

Annexes

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Seminar agenda

Monday, 5 November 2007

09:00–10:15 Opening and keynote address

Welcome remarks

Paskah Suzetta

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Coordinator Asia-Pacific, OECD Anti-Corruption Division; Secretariat ADB/OECD Anti-Corruption Initiative for Asia-Pacific

The fight against bribery and corruption ranks high on the reform agenda of Asian and Pacific countries, as corruption constitutes an obstacle to investment, economic development, and welfare. Various reforms have been implemented over the past years to prevent corruption and to establish frameworks to sanction bribery when it occurs. Despite these efforts, bribery, and especially bribery in public procurement, remains recurrent in many countries, and further strengthening of frameworks and policies in this area is urgent.

International instruments now set standards for anti-bribery policies, legislation, and institutions. The OECD anti-bribery instruments and the UN Convention against Corruption (UNCAC) are the most relevant instruments in Asia and the Pacific in this regard; they establish specific standards that seek to prevent and sanction bribery, in public procurement and other areas. The Anti-Corruption Action Plan for Asia-Pacific, which supports the principles of both the OECD anti-bribery instruments and the UNCAC, also underscores the importance of mechanisms to prevent, detect, and sanction bribery in public procurement.

Translating these international standards into legislation and policies constitutes considerable challenges. This opening session seeks to outline the detrimental effects of corruption in public procurement and to map out risk areas that need to be addressed as a priority by governments of the region.

10:15–11:00 Coffee break and group photo/press conference with speakers from opening session

11:00–12:45 Challenges and risk areas for bribery in public procurement

Chair: **Kathleen Muktan**, Director, Capacity Development and Governance Division; Secretariat, ADB/OECD Anti-Corruption Initiative

Progress and challenges in Asia-Pacific in addressing bribery risks in public procurement

Joachim Pohl

Secretariat, ADB/OECD Anti-Corruption Initiative for Asia-Pacific

Fighting bribery in public procurement: The work of the OECD Working Group on Bribery

Nicola Ehlermann-Cache

Policy analyst, Anti-Corruption Division, OECD

Challenges and risk areas for corruption in public procurement

Joel Turkewitz

Head, Procurement Hub Coordinator South Asia, World Bank

Progress and challenges in procurement reform in Indonesia

Agus Rahardjo

Head, Public Procurement Policy Development Agency, National Development Planning Agency, Indonesia

Reform of P.R. China's government procurement system

Shimin Han

Deputy Section Chief, Supervision Department, Ministry of Finance, People's Republic of China

Focusing on the particular bribery risks in public procurement is a cornerstone of efforts to develop appropriate procurement and anti-bribery mechanisms. Public procurement frameworks have undergone considerable reform throughout Asia and the Pacific over the past 10 years or so. Much of this reform has taken bribery risks into consideration. However, even in countries that have taken actions to ensure that an appropriate framework is in place, bribery often continues to occur, albeit sometimes in unexpected areas or forms. This session seeks to assess bribery risks in procurement frameworks that become apparent after reforms have been passed, despite the reforms, or even as a consequence of certain reforms, for the purpose of identifying what governments should do to improve their ability to prevent and deter bribery in procurement contracts.

12:45–14:15

Lunch

14:15–17:00 The need for clear anti-bribery rules: International standards and national examples of bribery offenses in public procurement

Chair: **Joachim Pohl**, Project Coordinator, Anti-Corruption Initiative for Asia-Pacific, Anti-Corruption Division, OECD

Detering transnational bribery in government contracts: The standards of the OECD anti-bribery instruments

Frédéric Wehrlé

Coordinator Asia-Pacific, Anti-Corruption Division, OECD

Bribery patterns in Indonesia: An analysis of cases

Amien Sunaryadi

Vice-Chairman, Corruption Eradication Commission, Indonesia

Detering companies from bribing to win government contracts: Experience with criminal responsibility of legal persons for bribery

Lauren Thomas

Criminal Law Branch, Attorney-General's Department, Australia

Experiences with the False Claims Act in the US

Neal Roberts

Lawyer, United States

Addressing effectively bribery risks in public procurement requires first that the appropriate anti-bribery laws are in place. Clear criminal rules with substantial penalties have proven time and time again to be one of the most effective means to combat bribery in public procurement. Enforcement is key, of course. Indeed, the fact that businesses continue to pay bribes in order to win government contracts seems, at least in part, to result from doing business in countries without clear anti-bribery rules and effective enforcement. This is why it is important that countries adopt clear rules making bribery a criminal offense.

This session will start by clarifying international standards for measures and procedures to prevent and deter bribery in public procurement set out by the OECD Convention on Bribery of Foreign Public Officials that sets common standards for making bribery in public contracts abroad a criminal offense.

Based on contributions from policy-makers and law enforcement officers, this session will then discuss the experience of countries that have adapted, or are in the process of adapting, their legislation to such anti-bribery standards. It will in particular highlight the challenges and the solutions that countries have found when transposing the international standards into national law to enable countries that plan similar reform steps to anticipate possible difficulties and emulate solutions.

Tuesday 6 November 2007

09:00–10:30 The role of specialized procurement authorities in defining policies and overseeing their implementation

Chair: **Mochammad Jasin**, Director of Research and Development, KPK

A systemic approach to enhancing integrity in public procurement

Elodie Beth

Administrator, Innovation and Integrity Division, Public Governance and Territorial Development Directorate, OECD

The role of the specialized central procurement agencies: The example of Bangladesh

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The role of the Philippine Government Procurement Policy Board in the anti-corruption program

Ruby Alvarez

Executive Director, Government Procurement Policy Board Technical Support Office, Philippines

How procurement oversight bodies can contribute to curbing corruption

Peter Pease

Public Procurement Adviser

Ensuring that appropriate anti-bribery laws are in place and enforced is a first step; a second area of action for governments is the development of adequate procurement rules and controls. Over the past decade, many countries in Asia and the Pacific have significantly modernized their regulatory frameworks for procurement and often decentralized the conduct of public procurement. The implementation of modern and complex regulations by procuring entities can constitute insurmountable difficulties, especially at local levels. These difficulties are often aggravated by the absence of standard documents and procedures. This situation may lead to unequal implementation and a wide variance in the application of procurement policies and frameworks. Uncertainty about the application of procurement rules may provide new opportunities for corruption and bribery that the passing of modern legislation was meant to prevent.

Experience in many countries has shown that the thorough and systematic implementation of complex procedures such as procurement by a multitude of independent executing agencies can benefit from the intervention of a specialized authority that supervises the implementation of the regulatory framework, defines policies that respond to recurrent problems and risks, collects and disseminates

information on good practice, prepares standard documents, and organizes and conducts training.

Some countries in Asia and the Pacific have established such specialized institutions that assume the role to design policies and oversee procuring agencies in their implementation; other countries are setting up such agencies. This session seeks to lay out the potential that specialized procurement agencies bear in curbing corruption risks, and endeavors to identify features and powers that these agencies need to be given to fulfill their mandate.

- 10:30–10:45 Coffee break
- 10:45 – 12:30 The role of civil society in controlling and supervising public procurement
- Chair: **Paul McCarthy**, Governance and Civil Society Adviser, World Bank Indonesia

Enabling civil society to participate in monitoring and safeguarding public procurement: The experience of the Partnership for Transparency Fund (PTF)

Michael Wiehen

Member of the Advisory Council, Transparency International

The role of civil society in monitoring public procurement: The Indonesian experience

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Holding governments accountable: Procurement for reconstruction after the earthquake in Pakistan

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Control and supervision are essential to ensuring that procurement regulations are respected and that bribery risks are checked. Various actors can contribute to controlling the conduct of public procurement. The above-mentioned specialized procurement offices play an important role, and civil society can complement this institutional approach. In fact, nongovernmental actors often have specific advantages such as knowledge and resources, that can, combined with governmental oversight bodies, form a very effective and constructive system of control and oversight over procurement agencies and processes.

This session seeks to identify ways to involve civil society in the control and supervision over procurement processes so that it can contribute to preventing and detecting bribery in procurement. The session will draw on experience from countries that have empowered civil society to participate in procurement processes.

- 12:30–14:00 Lunch
- 14:00–15:30 The potential of new technologies in preventing bribery in procurement: E-announcements, e-bidding, and e-procurement

Chair: **Elodie Beth**, Administrator, Public Governance and Territorial Development Directorate, OECD

The impact of e-procurement on corruption

Paul Schapper

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E-procurement impact on corruption: The E-GP Scenario/Model in Indonesia

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Indian government tender system and e-procurement in the Indian Railways

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Electronic media bears potential to contribute to reducing bribery risks in public procurement in various ways: it limits face-to-face contacts between suppliers and procurement personnel, allows the efficient distribution of information to a wide audience at low cost, increases transparency of forthcoming, current, and past tender opportunities, and produces evidence throughout the process that can help uncover patterns that may indicate bribery. As electronic media become widely available, the use of electronic media in procurement plays an increasing role.

However, it is not technology itself that will help reduce corruption—the potential of technical means to curb bribery only unfolds if these means are employed and tailored for the specific purpose of reducing bribery risks. How this can be done and what pitfalls and risks may arise has been experienced by countries that have been forerunners in the implementation of electronic means in public procurement.

This session will assess the potential of electronic media for the purpose of reducing bribery in procurement. It will highlight features that can contribute to preventing bribery and set out risks that countries would need to anticipate if they seek to introduce or expand the use of e-procurement.

- 15:30–15:45 Coffee break
- 15:45–17:00 Role and responsibilities of suppliers in curbing corruption in public procurement

Chair: **Waluyo**, Deputy Commissioner in charge of Prevention, Corruption Eradication Commission, Indonesia

What can suppliers do to prevent bribery in procurement?

Soy M. Pardede

Chairman of the Commission on Business Ethics, BTP and Anti-Bribery Movement, Chamber of Commerce and Industry, Indonesia

Corruption risk management by companies and the role of civil society: The experience with the Integrity Pact

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Bribery concerns for International Businesses

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Bribery can occur only if there is supply of and demand for bribes. Effective measures against bribery therefore need to address with equal emphasis the supply and demand sides. So far, many countries have focused their anti-bribery efforts on public officials involved in public procurement; the potential of the business sector as a partner in efforts to fight corruption is often neglected.

This session seeks to highlight possible contributions that the business sector can make to curbing bribery in public procurement. It will feature experiences of individual companies and assess the role of business associations as a standard setter and as a forum for exchange of good practice.

Wednesday, 7 November 2007

09:00–10:30 Support from international and regional partners in the development of procurement frameworks to prevent bribery

Chair: **Joanna Perrens**, Indonesia Group, Australian Agency for International Development

ADB assistance for strengthening procurement frameworks

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Assessing public procurement frameworks: The OECD/DAC joint venture for public procurement

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While countries are responsible for strengthening their anti-bribery legislation and regulatory frameworks to mitigate bribery risks in public procurement, they may benefit from support offered by development banks, international organizations, and regional processes. Many countries in Asia and the Pacific have in the past taken advantage of these actors' expertise in reforming sectors relevant to the fight against corruption.

As remaining and emerging challenges require further efforts in bolstering policies, legislation, and institutions against bribery, international and regional partners remain an important source of support and expertise.

Based on past experience and plans for future cooperation, this session seeks to identify the roles that international and regional partners as well as bilateral assistance programs can play in supporting countries in these countries' efforts to bring their anti-bribery frameworks in line with international standards and in reforming procurement frameworks.

10:30–11:00 Coffee break

11:00–11:30 Key outcomes of the seminar and closing

Frédéric Wehrlé and Kathleen Maktan

Secretariat, ADB/OECD Anti-Corruption Initiative

Taufiequrachman Ruki

Chairman, Corruption Eradication Commission, Indonesia

This session draws conclusions on a way forward to bolster the fight against bribery and to strengthen frameworks and practice to prevent, detect, and sanction bribery and corruption in public procurement.

Abbreviations and acronyms

ADB	Asian Development Bank
AUD	Australian dollar
AusAID	Australian Agency for International Development
CNY	Chinese yuan/renminbi
CPI	Corruption Perceptions Index
CPTU	Central Procurement Technical Unit (Bangladesh)
CSO	civil society organization
CVC	Central Vigilance Commission (India)
DAC	Development Assistance Committee, OECD
DIP	Daftar Isian Proyek (annual government project list) (Indonesia)
DKI Jakarta	Daerah Khusus Ibukota Jakarta (special capital city district) Jakarta (Indonesia)
DMC	developing member country
DOJ	Department of Justice (USA)
e-GP	electronic government procurement system
ERRA	Earthquake Reconstruction and Rehabilitation Authority (Pakistan)
EUR	euro
FCA	False Claims Act
FCPA	Foreign Corrupt Practices Act
GPPB	Government Procurement Policy Board (Philippines)
GTZ	Deutsche Gesellschaft für Technische Zusammenarbeit GmbH (German Technical Cooperation)
ICCP	Indonesia Control of Corruption Project
IDR	Indonesian rupiah
ILO	International Labor Organization

IMED	Implementation Monitoring and Evaluation Division (Bangladesh)
INR	Indian rupee
ITC	International Trade Centre
JV	joint venture
Keppres	Keputusan Presiden (presidential decree) (Indonesia)
KPK	Komisi Pemberantasan Korupsi (Corruption Eradication Commission) (Indonesia)
KPPU	Komisi Pengawas Persaingan Usaha (Business Competition Supervisory Commission) (Indonesia)
LPKPP	Lembaga Pengembangan Kebijakan Pengadaan Pemerintah (National Public Procurement Office) (Indonesia)
MCC	Millennium Challenge Corporation
NEPS	National Electronic Procurement System (Indonesia)
NGO	nongovernment organization
OECD	Organisation for Economic Co-operation and Development
OGC	Office of Government Commerce (UK)
PGC	Public Governance Committee, OECD
PKR	Pakistan rupee
PPB	Public Procurement Board (Ghana)
PPDPA	Public Procurement and Disposal of Public Assets Authority (Uganda)
PPRA	Public Procurement Regulatory Authority (Pakistan)
PSU	public sector unit
PTF	Partnership for Transparency Fund
Rp	Indonesian rupiah
RPA	risk potential assessment
SEC	Securities and Exchange Commission
SME	Small and Medium Enterprises
SOE	state-owned enterprise
STD	standard tender document
TA	technical assistance
TI	Transparency International
UNCAC	United Nations Convention against Corruption
UNCITRAL	United Nations Commission on International Trade Law

UNODC	United Nations Office on Drugs and Crime
USAID	United States Agency for International Development
USD	United States dollar
WTO	World Trade Organization

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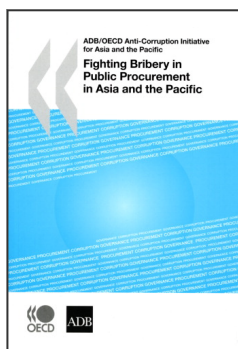
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