sub-indicator 8 (b) - Contracts include dispute resolution procedures that provide for an efficient and fair process to resolve disputes arising during the performance of the contract			
Sub-indicator 8 (c) - Procedures exist to enforce the outcome of the dispute resolution process			

Indicator 9 – The country has effective control and audit systems			Further improvements would be part of the action plan of corrective measures to be implemented during the implementation of the pilot projects.
	Sub-indicator 9(a) - A legal framework, organization, policy, and procedures for internal and external control and audit of public procurement operations are in place to provide a functioning control framework		Many countries are strengthening their regulations and procedures in this regard, sometimes on a decentralized basis and with different control mechanisms by sector.
	Sub-indicator 9 (b) - Enforcement and follow-up on findings and recommendations of the control framework provide an environment that fosters compliance		The review will allow for a further assessment at the executing agency level.
	Sub-indicator 9 (c) - The internal control system provides timely information on compliance to enable management action		The review will allow for a further assessment at the executing agency level.
		Sub-indicator 9(d) – The internal control systems are sufficiently defined to allow performance audits to be conducted	The Bank will require additional independent third-party procurement audits of the pilot projects.
		Sub-indicator 9(e) – The auditors are informed of requirements and systems to perform	Specific TORs for independent third party procurement audits will be prepared and their use made mandatory for the pilot projects.

Indicator 10 – Efficiency of appeals mechanism			This is a critical indicator requiring a “3” rating for all its components. In addition, Bank procedures regarding the handling of complaints as indicated in Appendices to the Guidelines will still apply under the piloting program.
Sub-indicator 10(a) - Decisions are deliberated on the basis of available information, and the final decision can be reviewed and ruled upon by a body (or authority) with enforcement capacity under the law			
Sub-indicator 10(b) – The complaint review system has the capacity to handle complaints efficiently and a means to enforce the remedy imposed			
Sub-indicator 10 (c) – The system operates in a fair manner, with outcomes of decisions balanced and justified on the basis of available information			
		Sub-indicator 10(d) – Decisions are published and made available to all interested parties and to the public	The Bank will work with the country to develop transparency under pilot projects.
Sub-indicator 10(e) – The system ensures that the complaint review body has full authority and independence for resolution of complaints			
Indicator 11 – Degree of access to information			The Bank will support the development of E-gp and E-procurement systems and platforms in general.
	Sub-indicator 11(a) - Information is published and distributed through available media with support from information technology when feasible.		The Bank will require in addition a fully functional website for the purposes of the pilot projects.

Indicator 12 – The country has ethics and anticorruption measures in place			Critical indicator requiring a top rating for most of its aspects.
Sub-indicator 12(a) - The legal and regulatory framework for procurement, including tender and contract documents, includes provisions addressing corruption, fraud, conflict of interest, and unethical behaviour and sets out (either directly or by reference to other laws) the actions that can be taken with regard to such behavior			
Sub-indicator 12(b) - The legal system defines responsibilities, accountabilities, and penalties for individuals and firms found to have engaged in fraudulent or corrupt practices			
	Sub-indicator 12 (c) – Evidence of enforcement of rulings and penalties exists.		
Sub-indicator 12(d) – Special measures exist to prevent and detect fraud and corruption in public procurement.			
		Sub-indicator 12(e) – Stakeholders (private sector, civil society, and ultimate beneficiaries of procurement/end-users) support the creation of a procurement market known for its integrity and ethical behaviors	The Bank will include stakeholders in the preparation and monitoring of the pilot projects, as well as in the broad overall monitoring of the piloting program.
Sub-indicator 12(f) – The country should have in place a secure mechanism for reporting fraudulent, corrupt, or unethical behavior.			Bank Anti-corruption guidelines, as well as fraud and corruption remedies of the procurement guidelines, would be made applicable to all pilot projects.
		Sub-indicator 12(g) – Existence of Codes of Conduct/Codes of Ethics for participants that are involved in aspects of the public financial management systems that also provide for disclosure for those in decision making positions	The Bank will work with the participating countries and executing agencies of the pilot projects to develop transparency initiatives..

ANNEX C: DETAILED METHODOLOGY TO CARRY OUT THE CONSISTENCY AND EQUIVALENCE ASSESSMENT OF COUNTRY SYSTEMS VIS-À-VIS THE BANK PROCUREMENT POLICIES FOR WORKS, GOODS, AND NON-CONSULTING SERVICES

The assessment will be conducted based on a detailed two-step review, after having duly noted inconsistencies with Bank policies that have been previously documented in the so-called NCB side letters that currently apply to the country investment lending portfolio.

The Bank will first review equivalence of the country procurement institutional and legal framework vis-à-vis the relevant provisions of Section I (eligibility, in particular with regard to government-owned enterprises, and prevention of mandatory joint ventures) and all provisions of Section II of the Bank procurement guidelines. The details of this review are included in the “Consistency and Equivalence requirements for international competitive bidding vis-à-vis the provisions of Sections I and II of the Procurement guidelines” table below.

The Bank will then assess the bidding documents to be used under pilot projects when international competition is anticipated against the Bank Standard Bidding Documents (SBDs) and **harmonized** Master Procurement Documents (MPDs) on the basis of a checklist of applicable clauses derived from the table of cross-harmonized clauses of the MPDs for Works, Goods, and Supply and Install (see below).

In addition, other provisions of the guidelines will be handled as follows:

- Provisions of Section I related to Advance contracting, retroactive financing, and references to the Bank—which are Bank-specific and therefore not typically covered in national legislation— will continue applying. The Bank would require that, for every pilot project, a procurement plan be prepared, published, and regularly updated to enable it to monitor the implementation of the project in accordance with the legal agreements. Bank review provisions stipulated in Section I do not require to be amended to fit the country systems model, although those related to prior-review in Appendix I “Review by the Bank of Procurement Decisions” would not apply under the piloting program. All pilot projects would be subject to the remedies, including that of misprocurement which can be declared in accordance with paragraph 1.12 of the Guidelines which states that “the Bank does not finance expenditures for goods and works that have not been procured in accordance with the agreed provisions in the Legal Agreement and as further elaborated in the Procurement Plan”.
- Provisions of Section II related to Programs of Imports and Procurement of Commodities (paragraphs 2.66 to 2.68) will be reviewed on a case by case basis if applicable to the pilot projects

- Provisions of Section III will apply with the exception of those related to the use of (i) Force Account procedures, (ii) procurement agents, (iii) inspection agents, and (iv) financial intermediaries that will not be considered under the piloting program. The country's procedures with regard to Limited International Bidding, PPP (concessions and BOT/BOO operations), Performance Based Procurement, and Community Participation in Procurement will be assessed as needed (i.e. if applicable to a tentative pilot project). Procurement from United Nations agencies would normally not be contemplated under pilot projects; and
- Provisions of the Appendices to the Guidelines will apply as follows:
 - 1) the Bank will only conduct post-reviews as per paragraph 5 of Appendix 1¹;
 - 2) domestic preferences may only apply if the procedures are not used to prevent or hamper foreign competition; preferences based on nationality only will not be acceptable, and the concepts of ownership or incorporation and in-country production/manufacturing shall apply; and
 - 3) all paragraphs of Appendix 3 regarding guidance to bidders would apply, including communications with the Bank, with the exception of paragraphs 3, 4 and 15 concerning Bank's reviews and the use of SBDs. This includes in particular the right of bidders to submit complaints and have those addressed², which the Bank will continue handling as currently stated in Appendix 3. The Bank will also review complaints mechanisms as part of its assessment of the country legal framework to ensure that the national law covers this requirement, and will monitor compliance at the project level. Regarding the right for bidders not selected to request a debriefing, the Bank will continue handling as currently stated in Appendix 3 and paragraph 2.65 of the guidelines, and monitor compliance at the pilot project executing agency level.

¹ The rationale is that it would not make sense for the Bank to agree to the use of country procurement systems deemed after having conducted the due diligence assessments, and still conduct prior reviews on a systematic basis. Relying on country systems for pilot projects means that the risks have been assessed as low for those projects. Reliance on post reviews and audits (see section on implementation) would provide the necessary comfort, notwithstanding the fact that the Bank will retain its audit rights, and the ability to apply remedies through the Legal Agreements. Prior-review of most consultant services contracts will continue to apply.

² The Bank will continue to monitor the handling of complaints submitted to the Bank as covered in paragraphs 11-14 of Appendix 3 in the Guidelines.

**Consistency and Equivalence requirements for international competitive bidding
vis-à-vis the provisions of Sections I and II of the Procurement Guidelines**

Guidelines paragraph(s)	Policy requirements	Required for the Piloting Program
<i>Section I</i>		
Eligibility paragraphs 1.6 - 1.8	Conditions for participation to be limited to those that are essential to fulfill the contract requirements. Exceptions indicated in para 1.8.	Those provisions of the Guidelines would be made applicable through the Legal Agreement (LA).
Joint ventures Paragraph 1.10	Mandatory association between firms is not acceptable.	Those provisions of the Guidelines would be made applicable through the LA.
<i>Section II</i>		
Two-stage Bidding paragraph 2.6 Turnkey contract Paragraph 2.22	Applies to large and complex, or turnkey, contracts that potentially attract the participation of foreign bidders. Procedure may follow two stages: 1) non-priced technical proposals; 2) issuance of BDs to bidders, and submission of technical priced proposals.	Bank review of complex, high value, and non-standardized bidding processes as part of its assessment of the country systems. Possibility to use Bank SBDs or harmonized MPDs for specific bids/contracts to be identified in the Procurement Plan (PP) for the pilot project. Modifications as may be needed by the country institutional and legal framework to allow for the country policies and procedures to apply.
Notification and Advertisement paragraphs 2.7-2.8	General Procurement Notice (GPN) and Specific Procurement Notices (SPN) for ICB contracts to be published on UN Development Business online and Dg market.	The executing agency of each pilot project will be required to publish in UNDB, and on an electronic free access portal, all contracts identified as likely to attract foreign competition. Such contracts to be flagged in the Procurement Plan (PP). Publication of all mandatory documents at the pilot project level on a fully functional and freely accessible website of the executing agency.
Prequalification paragraphs 2.9-2.10	Use of prequalification for large complex requirements limited to capability and resources to perform the particular contract with regard to experience, past performance, personnel, facilities and financial position.	The PP will be used to identify bidding processes that would benefit from pre-qualification. Advertisement as per requirements above. Prequalification requirements to be assessed by comparison with the harmonized pre-qualification MPD.

Bidding Documents ³ paragraphs 2.11-2.12, and 2.16 – 2.18	Bidding documents must provide information sufficient for a prospective bidder to prepare a bid. Use of Bank standard bidding documents is mandatory for ICB - this requirement will have to be modified for the pilots.	Existence of national sample bidding documents (NSBDs) not required, but mandatory use of standard bidding documents acceptable to the Bank when international competition is sought under pilot projects. Specific provisions to be validated vis-à-vis the checklist below, and to be stated in the LA.
Validity of bids and bid security paragraphs 2.13-2.14	Bidding documents must state bid validity period. Bid security not mandatory	Review of clauses in the bidding documents accepted for use under pilot projects when international competition is anticipated.
Language paragraph 2.15	English, French, or Spanish, in addition to the national language of the country.	National language can be used provided that it is used internationally and that a translation in English, French or Spanish be made available to foreign bidders for contracts that have been identified for international bidding in the PP. Advertisement and bidding documents should be issued in an international language (English, French or Spanish) in addition to the national language, and contracts with foreign entities should be signed in the international language the bidders used for their bids.
Standards/Brand Names paragraphs 2.19-2.20	Use of standards and specifications that promote competition or based on "or equivalent" if brand name is used.	National standard may be specified after review of their non discriminatory nature in the bidding documents accepted for use under pilot projects.
Pricing paragraphs 2.21 & 2.23	Bid must be invited on the basis of specified INCOTERMS ⁴	Mandatory use of INCOTERMS for comparison purposes, or fully equivalent provisions.
Price Adjustment paragraphs 2.24-2.25	Bidding documents must specify if price adjustment applies and price adjustment must be based on a prescribed formula.	Requirement for price adjustment as a contractual term to be included in the bidding documents accepted for use under pilot projects when international competition is anticipated.
Currency and Payments paragraphs 2.28-2.36	Bids documents must state currency provisions and the conversion mechanism. Payment provisions must also be stated in the bidding documents.	National currency acceptable provided it is freely and fully convertible and country does not apply restriction or control on foreign exchange. Contract terms to allow payment in foreign currency directly and/or as percentage of contract price at predefined exchange rates (in no more than 3 currencies) expressed in the bidding documents accepted for use under pilot projects when international competition is anticipated.

³ The Bank will conduct a material review of the documents the country uses for competitive procurement and will ensure that the provisions stated in the Guidelines, paragraphs 2.11-2.43, are covered as part of the equivalency review. The Bank will make "acceptable bidding documents" a key element of the process.

⁴ INCOTERMS are published by the International Chamber of Commerce and indicate who is responsible for payment of certain defined costs. INCOTERMS like CIP and EXW provide information to the bidder when international competition is invited ensure that all bids are considered on the same basis.

Alternative bids Conditions of Contract paragraphs 2.37 & 2.38	Contract documents must clearly define the procedure to submit alternative bids, and the scope of work, rights and obligations of the parties, and provide for fair and clear allocation of risk.	General Conditions of Contracts (GCC) for contracts covering goods, works and services to be consistent with international requirements when international competition is sought. To be part of the bidding documents accepted for use under pilot projects when international competition is anticipated (see checklist below).
Performance Security, Liquidated Damages Force Majeure paragraphs 2.39/2.40, 2.41 & 2.42	Format and provisions to be included in the bidding documents.	(to be assessed as part of the assessment of the country legal and institutional framework).
Applicable law and settlement of disputes paragraph 2.43	The conditions of contract shall provide for settlement of disputes and state the applicable law.	National law to apply.
Time for bid preparation paragraph 2.44	Time allowed for the preparation and submission of bids shall be determined on the basis of the magnitude and complexity of the requirement.	Requirement to be stipulated for each executing agency implementing pilot projects. To be closely monitored as one key compliance indicator (see Stage III).
Bid opening procedures paragraph 2.45	Bids to be opened in public at the time and place designated in the bidding documents. Rejection of late bids.	Assessment of legal framework to ensure that the national law covers this requirement, and evaluation of compliance at the pilot project executing agency level, and monitoring during pilot project implementation.
Confidentiality paragraph 2.47	After bid opening, evaluation and recommendations and other information shall not be disclosed until after publication of the award.	National law to apply.
Examination, evaluation and comparison of bids; Post-qualification paragraphs 2.48 - 2.54, and 2.58	Bids to be evaluated and awarded on the basis of the criteria stated in the bidding documents and quantified using cost to the maximum extent. Post-qualification applies when there is no pre-qualification.	To be part of the bidding documents accepted for use under pilot projects when international competition is anticipated (see checklist below).
Domestic preference for goods GL 2.55-2.56	Defines the Bank's procedures for use of domestic preference.	Use of discriminatory domestic preferences (e.g. by nationality) will not be allowed in the bidding documents accepted for use under pilot projects when international competition is anticipated (see checklist below).

<p>Bid validity, Award of Contract Rejection of bids Publication paragraphs 2.57, 2.59-2.60, and 2.61-2.64</p>	<p>Award to the lowest evaluated bidder which meets the requirements of the bidding documents including technical capacity and financial resources. Publication of awards is required within two weeks. Rejection of all bids to be justified.</p>	<p>Assessment of legal framework to ensure that the national law covers bid validity, contract award, and rejection of bids requirements, and evaluation of compliance at the pilot project executing agency level, and monitoring during pilot project implementation.</p> <p>The executing agency for each pilot project would be required to have (a) a functioning electronic system for retaining information on its procurement processes and managing invoices and certificates payments; and (b) a fully functional website that is freely accessible to all stakeholders, including bidders and civil society, for posting information regarding its organization, procurement regulations, SBDs, procurement opportunities, information related to the award of contracts, and procurement plans.</p>
--	--	---

Checklist of clauses in bidding documents to be used when international competition is anticipated vis-à-vis the requirements of the Harmonized Master Procurement Documents

The objective of this checklist is to verify that the bidding documents accepted for use under pilot projects when international competition is anticipated meet minimum requirements as mandated by the Bank for International Competitive Bidding.

The checklist relies for that purpose on the recently completed set of cross-harmonized sections of the main Harmonized Master Procurement Documents (MPDs) for Works, Goods, and Supply and Install --which are similar to the Bank SBDs-- and have been approved by the Heads of Procurement Group of the Multilateral Development Banks to further streamline and harmonize the various MPDs. Pre-qualification documents of the country will also be compared to the pre-qualification MPD.

The focus is on the Instructions to Bidders (ITBs) that provide information to bidders to prepare their bids and generic information of the bidding, evaluation and award procedures, and the General Conditions of Contract (GCCs) that include the specific clauses to be applied to all contracts. They should be standardized and inserted in the bidding documents without any amendment.

Bidding documents should, however, also include a Bid Data Sheet section to provide necessary information and provisions specific to each bid, and an Evaluation and Qualifications Criteria section to provide the criteria to be used to determine the lowest-evaluated bidder. Other sections of the bidding documents should include standard bidding forms and letter of bid, Schedules of requirements and specifications, and Special or Particular Conditions of Contract (SCCs/PSCs).

Instructions to Bidders (ITBs)

A. General

1. Scope of Bid
2. Source of Funds
3. Fraud and Corruption
4. Eligible Bidders
5. Eligible Goods and Related Services

B. Contents of Bidding Documents

6. Sections of Bidding Documents
7. Clarification of Bidding Documents
8. Amendment of Bidding Documents

C. Preparation of Bids

9. Cost of Bidding
10. Language of Bid

11. Documents Comprising the Bid
12. Bid Submission Form and Price Schedules
13. Alternative Bids
14. Bid Prices and Discounts
15. Currencies of Bid
16. Documents Establishing the Eligibility of the Bidder
17. Documents Establishing the Eligibility of the Goods and Related Services
18. Documents Establishing the Conformity of the Goods and Related Services
19. Documents Establishing the Qualifications of the Bidder
20. Period of Validity of Bids
21. Bid Security and Bid-Securing Declaration
22. Format and Signing of Bid

D. Submission and Opening of Bids

23. Submission, Sealing and Marking of Bids
24. Deadline for Submission of Bids
25. Late Bids
26. Withdrawal, Substitution, and Modification of Bids
27. Bid Opening

E. Evaluation and Comparison of Bids

28. Confidentiality
29. Clarification of Bids
30. Responsiveness of Bids
31. Non-conformities, Errors, and Omissions
32. Preliminary Examination of Bids
33. Examination of Terms and Conditions; Technical Evaluation
34. Conversion to Single Currency
35. Domestic Preference
36. Evaluation of Bids
37. Comparison of Bids
38. Postqualification of the Bidder
39. Purchaser's Right to Accept Any Bid, and to Reject Any or All Bids

F. Award of Contract

40. Award Criteria
41. Purchaser's Right to Vary Quantities at Time of Award
42. Notification of Award
43. Signing of Contract
44. Performance Security

General Conditions of Contract (GCCs)

1. Definitions
2. Contract Documents
3. Fraud and Corruption
4. Interpretation
5. Language
6. Joint Venture, Consortium or Association

7. Eligibility
8. Notices
9. Governing Law
10. Settlement of Disputes
11. Inspections and Audit by the Bank
12. Scope of Supply
13. Delivery and Documents
14. Supplier's Responsibilities
15. Contract Price
16. Terms of Payment
17. Taxes and Duties
18. Performance Security
19. Copyright
20. Confidential Information
21. Subcontracting
22. Specifications and Standards
23. Packing and Documents
24. Insurance
25. Transportation
26. Inspections and Tests
27. Liquidated Damages
28. Warranty
29. Patent Indemnity
30. Limitation of Liability
31. Change in Laws and Regulations
32. Force Majeure
33. Change Orders and Contract Amendments
34. Extensions of Time
35. Termination
36. Assignment
37. Export Restriction

ANNEX D: ASSESSMENT OF COMPLIANCE, PERFORMANCE, CAPACITY, AND FIDUCIARY RISKS AT THE PROJECT LEVEL

The determination of the extent to which the pre-selected projects would be retained as pilot projects would follow a due diligence process. Once the first step to identify potential pilot projects has been completed, the process will be based on the following four steps to assess the overall ability of the executing agency:

1. Compliance: review of the track record of the executing agency with regard to compliance with the country's legal and regulatory framework in particular vis-à-vis the indicators proposed in Table 1. The Bank has deemed that it was neither appropriate to set benchmarks for each indicator as there are no corresponding benchmarks that are considered acceptable internationally, nor to rely on a global pass/fail requirement which would be difficult to define and would require to set priorities among indicators or allocate weights while all are deemed important. Each indicator would be evaluated on its own merits depending on the surrounding circumstances. These indicators will be monitored as well during implementation of the pilot project.
2. Performance: assessment of the executing agency's past performance on the basis of the measurement of selected performance indicators against targets, as proposed in Table 2, to assess its overall ability to carry out procurement processes in a diligent, effective, and efficient manner. Targets are based on average quantitative figures but not set as absolute pass/fail benchmarks given that a strict quantitative interpretation may be misleading (e.g. a low number of complaints may reflect lack of transparency and suggest fear of retribution, while too many may indicate inappropriate regulations or inadequate application, or an exceptionally performing process). The analysis against these targets will be conducted on the basis of a sampling of contracts to be determined for each pilot project based on the assessment of procurement risks under step 4 below, and interviews with the private sector (local and foreign) and representative civil society organizations. The targets would be reviewed and adjusted as part of the monitoring of the piloting program. Those indicators, like the compliance ones, will be monitored as well during implementation of the pilot project.
3. Capacity: assessment of the executing agency of the pilot project in terms of staffing and internal operating procedures to measure the quality and adequacy of the executing agency's capacity to plan and execute procurement actions (see Table 3). The assessment will be based on a qualitative analysis against a set of criteria and administrative and organizational procedures expected from well-performing project executing agencies.

4. Fiduciary risks: assessment based on the use of a new web-based dynamic procurement risk assessment and management tool (Table 4). The risk factors are grouped in two categories: inherent risks and control risks. Inherent risks relate primarily to the business environment in the country that affects the overall procurement capacity of the country and the project design. Control risks are risks associated with the agency's internal control structure, policies and procedures and capacity. The Bank and the executing agency will, on the basis of identified risks, develop and agree on a dynamic Development Plan which will include risk mitigation measures. Measures related to capacity/staffing and controls would constitute conditions of effectiveness for the pilot projects if they relate to risks that the Bank would deem high. The analysis will also be used for progress monitoring purposes on throughout implementation of the pilot project depending on the nature of the risks.

Based on the analysis of the above-captioned specific criteria/indicators, the Bank will determine on a case by case basis whether the agency is capable of executing the pilot projects.

Table 1 - Compliance Indicators

Principles	Dimensions of Compliance	Data to be Collected and Analyzed
Transparency and Equal Opportunity	Advertisement	Contracts for which invitation to bid are publicly advertised adequately (method of advertisement).
Transparency and Equal Opportunity	Time for bid preparation	Days between bid invitation and opening to take into account complexity and nature of contracts.
Transparency and Equal Opportunity	Use of sample bidding documents	Conformity with national regulations, in particular with regard to the clarity and completeness of SBDs (the SBDs to be used under pilot projects will be reviewed and agreed by the Bank).
Efficiency	Time for bid evaluation and award	Contracts signed within the original bid validity period and in conformity with national regulations.
Transparency and Equal Opportunity	Use of less competitive methods	Review of contracts (or a sample of them) signed using methods that are less competitive than required by the national regulations.
Transparency and Economy	Use of Sole-Source	Review of Sole Source contracts (or a sample of them) to assess if justified against the national regulations.
Transparency	Bid opening procedures	Conformity of bid opening procedures with the national regulations
Transparency and Fairness	Award made in accordance with stated criteria	Review of a sample of contracts awarded to bidders to assess if in accordance with the criteria stated in the bidding documents.
Efficiency, Transparency and Accountability	Complaints	Review of a sample of complaints to assess if handled in accordance with the national regulations (including within the set timeframe).

Table 2 - Performance Indicators

Principles	Dimensions of Performance	Data to be Collected, and type of analysis	Targets
Transparency, Fairness and Integrity	Extent of complaints	Number of complaints	Not less than 5% or more than 50% of annual awards challenged.
Transparency, Fairness and Integrity	Quality of complaints	Review of validity of complaints (analysis and interviews with the private sector and CSOs)	Satisfaction of bidders. Not less than 90% of valid complaints satisfactorily resolved by the executing agency.
Economy	Contract prices	Comparison of prices paid by public sector agencies of the sector for the same commonly procured services, goods and/or works	Not more than a 20% difference in prices in no more than 25% of the sample of reviewed cases.
Economy and Integrity	Fraud and Corruption (F&C) cases	Number of F&C cases identified during audits that have been submitted to the judicial system and led to sanctions	At least one case per year in the past 3 years
Economy and Integrity	Contract prices	Contracts whose final cost exceeded the original contract price by 15% or more (many could be for justified reasons)	Not more than 10% of the sample of reviewed cases for unclear reasons.
Economy and Integrity	Contract variations	Contracts which are amended within 3 months of contract signature (there could be cases with justifiable reasons)	Not more than 10% of the sample of reviewed cases for unforeseeable reasons.
Economy, Efficiency and Integrity	Contract execution time	Contracts execution delayed by more than 25% of the original timetable for unacceptable reasons	Not more than 10% of the sample of reviewed cases
Effectiveness	Specifications Compliance	Inspection reports to determine whether goods, equipment or works meet technical specifications/design	Not more than 10% of the sample of reviewed cases.
Economy and Efficiency	Claims	Claims not resolved in accordance with contract terms	Not more than 10% of the sample of reviewed cases
Economy and Efficiency	Payment process	Payments made within specified contract terms	No delays by more than 2 months in more than 10% of the sample of reviewed cases.

Table 3 - Capacity Qualitative Assessment

Principles	Dimensions	Documentation	Criteria
Accountability and responsibilities	Status and administrative structure of the executing agency	Bylaws and organizational chart	Well defined internal duties and responsibilities, and effective and clear procurement management procedures.
Accountability and responsibilities	Delegation of authority, and level of external government approvals	Internal Manual of Procedures or other well documented set of procurement rules and regulations	Clear delegation of decision-making responsibilities, effective and reasonable lines of external Government controls.
Transparency	Record Keeping	Written records of all procurement transactions (manual or electronic)	Availability of adequate, good quality, secure and complete records. All phases of the procurement - preparation of bidding documents/bid evaluations/contract awards/contract signature and management cycles have to be adequately covered.
Efficiency	Procurement Management	Procurement Plans	Plans in accordance with legal requirements, regularly updated and used as a management tool.
Efficiency	Staffing	Job descriptions for all procurement positions. Skills surveys and/or analysis	Number of experienced and qualified staff in key procurement positions. Broad range of skills to cover all procurement aspects.
Efficiency	Procurement training	Existence of training strategy and/or program. Agency records of the number of days and type of training taken by staff in the last 2-3 years.	Relevant training strategy/program. Relevance of training vis-à-vis staff needs to carry out their jobs, and the agency business needs. Suitability of external and in-house training.

Table 4 - Dynamic Procurement Risk Management Tool

Type of Risks	Level	Risk Factors
Inherent	Country	Country procurement framework & overall capacity Business environment Corruption Bank's portfolio within the country Internal and external control framework
	Project Design	Type of operations Project complexity
Control Risks	Governance and organization of the executing agency	Legal/Corporate status of Agency Internal manuals and procedures
	Capacity of the executing agency	Record keeping Staffing Contract evaluation and award Contract administration and management
	Procurement oversight	Internal and external oversight

ANNEX E: BANK INTERNAL PROCUREMENT REVIEW, CLEARANCE AND CONTROL PROCESS

Project Cycle	Role and Responsibilities under current Bank Operations	Role and Responsibilities under Use of Country Systems
Project Identification	Prepare Concept Note	<ul style="list-style-type: none"> Pre-assess country PFM and procurement systems by the RPM and RPM offices Pre-identify potential pilot countries by the VPU (RMT, Country Director and Country Management Team, RPMs and RFMs) in coordination with other donors and consultation with stakeholders Apply the OECD/DAC benchmarking tool by the RPM office in coordination with other donors and consultation with stakeholders Select pool of candidate pilot countries by the VPU Carry out equivalence assessment to compare country systems with Bank's policies by the RPM office Publish country assessment reports of countries that meet the criteria under Stages I and II by OPCPR Clear pilot countries to enter the pool of participating countries by the OPRC Identify potential sectors/projects for the UCS piloting program by the Country Management Team
Project Preparation, Appraisal and Negotiations	<ul style="list-style-type: none"> Carry out Procurement Capacity Assessments of Implementing Agencies Finalize Procurement Strategy and Procurement Plan Finalize Supervision Plan Draft Procurement Sections in Project Appraisal Document (PAD) Finalize Loan Agreement (LA), PAD, SBD, GPN 	<ul style="list-style-type: none"> Assess past compliance and overall performance of executing agencies of potential pilot projects by the RPM office Assess overall capacity of executing agencies by the RPM office Apply the dynamic procurement risk assessment tool to determine project fiduciary risks and identify risk mitigation measures by the RPM office Set baseline data for monitoring compliance and performance during implementation by the RPM office Review and clear the bidding documents to be used for procurement expected to attract international competition by the RPM office Agree on the selection of consulting assignments subject to country policies and procedures (including the determination of the ceiling above which Bank policies would continue to apply) by the RPM office Agree on specific Environmentally and Socially Responsible Procurement (ESRP) provisions to apply to pilot projects by the task team Agree on specific governance and anti-corruption (GAC) measures and anti-corruption plans, as well as ethics and conduct standards, to be incorporated in the pilot projects by the task team and the RPM office Review and clear the final Procurement Plan by the RPM office Review the website of the executing agency and agree on advertising procedures by the RPM office Finalize the Supervision Plan (including post-review requirements and third party audits) by the task team and the RPM office Draft Procurement Sections in the PAD and special country systems conditions (action plans of corrective measures, indicators, risk mitigation measures) and remedies to be inserted in Loan Agreement (LA) by the RPM office

Implementation	<ul style="list-style-type: none"> Supervise compliance of procurement carried by Borrowers in accordance with Loan Agreement Carry out Prior Reviews Carry out Post Reviews Hire Consultants to carry out IPR (on a case by case basis) Declare misprocurement, if necessary, in conformity with LA and Para. 1.12 of Bank's Guidelines Monitor Complaints sent to the Bank Participate in ICR – Draw Lessons for future operations 	<ul style="list-style-type: none"> Supervise compliance of procurement carried by Borrowers in accordance with the LA and country system by the RPM office Monitor procurement plans to ensure they are updated and published by the task team and the RPM office Monitor the advertising process to ensure it is complied with by the RPM office Carry out Prior Review of consultants contracts subject to Bank guidelines by the task team and the RPM office Conduct Post Reviews of samples (depending on risks) of contracts falling under national procedures by the task team and the RPM office Monitor the agreed medium-term action plan of corrective measures by the RPM office and the OPRC Monitor performance data and agree on corrective actions as may be needed by the task team and the RPM office Monitor Complaints sent to the Bank by the task team and the RPM office, and escalate as may be needed Monitor the status of the agreed ESRP and GAC measures action plans by the task team and the RPM office Review the selection by the executing agency of consultants to conduct annual Third Party Independent Audits, review findings, and agree on corrective actions as may be needed by the task team and the RPM office Apply remedies, including misprocurement, by the RPM office, the Legal department, the task team and the Country Director Monitor the status of country procurement policies and regulations, and compliance indicators at the executing agency level, to assess if the UCS status can be retained by the RPM office and the OPRC Prepare an annual report on the status of UCS for each pilot project by the task team and the RPM office Consolidate in an annual pilot country report the above reports for each pilot project by the RPM office Prepare annual reports to the Board of Executive Directors on the overall piloting program for the pool of participating countries by OPCPR Conduct ICR of pilot projects, and draw Lessons for future operations
Capacity Development	<ul style="list-style-type: none"> Provide training to counterparts through formal training sessions, on the job and technical assistance (IDF Grants, CPAR etc) 	<ul style="list-style-type: none"> Carry out capacity building activities with the executing agencies of the participating countries in accordance with the agreed action plan of corrective measures, the agreed risk mitigation measures, and with regard to any deficiencies identified during supervision Provide training through formal training sessions and technical assistance and special support to participating countries Coordinate with donor partners the delivery of capacity development activities in candidate countries in accordance with the medium to long term country-level capacity development action plans agreed with candidate countries for which deficiencies were identified under Stages I and II

The following describes in detail the role and responsibilities of Bank staff to implement the Use of Country Systems (UCS) piloting program. Key fiduciary players in the process would include the Regional Procurement Managers (RPMs), the Procurement Sector Board (PSB)¹, the Operations Procurement Review Committee (OPRC)², the legal representative from the procurement support group in LEGIA and other procurement legal advisors, the anchor unit³, and a Use of Country Systems Working Group (UCS Working Group)⁴ which would be established to assist in the piloting program. The following describes in greater detail the responsibilities of these key players.

A. Pre-identification of potential candidate countries

This initial process would be carried out within each of the six Bank operational regions. Participants would include primarily the Country Directors and the country management team, the regional management team, and the Bank's counterparts in countries themselves. The proposed role of each of these participants is further elaborated below:

- The Country Director and Country Management Team: They would conduct an initial consideration of countries based on the continuous dialog they maintain with counterparts in the country and with other donors and key stakeholders active in the country. They would in particular rely on the Country Assistance Strategies (CAS) and any available information, inter alia diagnostic tools and economic and sector work. The process would rely on contributions from all staff. The country teams would also pre-identify potential sectors and projects within the country on the basis of the CAS, the projects pipeline, and country portfolio performance data.
- Country Counterparts: Although the Bank's country team would make the countries aware of the opportunities and responsibilities that would be part of the piloting program, each country would have to evaluate the benefits and the potential cost of participation and would need to realistically assess whether they have the system and the capacity to participate in the pilots. It is envisioned that the country counterparts would consult not only with the Bank, but also with other

¹ The Procurement Sector Board, which functions as an oversight and management body for the Bank procurement network, consists of the Chief Procurement Policy Officer (CPPO) who heads the Board, the Regional Procurement Managers, a legal representative from LEGIA, a representative from the Anchor unit, and representatives from other units and sectors within the Bank. It has broad ranging responsibilities for setting quality standards, developing policy, and overseeing HR issues, including staff development. Given its responsibilities and full regional representation, the PSB would be involved in supporting key aspects of the proposed piloting program, and play an advisory role.

² The OPRC is the highest procurement instance in the Bank which clears the largest contracts and review complex issues as may be needed. It is chaired by the Chief Procurement Policy Officer, the legal representative from LEGIA, and the Regional Procurement Manager for the case under consideration. The OPRC would play a key role in the validation of country systems assessments and oversight of the piloting program. Its meetings would associate task teams and other staff as may be needed.

³ OPCPR, the procurement anchor unit, would provide general support to the piloting program, and would inter alia issue a guidance note to Bank staff to ensure consistency in the overall implementation of the methodology.

⁴ To support the additional functions of the OPRC with regard to the UCS piloting program, a dedicated UCS working group reporting to the OPRC would be created and staffed by lead and very experienced senior procurement specialists in the Anchor procurement unit and the RPM offices. The UCS working group would function as a quality control group and would also be available to provide advice and assistance to staff in the regions and in the countries.

donors active in their countries before expressing interest to participate in the piloting program.

- **Regional Management Teams (RMT):** The RMT would review available documentation and information at the country level, assess the overall environment in which the procurement system operates, and make a recommendation as to which pre-identified countries should be further considered. Of particular importance to this process are the RPMs and the Regional Financial Management Managers (RFMs). The RFMs would help support the analysis of the public financial management system in the candidate countries from their region. The RPMs would be responsible for reviewing the existing diagnostic work in the country. Most importantly, they would contact country procurement specialists to obtain up-to-date information on the status of any reform initiatives underway in the country that are intended to address issues with the procurement system and with the public financial management system. Specialists would rely on CPARs, joint fiduciary reports and other available diagnostic work, and implemented CPAR action plans and procurement reforms to determine the current conditions in the country and to identify if the countries are committed to the strengthening of country procurement systems and implementation of necessary reforms. A lack of commitment or progress on key reform initiatives would be a basis for not retaining a country for further consideration.

B. Assessment of Country Systems – Definition of a Pool of Candidate Countries for the Piloting Program

The Bank would identify the best candidate countries by completing the country systems assessment process for all the pre-identified countries under A above. The process would involve tasks and staff as follows:

- **RPMs:** They would be responsible for conducting the technical assessment based on the full-fledged application of the OCED/DAC benchmarking tool as explained in Annex B, in coordination with other donors. Procurement staff who have a good knowledge of the country's procedures would be responsible for conducting the assessment. Each RPM would propose to the RMT a pool of candidate countries based on its findings once they have been vetted with stakeholders. To do so, the Bank would involve civil society organizations as well as the private sector and its representative instances, and eventually legislative committees, in the assessment process.
- **PSB:** The PSB would help ensure that the assessment of country systems is being implemented as intended and consistently across Regions. Recurrent generic issues in the conduct of the assessments would be discussed by its Policy Committee which consists of all the PSB principals.
- **UCS Working Group:** It would be charged with conducting a review of the outcome and recommendations of the assessments undertaken for each country at

Stage I to help the RPMs to ensure quality and adherence to the standards set in the methodology.

- RMT: The decision regarding the regional list of countries proposed for the pool of candidate countries would be made by each regional Vice President.

C. Definition of a Pool of Participating Countries in the Piloting Program

The Bank would select, taking into account regional distribution, a final pool of participating countries by completing the consistency and equivalence assessment process for all countries in the pool defined under B above. The process would involve tasks and staff as follows:

- RPMs: They would be responsible for conducting the consistency and equivalence assessment detailed in Annex B.
- PSB: The PSB would help ensure that the methodology is being implemented as intended and consistently across Regions. Recurrent generic issues in the application of the methodology would be discussed by its Policy Committee.
- OPRC: The committee would vet key decisions that deal primarily with the final recommendations of which countries should be included in the pool of participating countries following the full Stages I and II assessment process. The UCS Working Group would prepare country profiles based on a full analysis of the assessments, along with recommendations as to which countries should be included in the pool. Draft assessment reports for all countries reaching that stage would be published by OPCPR on the Bank external website for a period of one month to collect comments and recommendations before finalizing its findings and moving on to appraise pilot projects. The OPRC would also mitigate disagreements that may arise within the regions.

D. Selection of Pilot Projects and Assessment of Executing Agencies

All projects under consideration in a country in the pool would follow the Stage III process detailed in Annex D before a final decision is made as to whether the project should be included in the piloting program.

The proposed role of each participant is further elaborated below:

- RPMs: The pilot projects selection process would be handled by the RPM offices in coordination with task team leaders, sector managers and sector directors as follows:

The initial recommendations of pre-identified potential projects would first be cleared by the RPMs on the basis of past fiduciary performance.

During the assessment, the same procurement specialists who have conducted the country assessments and would be formally assigned to the proposed pilot project would collect compliance and performance data to evaluate compliance of the executing agencies with the country procurement policy and procedures, and

establish the performance baseline data to be monitored during implementation. The current Bank policy to conduct an assessment of the executing agency or agencies that manage and implement Bank-financed projects would remain largely unchanged although pilot projects would be subject to additional features. During the capacity assessment process, the new dynamic risk model tool would be introduced as an integral part of the process. Risk issues would be flagged and when risk mitigation measures are mandated, they would be entered and tracked throughout the life of the project providing managers with critical information in support of procurement and contract management.

Procurement staff would review and clear the bidding documents to be used for procurement expected to attract international competition by the RPM office, and agree on the selection of consulting assignments subject to country policies and procedures (including the determination of the ceiling above which Bank policies would continue to apply)

Procurement staff would review and clear the final Procurement Plan, review the website of the executing agency and agree on advertising procedures, and draft Procurement Sections in the PAD and special country systems conditions (action plans of corrective measures, indicators, risk mitigation measures) and remedies to be inserted in Loan Agreement.

- OPRC: The Committee would approve the final selection of pilot projects on the basis of the recommendations made by the UCS Working Group after review of the overall compliance, performance, capacity and risk identification assessment carried out by the RPM offices
- Task team: TTLs would agree on specific governance and anti-corruption (GAC) measures and anti-corruption plans, and ethics and conduct standards, as well as specific Environmentally and Socially Responsible Procurement (ESRP) provisions to apply to pilot projects, in coordination with the RPM office. They would also finalize the Supervision Plan (including post-review requirements and third party audits) in coordination with the RPM office.

E. Supervision of Projects

The supervision of pilot projects would remain the responsibility of the TTLs and the task teams with the support of the respective RPM offices, and would be conducted as is currently required for all Bank-financed projects.

Procurement oversight would continue to take place as is the practice under any Bank-financed project --the same procurement staff who participated to the various stages of the assessment and approval process, and have the most complete knowledge of the country system and the special provisions of the Legal Agreement, would remain assigned to the pilot projects throughout the project life cycle.

TTLs and fiduciary staff would, in particular, continue overseeing complaints submitted directly to the Bank to ensure that they are addressed expeditiously and appropriately by the executing agency and result in appropriate remedial actions. The Bank would

continue to use its new Complaints Database as a means of tracking complaints and to capture the nature of complaints received. Similarly Bank staff would continue monitoring payments under contracts as this remains a key area of concern.

TTLs would also be responsible with the RPM, the Legal department, and the Country Director to apply remedies, including misprocurement in accordance with Para. 1.12 of the Bank's Procurement Guidelines. The Legal agreement would define the obligations and remedies available should the obligations not be respected, in particular with regard to the specific UCS obligations.

The nature of some tasks, however, would change, and the Bank would monitor the pilot projects through new features, inter alia third party independent audits, the dynamic risk tool, and monitoring of performance data. The detailed responsibilities of Bank staff have been provided in the matrix of responsibilities at the beginning of this annex.

Specific supervision features: of particular importance are the following aspects that would mostly fall under the responsibility of the RPM office:

- No prior review would be required --except for the selection of consultants determined to not be part of the piloting program
- Post review functions would become increasingly important in monitoring implementation of the pilot projects as the Bank would mostly rely on post reviews to monitor the updates of procurement plan, compliance and performance indicators, and mitigation measures determined as a result of the capacity analysis and the dynamic procurement risk model, and determine if additional management oversight is needed. Post review reporting would be carefully undertaken in order to document findings and contribute to collecting the lessons from the pilots. Standard post-review would continue applying to consulting services subject to Bank policy.
- The Bank would in addition require annual independent, third party, procurement audits (funded under the project) similar to the financial audits currently required under Bank financed projects. These audits could be contracted to consulting firms which have the language and country based knowledge to thoroughly review process and performance. These annual audits would provide a critical source of information on the quality of the management of the procurement and contract management process by the executing agency, allow comparisons and cross project learning, and contribute to analyzing the results of the piloting program and annual reporting to the Board of Executive Directors.
- Monitoring of the procurement plan and updates would require additional attention as this document is important to the identification of specific bids and consultants contracts to be reviewed by the Bank, as well as monitoring of procurement expected to attract international participation, inter alia ensuring that the agreed bidding documents are used.
- Monitoring performance indicators identified for each pilot on the basis of data to be provided by the executing agency, would require a thorough analysis to determine if there are performance issues requiring measures to address them.

- Monitoring of the status of the agreed ESRP and GAC measures would also require additional attention given that they would be country and project specific.

Broad oversight of the OPRC and the PSB: The pilot projects would additionally benefit from an enhanced oversight as follows:

- The OPRC would monitor the implementation of the medium-term action plans of corrective measures agreed with pilot countries at the end of Stage II, and assess if the UCS status can be retained after reviewing the status of compliance of the country procurement policies and regulations on the basis of a report on compliance indicators to be prepared by the RPM office.
- The OPRC would also review the findings of the annual Third Party Independent Audits, and may recommend corrective actions.
- The PSB would provide continuing support in resolving issues that may arise in the implementation of the pilot projects.
- OPCPR would be responsible for develop a special template for post review of the pilot projects, as well as terms of reference for the independent, third party, procurement audits to be used under all pilot projects.

F. Transparency, Disclosure and Reporting

Communication strategy: The PSB would oversee the development and implementation of a communication strategy regarding the UCS piloting program. OPCPR would prepare the strategy in coordination with the Bank's EXT department that helped to develop and oversee the consultation process conducted during the development of this methodology. OPCPR would be responsible for disclosing information on the pilots both internally and externally.

International Technical Advisory Group: The Bank is fully committed to creating an International Technical Advisory Group that will assist the Bank in reviewing the assessments of the country procurement systems and pilot projects, and participate more broadly in monitoring the piloting program. This Group will be constituted as a broad-based and diverse international group, including professionally qualified representatives of all key stakeholders: 1) the private sector and industry, and their professional national and international associations; 2) civil society organizations and their international and regional associations; 3) development partners and/or international organizations such as Multilateral Development Banks and bilateral aid agencies; and 4) independent and internationally-recognized procurement experts such as those who were associated with the preparation of the methodology.

Its composition has not yet been defined and the number of participants in the Technical Advisory Group has not yet been fully determined although a number of 12 participants is sought to provide for an efficient and manageable group. Given the large number of potentially interested stakeholders as well as the wide range of their expertise, one option would be to request advise on specific aspects or stages of the process from other stakeholders who would not be members of the Advisory Group. The terms of reference will be developed in consultation with stakeholders.

Reporting: The RPM offices would prepare annually reports for each pilot project, and consolidate them in a global country UCS report for each participating country in the piloting program. OPCPR would prepare annually a global report on the overall piloting program for the pool of participating countries for the Board of Executive Directors. A substantial reporting responsibility would also be taken on by the PSB, not only on progress of the pilot projects, but also as they are implemented on lessons learned from the process. It would in particular review the above-captioned reports before they are submitted to the Board of Executive Directors.

Information is seen as the key to transparency, learning and quality control. In this regard, the Bank would disclose relevant documents to the maximum extent and provide information to stakeholders that would enable them to monitor progress and implementation of the pilot projects, and follow the overall implementation of the piloting program. It is proposed that the Bank post on an external website the following information:

- all draft assessments for a period of one month to collect comments and recommendations before its findings on country systems are finalized and pilot projects are appraised;
- all independent third party procurement audits;
- Legal Agreements; Procurement Plans; agreed SBDs; and relevant ceilings for national consultant procedures; and
- the annual pilot project reports and the UCS country reports once cleared for publication.

G. Capacity Development

Bank staff training would be essential to ensure that the methodology is applied as should be. The PSB would oversee the development and implementation of a training program for staff to facilitate implementation of the UCS piloting program⁵. OPCPR would prepare a comprehensive staff guidance note that would cover the enhancements and new initiatives that are being introduced in support of the piloting program. These enhancements and initiatives would benefit all Bank-financed projects regardless of their status in the pilot program.

Procurement staff assigned to the pilot projects may still be called upon to provide support and assistance to the executing agencies to resolve procurement issues that normally arise during project implementation. This would be part of enhanced capacity development within the executing agency intended to both provide executing agency staff with advice and assistance, but also to provide Bank staff with a growing knowledge of implementation using country procurement systems.

⁵ OPCPR has already incorporated extensive discussion of and learning events on the UCS piloting program in the bi-annual Fiduciary Forum that took place from 24-28 March, 2008.

Capacity Development in borrower countries is a major commitment that accompanies the Bank's intentions to conduct a UCS piloting program. Additional effort would be required to locate resources to ensure that capacity development needs of all countries are met and their procurement systems effectively strengthened. It is recognized that the Bank's development partners are already supporting many such activities. The specific assessments conducted as part of the piloting program would increase the opportunity for the country to establish a strategy or plan of action around which donors active in the country can harmonize, thereby leveraging the effectiveness of available resources. Consultations with the country and all active donors are an important part of the dialog necessary to coordinate the design and implementation of capacity development activities that would accompany the piloting program. Many countries that express their interest in participating in the pilots would not be selected, but they would still benefit from participation through this process.