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Executive summary

Introduction

1. This report presents the findings of research undertaken by Engineers Against Poverty (EAP) and the Institution of Civil Engineers (ICE) in collaboration with the ICE Presidential Commission 'Engineering without Frontiers' (EWF). These bodies share the common objective of enhancing the engineer's contribution to sustainable economic growth and poverty reduction.
2. The aim of the study is to identify opportunities to improve the delivery of social development objectives by modifying the way in which infrastructure projects are procured. The focus of research is public procurement of infrastructure in low and middle income countries. This is an opportune time for such a study as investment in infrastructure is set to increase dramatically in the developing world in the near future.
3. The research is based on the assumption that the procedures followed in the procurement of infrastructure and the details of the contracts entered into can have a significant impact on the social and operational performance of the asset, as well as contributing to the achievement of broader social and economic goals. Procurement procedures can therefore be used as a vehicle to deliver social objectives in infrastructure projects.

4. Two main areas of social development opportunity are explored:
 - (i) The impact/performance of the asset and the service it delivers (the product).
 - (ii) The opportunities during the project's construction and operation (the process).

Within these two areas, opportunities fall into two main categories, those that benefit labour and those that benefit society. The greatest benefits to labour are derived from the *process* and to society from the *product*, but the division between these categories is not clear cut. Examples of the former are the expansion of opportunities for employment. This report presents the findings of research undertaken by Engineers Against Poverty (EAP) and the with decent working conditions during construction and operation of the asset; and of the latter, the delivery and maintenance of an asset that is fit for purpose, serves the needs of the community and contributes to social and economic development goals. Good governance is also considered as an objective as it provides the enabling framework for delivery.

5. The research addresses two key questions:
 - How do existing procurement procedures inhibit or enable the achievement of beneficial social impacts of infrastructure projects in low to middle income countries?

- How can procurement procedures be improved and utilised as a mechanism to increase the contribution of the project to the achievement of social development objectives, while strengthening operational and asset performance?

6. The work was guided by a panel of expert advisors set up by ICE, who met four times during the course of the research to monitor progress and review outputs. On the advice of the panel an early decision was taken to expand the usual definition of procurement to include 'project identification' at the initiation of the project and 'monitoring and evaluation' at the conclusion. Five stages in the procurement cycle were identified as: (1) Identification, planning and design (2) Finance and procurement strategy (3) Tender and selection (4) Contract agreement documents (5) Monitoring, enforcement and evaluation.
7. To address these questions, three major avenues of enquiry were embraced:
 - (i) Detailed study of national procurement policy, procedures and documents in four case study countries (India, Indonesia, Kenya and Nigeria).
 - (ii) In-depth interviews with representatives of over 40 major international and national stakeholders, including multi and bi-lateral donors.

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- (iii) Roundtable discussions with the major stakeholders in the four case study countries.

Roundtable discussions were seen as a way of bringing developing country voices into the study. While views reported are not attributed to individuals in the interests of confidentiality, it is felt that the information in the report is a fairly accurate reflection of the views of some of those most directly involved in the delivery of infrastructure projects in the developing world.

Case study findings

8. Five common findings emerged from the study of procurement documents in the case study countries:
- (i) Public procurement reform is underway to improve governance, influenced by the recommendations of the World Bank 'Country Procurement Assessment Reports'.
 - (ii) A limited number of social objectives in national bidding regulations and documents.
 - (iii) A greater number of identifiable social objectives can be found in standard Multilateral Development Bank (MDB) bidding documents but there are questions over enforcement.
 - (iv) Even minimal social obligations (eg for health and safety) are not always met.
 - (v) New procurement strategies and increased social objectives are emerging as a consequence of greater private sector participation.

Summary of factors inhibiting beneficial social impacts

9. The interviews and roundtable discussions revealed a large number of factors in procurement procedures that are seen to be inhibiting the achievement of

social development objectives. The main inhibitors as they arise in the order of the procurement cycle are:

- Lack of public consultation, national plans or other clear criteria for project identification.
- Failure to incorporate social objectives in project appraisal, design and budget.
- Failure to plan and budget for operation and maintenance.
- Inflexible procurement strategies and adversarial contract forms.
- Intense competition and selection based on lowest price.
- Vague and conflicting messages regarding social obligations in contracts.
- Few clear standards for social objectives and failure to monitor and enforce the standards that exist.
- Failure to address corruption which is a major inhibitor at every stage of the procurement cycle.

10. Analysis of those responsible for the factors that are currently inhibiting the setting and achievement of social development objectives through the procurement process threw up some additional inhibiting factors:

- MDBs are results oriented and success is often measured by the quantity of funds disbursed rather than the quality of outcomes.
- Confusion over the roles of the client and donor can lead to a lack of leadership and poor implementation.
- 'Tied Aid' raises costs and limits effectiveness.
- Donors focus on financial auditing with minimal monitoring of social outcomes.
- Private financiers focus on social risk and neglect social opportunities.
- Governments fail to maintain robust registers of consultants and contractors.

- Governments fail to enforce regulations.

Roles of key stakeholders as agents of change

11. The analysis of the roles of stakeholders revealed the key part played by those involved in the early stages of procurement. The greatest chance to influence the setting and achievement of social development objectives in public procurement rests with the donors who provide much of the funding, in partnership with the governments and clients who create the culture for project implementation. Consultants acting as designers also have some influence but they are acting for clients and take their cue from them. Contractors have control over employment and labour standards and some influence over purchasing but only within the parameters set by the overall project design and budget.
12. Donors are currently driving procurement reforms in low income countries and helping to build the capacity of procurement officials. This is related on the part of some donors, led by OECD/DAC, to a move away from project funding toward budget support and channelling funds through national financial systems. These moves are designed to promote 'ownership' of donor funded projects and improve the effectiveness of aid. MDBs have also recently agreed a common approach to fight corruption, to develop proposals to assist country capacity in anti-corruption measures and to cooperate with civil society and institutions to enhance transparency and accountability. But it is important that inflexible procurement procedures and the drive for market competition do not compromise donors' desire to derive increased social benefit.



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13. Governments are also influential in promoting social objectives as they set the framework in which projects are identified, planned, designed, procured, constructed and maintained. Governments of many countries are reviewing procedures and promoting reforms, although these efforts can sometimes be complicated by decentralisation programmes. In some countries the social performance of companies is being included in assessment criteria for prequalification or registration. The use of Environmental Impact Assessments is increasing and Social Impact Assessments are beginning to emerge. Community groups are playing an increasing role in project identification, management, operation and maintenance with positive effect. These developments indicate a growing momentum to encourage good practice and social development impacts in public procurement. Two examples of good practice are singled out: (i) the use of 'targeted procurement' by government clients to assist disadvantaged groups, to promote growth within the small business sector and/or to target the unemployed in poverty alleviation programmes, and (ii) the incorporation of labour standard into project objectives with monitoring by the whole project team.

Conclusions

14. A number of key messages emerge from the research:

- (i) The decisions taken in the early stages of a project have the greatest impact on the achievement of social development objectives. The biggest potential social impact probably lies in the choice of the project.

- (ii) The participation of user groups and civil society at every stage of the procurement process from project identification right through to completion, operation and maintenance, can increase the social benefit derived.
- (iii) There is little point in including obligations in contract documents that require action on the part of the contractor unless the actions have been considered at the design and planning stage, budgets drawn up accordingly and some method agreed for monitoring and enforcing compliance.
- (iv) A more flexible approach by clients and donors to the choice of procurement strategy could improve the delivery of the project and the achievement of social development objectives.
- (v) Consideration of operation and maintenance at the design stage of a project can stimulate enhanced 'local content' (of materials, labour and business).
- (vi) Corruption is a major inhibiting factor and must be tackled at all stages of the procurement cycle.

Recommendations

15. The recommendations that emerged from the research, in the order in which they arise in the procurement cycle, are highlighted below:

Project identification, planning and design

- (i) Project identification should be in line with national, local or sector plans and/or based on public consultation.
- (ii) The whole life cycle of the asset should be considered during planning and design and an

operation and maintenance strategy developed for each new project.

- (iii) Social objectives should be clearly identified at the planning stage and incorporated into the design.

Finance and procurement strategy

- (iv) Funds are set aside in the budget for the realisation of the social objectives.
- (v) Consider alternative procurement strategies to ensure the appropriate approach to deliver the specified social objectives.

Tender and selection

- (vi) The social objectives must be clearly defined in tender documents and explained at pre-tender meetings.
- (vii) Attention should be paid to the bidder's social performance and capacity to deliver social obligations.

Contract agreement

- (viii) The project team must agree contractual mechanisms to deliver social objectives.

Monitoring, enforcement and evaluation

- (ix) Contractual obligations must be monitored and enforced through incentives and/or sanctions.
- (x) Social performance audits should be conducted with the same rigour as financial audits.

Further research is needed to test the feasibility of implementing the recommendations in particular contexts, as well as to test their effectiveness in achieving specific social development objectives.