Best Practices in Public Procurement
Learning Objectives

• Overview of Procurement Facts
• Understanding Procurement Chain
• Procurement Planning
• Risk Management
• Ethics, Probity and Accountability
• The new reform agenda
Best Practices

• **Best Practices** are defined as techniques that procuring entities may use to help detect and avoid problems in the acquisition, management, and administration of contracts.

• Best practices are *practical techniques* gained from practical experience that may be used *to improve the procurement process*.
Procurement Defined

• The term “procurement” refers to the process of acquiring goods, works and services.

• The process spans the whole cycle from identification of needs through to the end of a services contract or the useful life of an asset.
Changing Business Scene

• Procurement is a professional activity in transition.
• Pivotal role brings procurement closer to strategic planning.
• Emerging role is proactive and more strategically oriented.
• Move from reactive procurement to Strategic Supply Management
• From a tactical focus to strategic focus.
Procurement & Delivery:

- Delivery comprises mainly of following components: Goods, Services, Individual Consultants, Travel, etc. These fall under procurement.
- Procurement is the key pillar of delivery.
- Procurement is presently treated as a mechanical process.
- One needs different types of skill sets to manage different type of goods and services.
- One need market and product knowledge. It is not about 3 quotations.
- It is about partnering with supply sources.
- Move from tactical to strategic mode (Presently we spend 100% of our time on fire fighting)
Confusion of Buying vs. Contracting

• What is “Buying”? What is Purchasing? What is Procurement? What is Contracting?

• When one party is prepared to pay another party for supply of goods or services, then subject to conditions, the party enter into a “contract”.

• If the risks involved are low, then contract can be in the form of PO. However in case of complex or high value contract, one require detailed documentation covering rights and obligations of both parties of the contract.

• Thought procedure for both purchasing and contracting is same.
Procurement Chain

1. Identify Needs
2. Write Specifications, TOR and SOW
3. Evaluate Offers
4. Prepare Solicitation Documents
5. Choose a Procurement Method
6. Seek, Clarify and Close Offers
7. Evaluate Offers
8. Award Contract
9. Manage the Contract
10. Negotiate the Contract
11. Evaluate the Procurement
Specifications for Goods:

• Functional Specification: What?
• Performance Specification: How much?
• Reference to product standards
• Inspection and testing: Pre-shipment testing
• Incidental Services: Supervision during installation, Training, Operation Manual
• Final Acceptance: Criteria for final acceptance
Terms of Reference (TOR)

- TOR may be compared to technical specifications for the purchase of goods or works.

- Areas to be covered are:
  - **Objective**: What is the anticipated result of services.
  - **Background**: What is the history of assignment. Any constraints.
  - **Scope of Work**: What is the consultant expected to do? Degree of details. Are there any specific decision points during the performance of work?
  - **Purchases**: Are any hardware requirements connected with the assignment? When should such deliveries to the client be made and on what terms?
  - **Reports**: How and when will the report be presented?
  - **Contributions**: What is the client going to provide in the way of facilities, professional support and physical facilities?
Specifications for Civil Works:

- Introduction: General Description
- Scope of Works: List of activities to be performed.
- Time Schedule: Starting date and completion date
- Detailed Design and Drawing:
- Bill of Quantity: Estimated quantity of each item
- Site investigation report: Soil conditions, Ground Conditions.
- Specifications and Standards: Set of instructions
- Commissioning: Final Inspection.
Tips on writing an effective SOW

• Be clear-use simple, direct language.
• Use active, not passive tenses (The seller shall conduct the test as opposed to a test should be conducted---, language is the dress of thoughts)
• Spell the buyer’s obligation carefully
• Provide a ceiling on the extent of services
• Identify all constraints and limitations
• Include standards that will make performance measurement possible and meaningful
• In case of goods, focus should be in providing functional and performance specifications
Supply Market Analysis

• This is a technique used to identify market characteristics for specific goods and services that assist in planning.

• It assists the procurement unit to understand as to how the market operates and where it is heading.

• Is advertising for information good enough?

• Market Structure: How many suppliers? How are they geographically placed?
Quality Assurance Systems

• Quality System Standards.
• Product Certification Programme
• Industry Association standards.
• Professional Association Accreditation
• CE/ISO/DIN/BS/ZABS
• Building Code of Construction
Public Procurement Life Cycle

- Procurement Plan
- Procurement Evaluation
- Procurement Implementation
- Procurement Formalization
Procurement Process

• Planning is not an analysis but identifying the activities and direction of activities
• Formalization phase determine the sourcing approach, evaluation criteria and solicitation documents. It formalizes the requirement based on budget
• Implementation covers all functions that pertain to the acquisition, including description of requirements, selection and solicitation of sources, preparation and award of contracts, and all phases of contract administration. It may also include logistics.
• Final phase consists of audit, evaluation and feedback
Procurement Plan

• Gateway to strategic approach
• Two levels of Procurement Plan
  • Annual Procurement Plan
  • Planning for Significant Purchases
• Addresses all key aspects of the function
• Align the outcomes with strategic plans
• Steps required for developing procurement plan
  • Procurement profile (Past & Projected Procurement)
  • Supply positioning (Level of Risk Associated with each category)
  • Key supply markets (Market Research)
  • Impact of Purchasing activities on its key supply markets
  • Assessment of Procurement structure & capacity
• Procurement Plans are mandatory

In short, procurement planning is about getting smart about procurement by focusing on strategic management
False Assumptions

• Any one can Buy
• Price is always related to cost
• Price is always related to volume
• Buyer power increases with the size of the organization
• Price list are set in stone
• Sealed bidding is the most secure method
Risk Management:

• Key to effective and efficient delivery
• This should be integrated in day to day management
• More important when we are moving from “arms length” to “partnering”
• Typical Risk factors: Buyer risk factors, Supplier Risk Factors, Contractual relationship risk factors, External risk factors
• Tools and techniques for managing risks: (Risks, Likely consequences, what to do)
  • Identifying the need
  • Developing the specifications
  • Contract documents
Risk Management

• Selecting a procurement method
• Seeking, clarifying and closing offers
• Identifying the preferred supplier
• Evaluating Offers
• Negotiating the contract
• Managing the contract
• Evaluating the procurement process
• Impact of each of the above on cost, timetable, user acceptability, integrity and competence
Ethics, Probity & Accountability

- Public funds and hence require more than usual public scrutiny.
- Probity means integrity, uprightness and honesty.
- Transparency and accountability gives confidence to suppliers to participate.
- Ethics are moral values that guide the procurement persons in their tasks.
- Ethical behavior cover the concept of honesty, integrity, probity, fairness. Avoiding conflict of interest etc.
- Check list:
  - Is the action legal?
  - Can I justify it?
  - What would happen if action is publicly scrutinized?
  - Do I think that it is right thing to do?
Procurement Accountability:

- **Definition**: The accountability in procurement means that staff is responsible for actions and decisions that they take in relation to procurement and for the resulting outcomes. The staff is accountable through established lines of accountability.

- **How does accountability help?** The accountability encourages the efficient, effective and ethical use of the organizational resources. This is the main watchword for government procurement process.
Fundamental elements of Accountability

• Procurement Policy:

• Documentation: It is important and provides record of procurement activities. This need to be strengthened.

• Disclosure: Annual procurement plan must be published to provide confidence.

• Notification: The PPA calls for publishing all major procurement notices and award of the contract.

• Dealing with complaints: The procurement protest procedures
Why focus on Ethics?

• Increased business volume => higher pressure
• Added Scrutiny (Due to cases of misconduct)
• A breach of ethics affects credibility, which is difficult to recuperate.
• Impropriety can harm the reputation of the organization/government
Common Ethical Risks

• Conflict of interest
• Fraud
• Corruption
• Coercion
• Collusion
Procurement Ethics

• **Conflict of interest:** A conflict of interest may exist when a staff is involved in an activity or has a personal interest that might interfere the objectivity in performing the function. (Code to guide relationship) It can arise:
  • When a member of staff takes outside employment or has financial interest
  • When personal relationship with staff of other business entity could influence the decision.

• **Gifts and Gratuities:**
  • May not accept gifts or gratuities from any supplier for themselves or for their family
  • May not take advantage of their position to seek discounts on procurement for personal use. This is construed as a gratuity
Procurement Ethics

• Integrity:
  • Open and effective competition
  • Environmental sustainability
• Ethics vs. Compliance (Ethics encourages responsible conduct and compliance prevent misconduct; Ethics is self imposed)
• Code of conduct
• Ethical belief is a personal choice, however ethical conduct can be mandated by an organization.
• Ethics are moral boundary or values within our work
Contract Management

• It is post-award phase
  • Compliance with contract requirements
    • Time and quality control
    • Dealing with performance problems
    • Management of bid/performance security
  • Measurement of performance and reporting
    • Certification of reporting
    • Contract Close –out
• Management of contract changes
  • Variation orders
  • Contract amendments
• Resolution of claims and disputes
  • Settlement of claims
  • Contract termination
The new reform agenda

- To deliver better-value public services, there is need to change our mindset.
- The required direction of travel is that resource and attention needs to be pushed away from the procurement process, and out to the areas where true value can be added: *pre-market engagement* and *contract management*.
- Focus on the beginning and end of the procurement cycle will mean a greater emphasis on outcomes and shaping procurement markets more effectively.
The new reform agenda

• The digital agenda – which delivers faster and cheaper procurements than traditional models – could be a way to achieve value-for-money for a considerable proportion of government expenditure.

• ZPPA, starting from July 2016, will be introducing electronic government procurement.

• E-procurement aims to simplify the buying procedure, speed up procurement and engender competition through transparency.
Other Future Developments

• Framework Agreements
  • A contract that establishes terms and conditions under which subsequent contracts will be placed
  • Does not commit the purchaser to purchase
  • Requires the supplier to supply in accordance with the terms defined within the scope of the contract
Benefits of Framework Agreements

• Reduced administration
• Competitive pricing (aggregation of demand)
• Assured quality
• Legal protection against breach of contract
• Assured delivery of goods
• Planned supplier stock levels
• Continuity of supply
• Long-term working relationships
• Improved flexibility and cooperation
• Multiple awards
Conclusion

• These new mechanisms are at the core of the new trends and changes being introduced in Public Sector Procurement.

• There is therefore need for review of procurement skills, identifying gaps that need to be addressed in view of an increasing focus on e-procurement. Capacity building and training are important in this regard.
Conclusion

• The ZPPA has responded to the challenge of reforming the country’s procurement system and made improvements.

• ZPPA is committed to establishing and embedding appropriate procurement policy and best practice in order to ensure fair and efficient procurement practices.
End of session