Modifying infrastructure procurement to enhance social development
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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 mechanism 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 services 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 those that benefit 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 provides good working conditions during construction and operation; 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.

5. Good governance is also considered as an objective as it provides the enabling framework for delivery.

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.
   (iii) 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?
(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 attributable 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 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 inhibitions 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.
   - Push and pull 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.
   - MDBs are wary of international aid agencies and the effectiveness of aid.
   - MDBs have also recently agreed a common approach to fight corruption in order to increase their impact on corruption and to promote transparency and accountability.
   - MDBs have also agreed to work with civil society and institutions to enhance transparency and accountability.

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 funded budget support and channeling 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 in order to increase their impact on corruption and to promote transparency and accountability. Donors have also agreed to work with civil society and institutions to enhance transparency and accountability. It is important that flexibility of procurement procedures and the drive for market competition do not compromise donors’ desire to deliver increased social benefit.
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. Many countries are reviewing procedures and processes of tendering, although these efforts can sometimes be complicated by devolution of power. 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 participation of user groups and civil society at every stage of the procurement process from project identification right through to completion, operation and maintenance is essential to the social benefit derived.

(ii) There is little point in including obligations in contract documents that are unenforceable 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.

(iii) 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.

(iv) Consideration of operation and maintenance at the design stage of a project can stimulate enhanced ‘local content’ (of materials, labour and business).

(v) 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) 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 is essential to the social benefit derived.

(ii) Project identification should be closely aligned with national, local or sector plans and/or based on public consultation,

(iii) 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.

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

Finance and procurement strategy

(v) Tender and selection

(a) The social objectives must be clearly defined in tender documents and explained at pre-tender meetings.

(b) Attention should be paid to the bidder’s social performance and capacity to deliver social obligations.

(vi) Consider alternative procurement strategies to ensure the appropriate approach to deliver the specified social objectives.

(vii) The social objectives must be clearly defined in tender documents and explained at pre-tender meetings.

(viii) Attention should be paid to the bidder’s social performance and capacity to deliver social obligations.

Contract agreement

(ix) Project teams must agree contractual mechanisms to deliver social objectives.

(x) Tender teams should agree contractual mechanisms to deliver social objectives.

Monitoring, enforcement and evaluation

(xi) Contractual obligations must be monitored and enforced through incentives and/or sanctions.

(xii) 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.
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<th>Abbreviation</th>
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<td>ADB</td>
<td>Asian Development Bank</td>
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<td>CIDC</td>
<td>Construction Industry Development Council – India</td>
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<td>DFID</td>
<td>Department for International Development</td>
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<td>ECA</td>
<td>Export Credit Agencies</td>
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<td>ECGD</td>
<td>UK Export Credit Guarantee Department</td>
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<td>EIA</td>
<td>Environmental Impact Assessment</td>
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<td>ESIA</td>
<td>Environment and Social Impact Assessment</td>
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<td>FIDIC</td>
<td>Federation of International Consultant Engineers</td>
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<td>H&amp;S</td>
<td>Health and Safety</td>
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<td>IFC</td>
<td>International Finance Corporation</td>
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<td>ILD</td>
<td>International Labour Organization</td>
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<td>MDB</td>
<td>Multilateral Development Bank</td>
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<td>NEC</td>
<td>New Engineering Contract</td>
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<td>NEEDS</td>
<td>National Economic Empowerment and Development Strategy</td>
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<td>NGO</td>
<td>Non-government organisation</td>
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<td>NHAI</td>
<td>National Highways Agency India</td>
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<td>OECD/DAC</td>
<td>Organisation of Economic Cooperation and Development, Development Assistance Committee</td>
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<td>SEEDS</td>
<td>State Economic Empowerment and Development Strategy</td>
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<td>SIA</td>
<td>Social Impact Assessment</td>
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<td>STI</td>
<td>Sexually transmitted infection</td>
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<td>TI</td>
<td>Transparency International</td>
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<td>TOR</td>
<td>Terms of Reference</td>
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<td>UNCITRAL</td>
<td>United Nations Commission on International Trade Law</td>
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<td>UNDP</td>
<td>United Nations Development Programme</td>
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1. Introduction

This report presents the findings of research undertaken by Engineers Against Poverty and the Institution of Civil Engineers in collaboration with Engineering without Frontiers. These bodies share a number of common objectives.

Engineers Against Poverty (EAP) is an international non-governmental organisation that works with the engineering industry to promote social and economic development and contribute to the fight against poverty. EAP is supported by the UK Department for International Development (DFID), the Institution of Civil Engineers and the Institution of Mechanical Engineers.

Institution of Civil Engineers (ICE) represents around 80,000 professionally qualified civil engineers worldwide. It seeks to advance the knowledge, practice and business of civil engineering, to enhance the engineer’s contribution to sustainable economic growth and promote ethical standards.

Engineering without Frontiers (EwF) is a Presidential Commission of ICE established to examine, inter alia, the engineer’s role in meeting the UN Millennium Development Goals.

Earlier work by EAP in South-East Asia suggested that there may be opportunities for enhancing the social development impact of infrastructure investment (and hence the contribution of engineering) by incorporating social development objectives into the procedures for procurement of projects. Public procurement plays a central role in translating national and local budgets into public services. It is widely recognized that strengthening procurement capacity and improving procurement practices can make a major contribution to the effectiveness of AID. Procurement guidelines have traditionally focused on the ‘conventional’ performance requirements of cost, time and, to a lesser extent, quality and only recently started to include environmental and some social objectives.

The aim of the current work 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 infrastructure in low and middle income countries. This is an opportune time for such a study as investment in infrastructure is set to increase in the foreseeable future. Much of the increased investment will be funded by bilateral and multi-lateral donors who may be anxious to increase the contribution that such investments can make to social and economic development in general and in particular to the reduction of poverty and the delivery of the Millennium Development Goals.

The subject is huge and complex and the study makes no claim to finality or completeness. Rather it should be seen as a ‘scoping study’, an initial exploration of a key issue at the interface of civil engineering and development.

1.1 Research objectives

The research is based on the assumption that the procedures followed in the procurement of infrastructure projects 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.

The research explored two main areas of social development opportunity:

1. The impact/performance/quality of an infrastructure asset and the service it delivers to consumers and society (the product)

2. The social development opportunities during the project’s construction and operation (the process)

Within these two areas, opportunities fall into two main categories: those that benefit labour (the people involved in the production process) and those that bring benefits to the broader society. However, the dividing line between labour and society impacts is not clear cut. Poverty...
reduction is a major objectives but is seen as a subset of social development which is a much broader concept. Good governance is also considered as an objective as it provides the enabling environment for the development of society. The following are some of the main specific objectives under these headings. Further detail is provided in section 2.

**Labour**
Creating opportunities for local people to earn income through employment or business is one of the major means of alleviating poverty in the developing world. The process of constructing and maintaining infrastructure does generate many such opportunities. But there is also a very urgent need for much more widespread employment opportunities, especially for the underemployed and unemployed. Reducing the creation of employment opportunities is often achieved by choosing a technology that requires a more intensive use of labour in place of machines. Similarly subcontracting to local enterprises and specification of local materials, components and locally manufactured equipment can generate employment in the supply industries and boost the “local content” of the project. Each action will bring additional benefits to the economy through the employment generated and the turnover resulting from reducing the requirement for scarce foreign exchange.

The quality of employment is as important as the quantity of jobs created. The basic objectives for the labour force involved in the construction, operation and maintenance of the asset are that they should be provided with a safe and healthy place to work, that the work should not be voluntary and wages should be fair and paid in full and on time. These are embraced within the ILO concept of “Decent Work”. They are explained in detail in a sourcebook published by the Water Engineering and Development Centre (WEDC) of Loughborough University. Other widely recognised objectives are that the project should build the capacity and capability of local workers and enterprises through training and the transfer of knowledge, and that the recruitment of unskilled labour should, whenever possible, be from within the local community.

**Society**
The greatest benefit to society from investment in infrastructure projects lies in the services derived from the constructed asset. Millions of poor people in low and middle income countries lack access to basic infrastructure. The greatest benefits to society from investment in infrastructure projects lies in the services derived from the constructed asset. Millions of poor people in low and middle income countries lack access to basic infrastructure. The Millennium Development Project addresses this issue, both directly and indirectly. The project comprises eight broad goals (MDGs) and 18 specific targets. Infrastructure appears most prominently in Target 10 which is to halve by 2015 the proportion of people without sustainable access to safe drinking water and basic sanitation. There is also a clear link between several other MDGs and infrastructure provision.

Environmental issues are considered and addressed, but only in the context of their impact on project affected communities.

**Governance**
The objective under the ‘governance’ heading are fair and efficient procurement procedures that deliver value for money in the final asset, to increase transparency and eliminate corruption, and increase the involvement of the community and the workforce in key decisions that affect their lives.

1.2 Defined procurement procedures

To aid the process of identifying social objectives within the procurement framework it was important to define procurement. Former President of the South African Institution of Civil Engineers, Ron Watermeyer defines procurement as the: ‘Millions of poor people in low and middle income countries lack access to basic infrastructure.”

Former President of the South African Institution of Civil Engineers, Ron Watermeyer defines procurement as the: ‘Millions of poor people in low and middle income countries lack access to basic infrastructure.”

The Millennium Project Report 2005 notes that infrastructure investment is needed for both urban and rural development. Urban infrastructure and services include electricity, transport, water, sanitation, waste disposal etc. In the rural areas there is also a very urgent need for investment in roads, and this is especially so in Africa.

Other objectives that fall under the ‘society’ heading relate to the process of construction rather than the end product. One key issue that is already receiving a lot of attention is following NGO campaigns to the resettlement of affected communities and payment of compensation. Some countries have national policies on resettlement but generally clients agree to use donor policies. This is partly because of recognition that national legal frameworks do not adequately protect communities, indigenous people or those that lack tenancy or land tenure rights. Some NGOs have called for the prior informed consent of indigenous peoples before they can be resettled. Development banks indicate that involuntary settlement occurs on a relatively small proportion of funded projects each year, although still involving millions of people.
… process which creates, manages and fulfils contracts. If procurement is a process, it can be documented as a succession of logically related actions occurring or performed in a definite manner which culminates in the completion of a major deliverable or the attainment of a milestone.

Processes in turn are underpinned by methods and procedures, which are informed and shaped by the policy of an organisation.

Watermeyer identifies the procedures as the formal steps to be taken in the performance of a specific task. By identifying these steps, it would be possible to identify where social objectives must be incorporated to achieve maximum impact. The research team broke the procurement process down into five procedures:

1. **Identification, planning and design:** Projects and services are identified from national, regional and sector plans to meet a specified socio-economic need. The project and/or service is then planned and designed to ensure it meets the specified need and maximises socio-economic impact within the set budget. This process should ensure that social objectives are properly understood, are part of the early decision making process and that a delivery mechanism is put in place with sufficient budget to meet the desired outcomes.

2. **Finance and procurement strategy:** When a project has been designed and budgeted, decisions have to be reached as to the appropriate means of financing the project, including social objectives. This could be achieved through self-financing, applying to public or private donor for a loan or grant or private sector investment. These decisions affect the type of procurement strategy adopted, particularly when borrowing from a donor or when seeking private investment. Procurement in this sense is understood in its traditional sense, ie the strategy taken to implement the project.

3. **Tender and selection:** The client follows a clearly defined and transparent process that will lead him to the selection of the consultant and/or contractor that will implement the project requirements and social objectives.

4. **Contract agreement documents:** Once selected, the client and contractor will finalise and agree the contract documents. It will be these documents that the parties will be contractually obliged to follow during the implementation of the project and social objectives.

5. **Monitoring and evaluation:** Ongoing monitoring and evaluation are needed to ensure that the parties are meeting their contractual obligations, that the asset is built to the agreed requirements and that the social objectives are delivered. Where contractual obligations are not being met, there must be ways to enforce them.

### 1.3 Defined social objectives

The social objectives outlined below were selected on the basis of internationally recognised impacts and standards. The following defines the key actions needed to meet labour, society and governance objectives.

**Labour objectives:**

- **Health and Safety (H&S):** The provision of a safe and healthy working environment for the labour force to operate in, where potential occupational risks or hazards have been assessed and mitigated.

- **Decent work:** The promotion of opportunity for men and women to obtain decent and productive work in conditions of freedom, equity, security and dignity. This includes the provision of fair income, job security and equal opportunities.

> “When a project has been designed and budgeted, decisions have to be reached as to the appropriate means of financing the project, including social objectives.”

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Child labour: The employer does not employ children in a manner that is economically exploitative, or is likely to be hazardous or to interfere with the child's education.

Forced labour: All work is performed voluntarily and the employer does not extract work or service from an individual under threat of force or penalty. This covers any kind of involuntary or compulsory labour, such as indentured labour, bonded labour or similar labour-contracting arrangements.

Migrant labour: The rights of migrant workers are protected, their integration with the local population is promoted and potential risks (e.g. sexually transmitted infections) identified and managed.

Employee capacity building: The employer builds the capabilities and capacity of the local workforce through training, knowledge transfer (e.g. work shadowing, workshops and promotion).

Freedom of association: The employer does not discourage workers from forming or joining workers' organisations or their choosing or from bargaining collectively, and does not discriminate or retaliate against workers, their family members or representatives in such organisations and activities.

Increased local content: The objective is to advance the development of local enterprises and workforce in order to raise local content. This is achieved by defining a proportion of inputs by value (labour, materials and equipment) that are sourced from the immediate locality or the country.

Society objectives:

Social and environmental impact: The identification, mitigation and management of the social and environmental impact that are consequences of the construction and operation of the asset.

National development plan: A plan to meet the stated national socio-economic objectives including infrastructure targets; the objective is that projects are in line with national objectives.

Public consultation: A clear and transparent process that enables all project-affected people to be informed and their voices heard throughout the procurement process. This should result in consent being more easily obtained and local community commitment to the resolution of any problems that arise, thus maximising the social benefits derived from the construction and operation of the asset.

Resettlement plans: The operation of a fair and transparent resettlement plan with minimum disruption for those individuals or affected communities who have lost their land, means of livelihood, social support system or way of life. This includes compensation for lost assets and lost income, assisted relocation, provision of appropriate land, housing, infrastructure and services, comparable to the pre-project situation. Affected people will be fully informed and closely consulted on resettlement and compensation options.

Product safety: Avoiding and minimising potential health and safety risks and impacts on the user and surrounding community during the life cycle of the asset.

Asset performance: The degree to which the performance of the asset meets the defined social objectives.

Governance objectives:

Corruption: Minimising the risk of corrupt practices with the provision and application of appropriate and transparent mechanisms within procurement procedures.

Politics: To reduce the level of influence that political actions (e.g. political donations, electioneering) have on the procurement process, particularly project identification and planning, and levels of funding for non-socio-economic objectives.

Transparency: Raising the level of clarity, openness and accountability within the procurement procedures and their successful application.

Governance capacity: Strengthening the capacity of the client to operate the set procurement procedures in a fair, transparent and efficient manner that will enable the delivery of the project and social objectives.

Decentralisation: The process of moving responsibility for the procurement of infrastructure projects from national governments to the appropriate tier of local government; the objective is that the local tier of government will be provided with the necessary capacity and resources to take on the responsibility.

Social and environmental impact: The identification, mitigation and management of the social and environmental impact that are consequences of the construction and operation of the asset.
1.4 Research methodology
At its outset, the research aimed to address two key research questions:
1. How do existing procurement procedures inhibit or enable the achievement of social development objectives?
2. 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?

In order to address these questions the following steps were envisaged:
1. Identify the most common procurement procedures for design, build, operate and/or maintenance contracts for infrastructure projects in low to middle income countries.
2. Review the areas of social impact that contractors currently have to address and where they are identified within the procurement process (prequalification, contractual obligations and specifications) and in national legislation and/or corporate policies.
3. Conduct an analysis of data and contacts of the research team.
4. Interview in-depth some of the main stakeholders in the four case study countries.
5. Establish the areas of opportunity in procurement procedures to enhance social development and recommend changes to procedures to bring this about.

The research embraced three major avenues of enquiry:
1. In-depth interviews with some of the major international and national stakeholders.
2. Roundtable discussions with the major stakeholders in the four case study countries.
3. Undertake a detailed analysis of national procurement policy, procedures and documents in each country.

The research was guided by an ICE Expert Panel, who monitored progress and reviewed the outputs of the research. The Panel members are listed in Appendix II.

1.4.1 Case studies in four countries
Analysis of current procurement procedures and how they are applied in practice is key to understanding the factors inhibiting or enhancing social performance. It is also important to establish where social objectives are identified within procurement procedures and contract documents. In order to achieve these objectives a detailed study of national procurement policy, procedures and documents was undertaken in a small number of countries chosen as case studies.

Four countries were selected: India, Indonesia, Nigeria and Kenya. They were selected because they are regional leaders in infrastructure development and are representative of both large and small emerging economies. The selection criteria were the availability of data and contacts of the research team.

In each country a detailed analysis was undertaken of national procurement policy and legislation, national standard bidding regulations and documents. The Multilateral Development Banks (MDBs) harmonised bidding document and a limited number of project documents were also consulted. This approach allowed the identification of social obligations in current procurement procedures. In order to examine the extent to which these contractual obligations are actually met, contractors would have an influence on the provision of benefits and safety in construction projects in the case study countries. As the research progressed, it also became important to consider how government infrastructure policies may influence the achievement of MDG targets. The policies adopted to deliver these targets would have an influence on the procurement strategy adopted and the social objectives to be addressed.

1.4.2 In-depth interviews
Interviews were conducted with representatives of over 60 key stakeholders. Respondents included the following donors: The World Bank, Asian Development Bank, UK Department for International Development (DFID) and the European Commission. Other respondents were government departments, international and national consultants and contractors, NGOs. Each respondent was asked about their individual work experiences and their views on current practice. The information gathered from the interviews, together with the findings emerging from the research and to influence other countries in the region. Other selection criteria were the availability of data and contacts of the research team.

In each country a detailed analysis was undertaken of national procurement policy and legislation, national standard bidding regulations and documents. The Multilateral Development Banks (MDBs) harmonised bidding document and a limited number of project documents were also consulted. This approach was chosen to illustrate the requirements a public sector client would have to consider and the procedures they would have to abide by when procuring infrastructure works and services.

This approach allowed the identification of social obligations in current procurement procedures. In order to examine the extent to which these contractual obligations are actually met, contractors would have an influence on the provision of benefits and safety in construction projects in the case study countries. As the research progressed, it also became important to consider how government infrastructure policies may influence the achievement of MDG targets. The policies adopted to deliver these targets would have an influence on the procurement strategy adopted and the social objectives to be addressed.
may have further increased the validity of the findings, it would probably have made them less willing to contribute. 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.

1.4.3 Roundtable discussions
Roundtable consultations were held in each of the case study countries as one way of bringing developing country voices into the research. These meetings were facilitated and/or sponsored by the ICE Country Representatives, multilateral development banks, governments and private companies. Altogether over 100 delegates from across the stakeholder groups (clients, consultants, contractors, NGOs and other local stakeholders) attended these one-day meetings.

The participants in each meeting were asked to address the following two questions:
1. What are the opportunities to increase social development within engineering procurement procedures in the case study country?
2. In your view, what are the enabling factors for the opportunities to be achieved?

These roundtable discussions, together with the conclusions arising from the case studies and the in depth interviews, provided the basis from which the recommendations were drawn up.

1.5 Outline of the report
The full findings of the case studies in the four subject countries are included in Appendix I with the list of contributors in Appendix II:

The rest of the report is divided into five sections. Section 2 presents a summary of the case studies that were conducted in the four countries. Section 3 presents a synopsis of the factors in current procurement that are enhancing or inhibiting the attainment of social objectives and poverty reduction. This is followed in Section 4 by an assessment of the role of the various stakeholders in effecting change at each stage of the procurement process. Section 5 contains the conclusions of the study and Section 6 the recommendations.
From the analysis of procurement documents and policy papers in the four case study countries (Kenya, India, Indonesia and Nigeria) it was possible to identify five common findings.

1. Public procurement reform is under way to improve governance.
2. A limited number of social objectives in national standard bidding regulations and documents.
3. A greater number of social objectives are found in standard MDB bidding documents but there are questions over enforcement.
4. Even minimal social obligations are not always met.
5. New procurement strategies and increased social objectives are emerging as a consequence of greater private sector participation.

2.1 Public procurement reform is under way to improve governance
Since the late 1990s the governance of procurement policy in the case study countries has followed a similar pattern of reform and development. This is being driven by the donor's switch from funding individual projects to providing more general support to sector programmes and central government budgets. Donors have also agreed to channel funding through national government systems; whenever the national government's financial management and governance capacity is considered to be of an adequate standard. The concomitant of this move is donor assistance to strengthen government procurement systems.

Following World Bank Country Procurement Assessment Reports, Kenya, Nigeria and, to a lesser extent, Indonesia established interim arrangements through policy directives and temporary legislation to improve the efficiency and transparency of public procurement. More recently, these three countries have taken up the recommendations of the World Bank to establish a legal framework for public procurement, based on the UNCITRAL Model Law on Procurement of Goods, Construction and Services with Guide to Enactment. The recommendations also encouraged the creation of a central authority to formulate procurement policy and monitor its implementation. However, only Kenya and Nigeria have adopted this recommendation.

The objectives of procurement legislation in Kenya, Indonesia and Nigeria closely follow those stated in the UNCITRAL Guide to the Model Law. The guide states that the objectives of the model Law include:

- maximising competition, according fair treatment to suppliers and contractors bidding to do Government work, and enhancing transparency and objectivity, are essential for fostering economy and efficiency in procurement and for curbing abuses.

By following this stated principle, the Model directs a procuring entity towards competitive tendering with restrictions placed on other tendering methods such as restricted tendering and two-stage tendering. Although there is variation in how prescriptive the legislation is, public procurement in Kenya, Indonesia and Nigeria still follow this model. Although India has no legal framework, in its Sixth Economic Plan the Indian Government states that it wishes to enact ‘legislations/regulations to mandate strictly competitive bidding of all contracts and procurement of works, goods and services by the Government and its entities’.

The legal frameworks have also sought to improve the governance of public procurement by adopting a complaints and review procedure based on the guidance provided in the UNCITRAL Model. It is also important to note that each law prohibits corrupt and fraudulent practices and includes a code of conduct for all procurement officials. However, the level of detail can vary considerably. For example, the Nigerian Public Procurement Bill only includes a short reference prohibiting fraudulent and corrupt practices. In contrast, Indonesian legislation not only prohibits these practices but requires officials to sign an integrity pact before starting procurement proceedings.

2.2 A limited number of social objectives in national standard bidding regulations and documents
Like the UNCITRAL rules, national procurement legislation does not address the contract performance or implementation phase. “Like the UNCITRAL rules, national procurement legislation does not address the contract performance or implementation phase.”
governments should publish standard bidding documents. It was only possible to obtain the national standard bidding document for Kenya. However, the Construction Industry Development Council of India has published a standard bidding document that has been adopted by the Central Ministry of Public Works. ‘Due Process’ in Nigeria also provides for a set of requirements to be included in a bidding document, from the analysis of this documentation and a limited number of project documents, some social objectives related to labour (conditions of employment, health and safety and trade union rights) do emerge in the conditions of contract. The requirements tend to reflect national legislation.

The use of local content in carrying out the works or services can be identified in documentation from each case study country. In Kenya, Nigeria and India, domestic contractors have benefited from a margin of preference in the tender process. The margin of preference can vary from 7.5% to 15%, but is more commonly 10%. A margin of preference is also granted for the benefit of tenders using domestically produced goods or supply of services. The policy in India appears to be changing as several bidding documents stated that a margin of preference to domestic bidders was no longer offered. This may be due to the World Bank Country Procurement Assessment Report recommending the removal of such preferences.

The practice of offering a margin of preference to local contractors establishes the important principle that lowest cost is not the only factor to consider at tender stage. Other local content policies are in operation in some countries, such as a classification system in Indonesia that reduces the ability of overseas contractors to bid and bonus scores for demonstrating a history of local participation in Nigeria.

Environmental obligations fall into two categories: firstly, on-site actions such as filling pits and landscaping have to be mitigated. These can usually be identified in the conditions of contract. Secondly, the client has a legal requirement to carry out an Environmental Impact Assessment (EIA) before carrying out the works. However, it is not clear if the recommendations of the EIA report are being included as part of the scope of works and are therefore being implemented.

2.3 A greater number of social obligations are found in Multilateral Development Bank bidding documents but there are questions over enforcement. Many infrastructure projects in the case study countries are funded in part by loans from the Multilateral Development Banks (MDBs). It is the MDBs standard bidding documents that usually apply when they fund a project. The general conditions do address governance, labour and society issues, but many of the social requirements are a test of reasonableness or do no more than ‘encourage’ action. Stakeholders unanimously questioned whether a number of these social obligations would be enforceable if tested in court. For example, clause 4.18 states: ‘the Contractor shall take all reasonable steps to protect the environment’. Clause 6.1 states that the Contractor is ‘encouraged’ to employ staff and labour from sources within the country. These would seem to be examples of ‘symbolic policy’ that merely gives the impression that non-compliance is not acceptable. Stakeholders report that if the client does not stipulate clear definitions with benchmarks of ‘reasonableness’ and ‘encourage’ in the specification, these conditions will be ignored thus an opportunity for social development will have been missed. Contractors stated it would simply put them at a competitive disadvantage to price for them.

The obligations to the labour force go further than the national standard bidding documents, with prohibition of child and forced labour and an obligation to ensure the supply of food and water to the workforce. There is also a requirement to appoint an accident prevention officer at the site, who is responsible for maintaining...
The bidding document does allow for a margin of preference for defined social benefits in the tender documents. However, this can only be applied if the GDP of the borrowing country is below a per capita level. This is probably why the Country Procurement Assessment Reports recommended that a margin of preference in India and Indonesia be removed. From the project documents observed the usual margin of preference is 7.5%.

It should be noted that other social requirements may well be included as part of the condition of the loan or grant. For example, from the project document reviews SJKs are the norm on MDB funded projects and if required an appropriate resettlement programme is undertaken. The SRA will often address social issues and include stakeholder consultation.

Governor objectives include definitions of corrupt practices with the lender rejecting a proposal for award or cancelling a proportion of the loan allocated to the contractor. Contractors are not able to include practices to be met. Responsibility for governance of the bidding process and tendering lies with the employer (client). The examination of health and safety requirements in the tender documents is inadequate. The actual standard of health and safety on construction sites in the three countries studied falls far short of what is required by law.

Many are simply unaware of their right to a safe and healthy workplace. In addition, monitoring and enforcement of the provisions for health and safety in contracts is inadequate. Contractors are rarely penalised for failing to meet health and safety requirements and if and how the client and the contractor will measure whether the contractor has fulfilled its obligation.

Health and safety requirements are sometimes spelled out in the bill of quantities and accompanied by detailed specifications. This encourages contractors to price for compliance with the regulations, while also drawing the attention of the client to what is being paid. This should in turn encourage more careful monitoring to ensure that the elements that have been budgeted are actually provided. The health and safety record of contractors or consultants is seldom formally included in the criteria for prequalification. Registers of contractors and consultants are also lacking in some countries. A rigorous process for the registration of contractors and consultants (with the inclusion of social performance criteria) could ensure that only competent and responsible firms are employed.

The examination of health and safety performance in registration or prequalification should also stimulate improvements in record keeping.
2.5 New procurement strategies and increased social objectives are emerging as a consequence of greater private sector participation in infrastructure delivery.

Governments have set specific infrastructure targets, particularly in the provision of water and sanitation, road connectivity and power supply to improve the lives of villagers and slum dwellers. The role of infrastructure in stimulating economic growth and reducing (both directly and indirectly) the number of people living in poverty is also acknowledged. All four countries aim to mainstream MDGs into national planning and budgeting. However, it is not clear whether this has occurred in practice.

The responsibility for the delivery of infrastructure at government level is changing, with countries following a policy of decentralisation. Central government will become responsible for setting policy and targets, with state, regional and local governments expected to procure the works and services. Questions have been raised as to whether these tiers of government have the financial capacity and technical capability to deliver. Capacity building programmes for local government have been initiated.

Community organisations are also being encouraged to operate and maintain small scale and/or rural infrastructure assets using the funds generated from charging users for the service. This is leading to a change in procurement procedures with governments wishing to engage contractors on long-term concession contracts ranging from 15 to 25 years. In these contracts the client has to consider the social obligations to be pursued over the course of the contract and ensure that there is a fair and transparent process with an adequate budget if the objectives need to change. It is not clear if this is being achieved.

Social objectives within the concession contracts go beyond the traditional contracts with examples of the requirements from the EIA and SIA reports built in the project documentation (India). There is also legislation relating to private sector participation in infrastructure that specifies various social objectives. For example, laws relating to infrastructure in Indonesia make consultation with the local community a legal obligation for the client. It is then for the client to decide how this consultation is managed within the procurement process.

Monitoring and evaluation is currently not sufficiently developed to ensure feedback on the impact of public expenditure at local level (the National Planning Commission in Nigeria has developed a system to do this, with the help of major donors).

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3. Inhibiting and enabling factors

This section of the report summarises the main factors identified as inhibiting or enabling the achievement of social development objectives at the various stages of the procurement cycle. Good practices that promote or enable the achievement of social development objectives are also discussed and some examples (of good and bad practices) are presented in boxes. The material presented in this section draws on the interviews with key stakeholders, designed to ascertain what actually happens on the ground, supplemented by the findings of the four country case studies and a broad review of recent documents and initiatives. Views expressed are not attributed to particular individuals in the interests of confidentiality.

The inhibiting and enabling factors are discussed in the order in which they arise during the procurement cycle. An attempt has been made to conform to the five procedural stages mentioned in the Introduction. However, in reality there are many more than five stages and the process is not linear but iterative. Additional headings have therefore been introduced where appropriate.

3.1 Project identification

3.1.1 Project identification not guided by plans

The process of delivering social development objectives through the procurement of infrastructure starts with the identification of a project. Key aspects are the consideration of the purpose of the work and the need for the project or service.

It is not clear who actually identifies infrastructure projects in many locations in Africa and occasionally in Asia. It is common on larger projects for the client (host government) to identify the project and endowment request to donors to appraise for funding. Little is disclosed about this process. However, the donors appear to be guiding the client in a particular direction through their own country assessment reports or strategy papers in which they have identified infrastructure programme areas.

No evidence could be found in the four case study countries of project identification being guided by national long-term sector plans, thus missing a coordinated approach to improving the infrastructure of the country. Although such plans do exist in some countries, few stakeholders referred to national sector plans guiding project identification. Local development plans are also often missing.

A few donors said that project identification is sometimes linked to programmes that are sector driven by different ministries or at the municipal level to more local plans. Other donors have noted there is a need for national sector plans and have indicated that they would like to support the development of such plans.

When prompted by the research team, various stakeholders, including clients, development groups, consultants and contractors, displayed familiarity with some strategic plans. In Nigeria, past master plans (Vision 2000) were mentioned and new plans (eg for power) were said to be in the process of creation or in the approval stages. In Indonesia, departments were said to be developing master plans for infrastructure systems. In Kenya, a national roads strategy exists. However, in most cases, the plans or strategies were not linked to, or did not seem to be influencing, project identification.

3.1.2 Lack of public consultation inhibits social development

National engineering sectors seem to have played only a limited role in the creation of the national development plans. This is regarded as a missed opportunity, given that engineering professionals have significant knowledge regarding infrastructure planning, design, implementation and operation.

Even more serious is a lack of public consultation not only in project identification but also during the design and planning phases. Public consultation at this stage enables the client to establish the project(s) that will maximise the maximum socio-economic benefit to the local population. It can also identify potential impacts on the local community that need to be mitigated in the project plan, such as resettlement issues. Such issues would be highlighted in environmental and social impact assessments (ESAs) but these are not...
always carried out or not carried out effectively. Dialogue with community groups also provides a means for communicating the benefits of the asset and overcoming some of the local population fears. As the Southern Transport Development Project in Sri Lanka demonstrates, failure to consult can lead to considerable delays and additional costs (see box 1 for further details).

3.1.3 Corruption in project identification

There is insufficient transparency in the selection of projects, allowing corruption to appear in a variety of forms. Media reports of governments identifying and funding projects that do not actually exist demonstrate one extreme form of corruption at the initial project identification stage. Stakeholders refer to this corrupt practice as ‘looting’.

Another manifestation of corruption is when project identification and choice of location are unduly influenced by politics. Infrastructure projects may be built to gain political support and projects may be selected to meet the needs of political leaders rather than the needs of the community. Media reports in the Kenyan press recently articulated Parliament’s disapproval of the Government identifying and funding projects in the home areas of political leaders. A Parliamentary Committee decided to withdraw the budget until it was submitted to select the MP’s complaints.

With the introduction of some decentralisation policies, the ability of national and local politicians to influence project selection is said to have increased. While the essential objectives of decentralisation include increased transparency and accountability, in practice it may have the opposite effect.

**Box 1: Southern Transport Development Project in Sri Lanka**

The Southern Transport Development Project in Sri Lanka demonstrates how a lack of public consultation with project-affected people during the project planning phase can lead to considerable problems.

The 128 km highway scheme between Colombo and Matara was jointly financed by ADB, the Japan Bank for International Cooperation (JBIC) and the Sri Lankan government. Opposition and protests against a planned highway had started during the project planning phase with the issue of an ‘environmental change’ to the final trace of the highway. The project was challenged in the Sri Lankan courts, culminating in January 2004 in a Supreme Court ruling that the affected people had a right to be heard on the final trace of the road. The Supreme Court ruled that compensation should be paid to the affected people. The SPF found the relationship between the complainants on the one hand and the Road Development Authority and ADB on the other was characterised by acute, deep-rooted mistrust. Disagreements tended to escalate and to become self-perpetuating and prone to upward spiralling.

The SPF stated that the opportunity for the affected people to participate in planning and implementing this project had been limited. The SPF found no indication that the project had followed a consultative process using participatory methods with documented proceedings at the village level. Stakeholders referred to the corrupt practice as ‘looting’.

All local government levels are reported to have minimal allocation of funds according to plans and substantial evidence of financial mismanagement. In Federal states such as Nigeria, respondents highlighted that representatives of local district level are legally responsible for identifying projects yet in practice it is the State Governors who select projects, and decide the allocation of funds. Nigerian stakeholders maintained that there is no real accounting for the funds at the disposal of local government councils and state governments and yet their performance was not being challenged.

In Indonesia decentralisation policy is under revision. Initially local government submitted in their budget requests to central government, but there was no monitoring of spending or performance against targets. Central government is now in the process of back-tracing on decentralisation policy in order to improve monitoring and the coordination of spending on a national basis. Local leaders’ authority to administer budgets is...
Box 2: OECD/DAC donor harmonisation

At the March 2005 Paris High Level Forum on Aid Effectiveness, a number of proposals were adopted to strengthen country ownership and to harmonise donor policies and align them with systems in place in developing countries. This will be achieved by:

- Collaboration between donors to harmonise their aid, conditionality and procurement procedures
- Alignment of donor procedures to meet country priorities
- Channeling funding into central budgets and sector programmes as opposed to the traditional direct funding of projects, with allocations based on the capacity of borrowing country institutions and national procurement systems
- The use of national systems for budget execution via use of country public financial management systems (PFM) and procurement systems. Having systems that are of adequate standard will be a condition of funding
- Capacity building and improvement of country PFM and procurement systems
- Local ownership with countries setting their own agenda

3.1.4 Projects are in line with development plans

Donors are increasingly seeking to achieve alignment between their funding and strategies and plans. Efforts to promote this are evident in donors supporting the establishment of national development plans that include targets and implementation plans and are linked to strategies for poverty reduction and the achievement of the MDGs. Donors are supporting national planning departments in the development of such plans in Kenya, Nigeria, Indonesia and elsewhere, as outlined in Appendix I.

The OECD Development Assistance Committee (DAC) “Working Party on Aid Effectiveness” set out an agenda in the Paris Declaration (2005) that is consistent with this approach. The overall aim is to enhance the effectiveness of aid to facilitate can make a greater contribution to social development and the attainment of the MDGs. Key components to drive this are harmonisation of donor aid policies, alignment of aid with partner country priorities, and a move to budget support. Key aspects of OECD/DAC’s harmonisation initiative are shown in Box 2.

12 targets and indicators of progress towards meeting these objectives were agreed in 2005 by OECD members, partner countries and multilateral institutions. The first target is to raise the proportion of partner countries with “operational development strategies” which are defined as “national development strategies with clear strategic priorities linked to medium term expenditure frameworks and reflected in annual budgets.” The third objective is to align aid flows with national priorities, measured by the proportion of aid flows to the government that are reported in partner’s national budgets.

3.2 Design and budgets

3.2.1 Inadequate consideration of social objectives in project design

Project design is an important upstream activity. The terms of reference (TOR) for a project are developed at the planning and design stage. In addition to technical factors, the terms of reference may include some limited social development objectives such as land tenure and resettlement, provision of roadside amenities in road construction projects or management of selected environmental impacts. Recently, the development banks have incorporated considerations of the impact of the project on HIV/AIDS at the design stage.

However, most stakeholders report that social objectives are not clearly defined at the planning and design stage. This may be because of a lack of standards and guidance, either from the regulatory framework or in the form of best practice benchmarks. There is little evidence of links between design and sector plans, national development plans, national policies (e.g. for employment generation) or legislation. For example, occupational safety and health designs are guided by policy objectives and country packages but the link is seldom clear.

NGOs or consumer groups are rarely involved in defining the TORs for a project and there has been limited community consultation. The usual practice is for clients and/or donors to engage consultants to carry out the project design. Those appointed may be national, international or national subsidiaries of an international group, depending on the origin of funding. National consultants complain that designs and project objectives are frequently drawn up at central headquarters rather than at country level, a practice which can mean...
Inhibiting the adoption of labour-based methods may have implications for the design and planning of projects. One reason is that the adoption of labour-based methods is generally promoted by donors on an ad hoc project basis, mostly on rural road projects in low-wage countries with high unemployment. The technical feasibility and economic viability of labour-based methods in low-wage economies has been demonstrated by numerous donors over many years. In a number of Asian countries they are widely used, but in most African countries they have failed to move into the mainstream. One reason is that the adoption of labour-based methods may have implications for time and quality. It has therefore to be considered at the planning and design stage of a project. Attempts to expand and strengthen the approach are often hampered by inappropriate designs and specifications in light of schedules.

3.2.2 Corruption in project design

Corruption may be an additional factor inhibiting the adoption of labour-based methods and other ‘local content’ approaches. Projects can be designed to favour particular contractors or suppliers. Small local contractors and suppliers have few funds with which to bribe corrupt officials or consultants and cannot therefore compete in this game. Another manifestation of corruption at the design stage is the practice of raising the specifications to please the client, or to inflate costs and therefore the rewards for contractors and/or clients. These practices indicate collusion between consultants and contractors and/or clients.

3.2.3 Inadequate budgets for operations and maintenance

A key aspect of asset sustainability is that adequate arrangements must be made to finance operation and maintenance. Traditionally clients and donors have often failed to consider the whole life cost of the asset. In particular there has been a failure to consider long-term finance of the operations and maintenance of the asset. This has led to infrastructure such as roads deteriorating to such an extent that large-scale costly rehabilitation works are required.

Donors have changed their policy from funding only capital projects and assets in the 1970s and 1980s to funding maintenance projects today. However, donor policies have been abused thus obscuring the maintenance of assets. For example, to qualify for donor funding only capital projects and assets were accepted. The concept of ‘local content’ was the basis of the definition of which projects and assets were acceptable. The concept of ‘local content’ has been adopted by numerous donors over many years. In a number of Asian countries they are widely used, but in most African countries they are considered at the planning and design stage of a project. Attempts to expand and strengthen the approach are often hampered by inappropriate designs and specifications in light of schedules.

Box 3: Road maintenance in Kenya

The Roads 2000 maintenance programme of the Kenyan Ministry of Roads and Public Works employs national contractors and uses labour-based techniques on low volume rural roads. Roads 2000 is development group/donor funded. Its predecessor, Rural Access Roads Programme, received significant international attention and was regarded as a model for labour-based and local employment methods. Other donors are supporting maintenance projects that maximize local ‘national or district’ content. An EU funded rural project requires that:

The Roads 2000 maintenance programme of the Kenyan Ministry of Roads and Public Works employs national contractors and uses labour-based techniques on low volume rural roads. Roads 2000 is development group/donor funded. Its predecessor, Rural Access Roads Programme, received significant international attention and was regarded as a model for labour-based and local employment methods. Other donors are supporting maintenance projects that maximize local ‘national or district’ content. An EU funded rural project requires that:

Another common occurrence is where donors and clients have expected the assurance to generate revenue to pay for maintenance outcomes rather than financing them. Generating revenue for maintenance by charging users of the service is an essential tool for encouraging private investment. The practice has also led to community involvement, particularly in the management of small-scale, local projects. However, the revenue generated may be inadequate, used on other initiatives, or siphoned off by corrupt practices.

Recently, road funds and boards with independent representation have been set up in African countries to help to ensure that revenue generated from assets pays for maintenance and that community involvement is not subverted. However, there has been a risk that the culture of financial mismanagement may move into the roads board, but donors have tried to counter such a trend.

3.2.5 Budgets fail to price social objectives

There is little evidence that clients and public departments budget for social development objectives when setting project prices. However, it is not clear how prices are calculated and what the benchmarks are. Indonesian government estimates are said to vary between being too low and too high. The level and type of scrutiny in project evaluations when setting project prices, was generally said to depend on the size of the project. Larger projects are often scrutinised and then politicised. Smaller projects are generally scrutinised more appropriately according to the new procurement procedures.

Respondents were unanimous in believing that the costs of achieving social objectives have to be estimated within the project budget and priced in the tender, whichever pricing mechanism is used. However, it was acknowledged that pricing these objectives is not straightforward and that this is why there are wide variations in budgets. Works contracts are usually priced by measuring the work, with prices assessed and set out in the bill of quantities. But social objectives cannot always be priced in this way. Therefore, it is increasingly common for large sums or price caps to be used, particularly when pricing labour costs.

3.3 Finance and appraisal

Projects may be funded by multilateral or bilateral donors in the form of grants or loans, by government funds or by private investors, or by any combination of these. The conditions attached to grants and/or loans provide the donor with a legal mechanism for ensuring the project meets their own policies. As such, they can have significant implications for the achievement of social development objectives.

The first part of this section looks at projects and programmes funded by donors, the second part examines privately financed projects.

3.3.1 Donor funded projects

3.3.1.1 Donor conditions inhibit achievement of social objectives

The predominant source of infrastructure funding in the poorest countries originates from loans taken by governments from MDBs. The donors approve projects before the loan is agreed. Donor appraisal systems do not always or systematically consider social objectives. Social conditions attached to loans are restricted to issues of governance, including the reforms of public procurement systems and revision of public expenditure procedures. Conditions relating to other aspects of social development and poverty reduction have not been clearly articulated.

Box 4: Lack of coherence to Financing maintenance in Nigeria

In Nigeria stakeholders report a lack of coherent strategies for financing maintenance by user fees and limited attention paid to designing a revenue sharing formula. There are good international policies to learn from in this respect. However, clients are beginning to recognise the importance of including a maintenance strategy when funding new projects. The Nigerian Federal Government has reported set up a maintenance committee headed by the Minister of Federal Capital Territory. The Government will authorise each Ministry to set aside about 2% of project costs for maintenance and management. The initiative is being “tailed administration” and it has been suggested that engineers should become involved to promote maintenance and training as part of all projects and implementation of approved policies. On projects not administered centrally, local government will continue to be responsible and there has been no indication of any improvements in policy and practice. Moreover, there is discussion on whether the pending Procurement Bill should recognise a mandate of three to five years warranty for projects. Extension of procurement law to cover maintenance and users of the project has also been suggested.
Assessments (SIAs) are beginning to be included in more countries, social impact analysis and public consultation undertaken in other countries. Following the pattern of EIAs and public consultation, there is inadequate capacity. However, although the application and quality of SIAs is improving, the overall standard was reported to be poor. Assessment processes are often not documented, and so the results and impacts identified in the SIA are not carried forward to the design stage or sometimes undertaken after projects have been approved. Findings are not always reported to the borrower. Environmental management systems, to manage the risks and impacts identified in the SIA, should be identified during the design stage, but in practice there is little carry-over of the results and recommendations into project design. Stakeholders blamed the limited enforcement of SIAs on a lack of recommended standards and best practice benchmarks, as well as inadequate capacity.

Following the pattern of EIAs and public consultation undertaken in other countries, social impact analysis and assessments (SIAs) are beginning to be included on donor-funded projects. In other instances social assessments are applied to serve as risk management frameworks. SIAs require public consultation to establish the interests of the community and the impacts to consider in project design and implementation. This is particularly important given the increasingly decentralised framework for the provision of services and renewed focus on investing in rural infrastructure. In 2004, the World Bank and the Kenyan Ministry of Roads and Public Works started requesting SIAs in road construction projects. It is too early to assess the results and whether the move by donors from project to programme financing to programme financing will take on board the specification for SIAs, or whether the standard is slipping behind other improvements in procurement as was the case for EIAs. The World Bank and other donors have been reviewing and updating their safeguard policies and guidelines on the IFC and the World Bank standards. The new standards contain stronger health and safety requirements for local communities, more stringent worker conditions and clearer rights for Indigenous people. It is not yet clear what impact the new standards will have on other donor-funded projects.

3.3.1.2 Environmental and social issues in project appraisal

Donors began systematically considering environmental impacts during appraisals as recently as the mid-1990s. SIAs are now a standard requirement in most countries. In Kenya SIAs are required on all infrastructure projects. Indonesian consultants report that environmental issues are being considered in design and on the larger donor-funded work. However, although the application and quality of SIAs is improving, the overall standard was reported to be poor. Assessment processes are often not documented, and so the results and impacts identified in the SIA are not carried forward to the design stage or sometimes undertaken after projects have been approved. Findings are not always reported to the borrower. Environmental management systems, to manage the risks and impacts identified in the SIA, should be identified during the design stage, but in practice there is little carry-over of the results and recommendations into project design. Stakeholders blamed the limited enforcement of SIAs on a lack of recommended standards and best practice benchmarks, as well as inadequate capacity.

Although the World Bank has become less prescriptive in its application of conditionality and is moving towards setting benchmarks and triggers, stakeholders still view them as binding conditions that can affect their ability to achieve social objectives. For example, where the donor has a co-financing role, the procurement procedures must achieve economic efficiency, transparency and equal opportunity to bidders, thus controlling the borrower’s objective of promoting national contracting and suppliers.

Box II: Social objectives included in standards and design manuals in Kenya

The Kenya Department for Works and the Kenyan National Environmental Management Authority (NEMA) are reviewing standards and design manuals for water projects and incorporating social and environmental objectives. There is, however, an important exception. Even with the new safeguards, it is still possible for World Bank-funded road projects now having to undertake SIAs. Consultants appointed by the client undertake SIAs and develop a design that must then be approved by the World Bank, the Government and NEMA. NEMA reports that environmental requirements such as erosion control and rehabilitation of quarries still have to be worked into the design of road construction projects.

3.3.2 Privately financed projects

As the case studies demonstrate, national infrastructure plans identify a large increase in private sector investment and service delivery as a key means for meeting MDG infrastructure targets. However, to date it has proved difficult to monitor whether the standards and conditionality are being applied to serve as risk management frameworks. SIAs require public consultation to establish the interests of the community and the impacts to consider in project design and implementation. This is particularly important given the increasingly decentralised framework for the provision of services and renewed focus on investing in rural infrastructure. In 2004, the World Bank and the Kenyan Ministry of Roads and Public Works started requesting SIAs in road construction projects. It is too early to assess the results and whether the move by donors from project to programme financing will take on board the specification for SIAs, or whether the standard is slipping behind other improvements in procurement as was the case for EIAs. The new standards contain stronger health and safety requirements for local communities, more stringent worker conditions and clearer rights for Indigenous people. It is not yet clear what impact the new standards will have on other donor-funded projects.

In very low income countries, particularly in Africa, the risks associated with private investment in infrastructure are considered to be high. There are particular concerns about the regulatory frameworks, changes in government policy, breaches of contracts and repayment failures. Financing long-term projects, such as the 10 year construction of the Chad-Cameroon pipeline, carries additional risks. However, the private sector is becoming involved in the management, operation and maintenance of infrastructure.
3.3.2.1 Private banks fail to ensure ‘Equator Principles’ are included in procurement procedures

In 2003, 10 international commercial banks adopted the ‘Equator Principles’. The Principles are a voluntary set of guidelines for managing environmental and social issues. The Principles are based on the IFC’s environmental and social standards. To date, 33 financial institutions from 16 countries that collectively represent some 80% of global private project finance have adopted the Equator Principles. As such, the Equator Principles are becoming the standard for addressing environmental and social issues in project financing globally.

The Equator Principles require all projects of US$10 million or more to undertake ESIAs in accordance with guidelines based on the environmental and social screening criteria of the IFC. The banks interviewed said that they do not provide loans directly to projects where the borrower is unable or unwilling to secure the loan and once this is achieved the ability of the banks to hold the borrowers to account rapidly diminishes. Private banks are not involved in the procurement procedures, thus they are not aware if the conditions of the finance are not carried over into contract agreements. They have also failed to explain how their guidelines are applicable and relevant to their clients’ project management frameworks and how the findings of the ESIAs can be carried over to the management of the identified risks. However, IFC Performance Standards for environmental and social assessment have recently been revised and the Equator Principles updated accordingly. Some of the criticisms outlined above seem to have been addressed by the changes. For example, if the environmental risks are perceived to be medium to high, there is now a requirement to produce environmental management plans/systems (EMS), monitor compliance, submit performance reports, and possibly undergo independent environmental assessment. How well these new requirements will work in practice remains to be seen.

Box 6: Equator Principles, Revised July 2006

Financial institutions signing up to the Equator Principles undertake to only provide loans to projects that conform to the following 10 principles:

Principle 1: Review and Categorisation: each project must be categorised according to the size of potential impacts and risks, using screening criteria of the IFC: For high impact projects (category A and B) the following principles apply:

Principle 2: Environmental and Social Impact Assessment: compulsory for high impact projects

Principle 3: Applicable Social and Environmental Standards: ESA to establish the project’s compliance with IFC Performance Standards and with relevant host country laws and regulations

Principle 4: Action Plan and Management System: compulsory to address adverse impacts

Principle 5: Consultation and Disclosure: the above to be disclosed and the public consulted

Principle 6: Grievance Mechanism: to be set up as part of the risk management system

Principle 7: Independent Expert: ESA, Action Plan and consultation to be independently assessed

Principle 8: Consents: the borrower consents to comply with host country laws and regulations and to the Action Plan during construction, operation and de-commissioning and to provide periodic reports

Principle 9: Independent Monitoring and Reporting: compulsory

Principle 10: Reporting: Financial institutions that have signed up to the Equator Principles commit to reporting to the public about implementation processes and experiences

More details on each principle can be found at www.equator-principles.com.

3.3.2.2 Failure by export credit agencies to assess social objectives

To help reduce risk and gain some security, investors in projects overseas seek insurance from export credit agencies (ECAs) such as the UK Export Credits Guarantee Department (ECGD), US Export Import Bank and others. ECAs are publicly backed government agencies that issue financial guarantees against non-payment and political risk to companies operating in foreign markets exporting national goods and services. There is considerably more investment in low-income countries from ECA backed finance than direct donor funding.

While recognising that the UK ECGD’s main mission is to benefit the UK economy by supporting UK business, international NGOs have called for major reforms following negative environmental and social impacts assessed on global infrastructure projects. ECGD estimates that around 50% by value and about 10% by number of investments in civil works are considered to have high potential environmental and/or social impacts.”
Some progress has been made. ECDG started its assessment of social and environmental risk five years ago and now expects project sponsors of high potential impact projects to make environmental assessments. ECDG requires that before a final commitment to grant official support, donors approve and provide documentation. ECDG’s requirement to conduct EIAs, in addition to the OECD Working Party on Export Credits and Credits Guarantees (OECD) issue an ‘action statement’ regarding ECAs and environmental policies and a consistent approach to environmental assessment.

Box 7: Transparency International highlights the high levels of corruption in infrastructure

In its Global Corruption Report 2005, the anti-corruption group Transparency International highlights high levels of corruption in large-scale public projects. The report estimates that almost 10% of investment in infrastructure is lost to corruption. Corruption in public contracting raises overall project costs, undermines donor support and has other serious implications for the achievement of social objectives. Minimum transparency standards for public contracting are suggested by the report. These include the urgent need for strict conflicts-of-interest rules, transparent and open bidding processes, public access to all information on the contracting process and an invitation to civil society participation for independent monitoring of projects.

3.4 Procurement strategies

3.4.1 Weak and corrupt national procurement systems

Public procurement systems are central to poverty reduction as foreign investment is spent, once budgets are translated into services largely through the government’s purchase of goods, services and works. Effective and efficient public procurement systems are therefore essential to the achievement of the MDGs and the promotion of sustainable development. Yet procurement systems in many developing countries are weak and corrupt, complicated as a consequence, have a negative impact for meeting poverty reduction targets (see box 7). There is some evidence that the situation has deteriorated with the devolution of the responsibility for delivery of capital and maintenance projects to local authorities has added to these problems. The reaction to this situation on the part of donors is to maintain a high level of control over funds. Facilitate many conditions to loans and grants and may also require that an external agent is appointed to administer procurement, review procedure and guidelines, for instance, stipulate that where borrowers lack the necessary capacity, organisation, resources and experience, borrowers may wish to be required by ADB to employ, as their agent, a firm specialising in handling procurement. The agent shall follow all the procurement procedures provided for in the financing agreement and the guidelines for the use of ADB standard bidding documents (SBDs), review procedure and documentation. This also applies in cases where UN agencies or NGOs are procurement agents. The extreme case (demonstrated on many World Bank projects) is the establishment of fully staffed parallel project offices, which do little to strengthen the performance of the national systems.

3.4.2 Rigid procurement strategies inhibit achievement of social objectives

The predominant form of public procurement procedure in developing countries is essentially traditional. A department or agency of government acts as the client. The client or consultants working on the client’s behalf draw up detailed project plans and budgets and manages the project. The client serves as the contracting authority and appoints, through international competitive tendering, a contractor to deliver construction. There is some evidence that the situation has deteriorated with the devolution of the responsibility for delivery of capital and maintenance projects to local authorities, which has a negative impact for meeting poverty reduction targets (see box 7). The reaction to this situation on the part of donors is to maintain a high level of control over funds. Facilitate many conditions to loans and grants and may also require that an external agent is appointed to administer procurement, review procedure and guidelines, for instance, stipulate that where borrowers lack the necessary capacity, organisation, resources and experience, borrowers may wish to be required by ADB to employ, as their agent, a firm specialising in handling procurement. The agent shall follow all the procurement procedures provided for in the financing agreement and the guidelines for the use of ADB standard bidding documents (SBDs), review procedure and documentation. This also applies in cases where UN agencies or NGOs are procurement agents. The extreme case (demonstrated on many World Bank projects) is the establishment of fully staffed parallel project offices, which do little to strengthen the performance of the national systems.
Economy, efficiency, transparency and equal opportunity to bidders. Similarly, the ADB guidelines on procurement reflect the ADB Charter Operating Principles, stressing economy and efficiency, fairness and transparency. There are fears that the focus on economy and efficiency may serve to perpetuate the lowest price culture at the expense of social objectives.

There are particular concerns about the tension between international competitive bidding and the promotion of domestic contracting and manufacturing industries in the country of the borrower. If the former takes priority it implies that lowest price is considered to have more social development benefits than the development of the local economy. Particularly damaging is the practice of ‘packaging’ to increase the size of contracts in order to make them sufficiently attractive for international firms to bid, hence raising the level of competition.

3.4.3 Community involvement

Stakeholders report that donors may aim to involve a host community during project procurement to support objectives of project financial and management independence. The International Labour Organisation defines a ‘community contract’ as ‘an agreement between a community and a contracting authority, whereby the community (or a section of the community) is responsible for the implementation of the works and hence functions as a contractor’.

However, the World Bank has a different meaning for community contracting. According to the World Bank community contracting is ‘procurement by or on behalf of the community’. In some instances donor funded projects have required the host rural community to provide labour free of charge as a form of ‘in kind’ contribution. This approach is aimed at building infrastructural development, operation and maintenance and increasing community ownership. However, there is a risk that local leaders may select low labour from the most vulnerable communities, namely the poor and politically weak. In such cases the intended beneficiary, namely the poor, may be exploited rather than benefiting from the project. Understanding of the social composition of the ‘community’ has frequently been lacking or ignored.

3.4.4 Limited impact of private sector procurement models on the poor

As the case study summary illustrates, the increase in private sector involvement is affecting procurement strategies with an increasing use of ‘concession contracts’ which use variations of design, build, rehabilitate, own, operate, maintain and/or transfer forms of contract. Used principally on urban and/or large-scale projects, the assets are usually owned by the public sector but are operated by a private company over a 15 to 25 year period. Companies are expected to make financial investments to meet the specified operational targets and service levels set by the government. Companies recoup their investment through user charges and/or government subsidies.

Private companies are also being commissioned by government under five to six year management contracts. The company operates the asset and provides the service for an annual fee based on the project size.

However, due to the need to recover investment, generally through user charges, private sector involvement is focused on the most profitable opportunities with usually lower social benefits. Hence the private sector only serves five percent of the market and public needs. On this basis the public sector will remain the major provider of infrastructure services for the foreseeable future, particularly in rural areas and services catering to the poor.

It has also been acknowledged that concession contracts have not delivered the expected results. At the end of a contract, the private company has often left the asset in poor condition. Stakeholders blame this on the limited incentives and lack of contractual obligations on companies to ensure the quality of the asset and invest in maintenance. The inclusion of social development objectives within the various privatisation and public/private contract models has been rare but, as the case studies demonstrate, this is increasing significantly.

“According to the World Bank community contracting is ‘procurement by or on behalf of the community’.”
3.4.5 Different procurement strategies could enable social objectives
The traditional method of procurement has a long history of reliability. Moreover, many consultants felt this method was not the most appropriate for their country’s projects. Having to be made to fit the procurement templates could lead to the project being less effective than it need have been. There are different procurement strategies that clients and donors could consider that might be more able to meet the project requirements and deliver social objectives.

For example, under a design and build arrangement, the contractor is responsible for meeting the employer’s specification for the design, management and delivery of the project. The client benefits from the use of a contractor’s design (the contractor may opt to subcontract the design and construction work) and the delivery of the project to a set price and time scale. The employer controls the design and construction work that is carried out by the contractor, who slowly realises that the design is more complex and expensive to build than was previously understood.

Turnkey contracts are also common particularly on privately financed gas and oil pipelines. Similar to design and build contracts, the employer’s requirements are expanded to include provision of a fully equipped facility, ready for operation (at the turn of the ‘key’). The contractor may also be contractually obliged to operate the asset for a commissioning period, lasting a few months. This is to ensure that any defects are fixed before the client takes over the asset.

Despite these advantages, clients and donors have been reluctant to allow non-invert country clients to adopt these models. Both design and build and turnkey contracts often require a two-stage selection procedure, where a certain degree of flexibility for discussions with tenders is carried out to integrate their ideas and the asset. Donors may view this as providing an opportunity for corruption.

However, Bumiputera are now beginning to look at alternative procurement models, in particular output-based or performance-based procurement. In September 2005, the World Bank published its ‘Sample Bidding Documents for Procurement of Works and Services under Output and Performance-Based Road Contracts’ (OPRC) or a trial basis to provide its clients with an alternative to the traditional methods of procuring road reconstruction, rehabilitation and maintenance. These bidding documents are focused to fit the specific nature of ‘Performance-Based Management and Maintenance of Roads’ (PBMMR), but they are also suitable for the procurement of works and services under long-term ‘Design, Build, Operate-Maintain’ (DBOM) contracts for roads.

The contractual relationship is based on payments for a quantity of measured outputs instead of the traditional method where inputs are measured. The technical specification defines the outputs and how the contractor is to be paid for them, and the level of quality specified in the bidding documents will be achieved.

3.4.6 Generic schemes used to implement local content policies
National governments consistently use public procurement to advance the economic growth of local enterprises. For example, Malaysian procurement policy supports the National Development Policy, which seeks to improve the economic performance and welfare of the Bumiputera. The National Development Policy makes them equal partners of development in the country. Mexican and NGOs (non-governmental organisations) that work with local communities have introduced new models that have evolved within public procurement with the goal of promoting non-commercial objectives: preferring reservation, indirect, supply side.

Preferring particular companies or groups, generally local firms, in the award of tenders is by far the most common means of implementing local content policies. “Preferencing particular companies or groups, generally local firms, in the award of tenders is by far the most common means of implementing local content policies and can be consistently found in public procurement legislation (eg in Tanzania, Kenya, Gambia). Preferences for local contractors and suppliers are generally set at 7.5%, 10% or even 15% of the project price but we could find no rationale for the particular percentage set. 
Effectively, the local contractor will have the preference figure discounted from their tender price thus providing an advantage against international competitors. Stakeholders were unaware of any studies to examine the effect of preferences on the development of the local industry. Some maintain that the lowest price always wins and preferring is in practice ignored. There are also arguments that the practice distorts the market and support for local industry, if required, should be provided from the supply side.

Preferencing is not only used on the basis of price, but also by allocating points in the tender process for non-commercial objectives. For example, bonus scores are allocated in Nigeria for demonstrating a history of local participation and South Africa utilises a scoring system as part of its Targeted Procurement policy (see Box 8).

An alternative to price preferencing is reservation, where a proportion of project value is reserved for execution by local enterprises. In Nigeria, the target was 70% under the Suharto government of Indonesia, but this was never achieved and was reduced to 50%. Others maintained it at 30%, but if local contractors may not have the capacity to bid and win contracts. Much depends on the size of the contracts, which may need to be broken down into portions that are manageable for local contractors.

Reservation has been common in a number of Asian countries, including India, China, and Thailand, but does seem to be in decline following pressure from the World Trade Organisation and donor bodies. In India, the policy is used at both state and national level. However, stakeholders report that targets are achieved through employing manual labour. Skilled labourers and professionals are often irregularly employed.

Box 8: Targeted Procurement

Targeted procurement is a system of preferencing within procurement which is predicated on the setting of goals or targets that are then met in order to achieve socio-economic objectives, while maintaining donor rules of competition, fairness, efficiency and transparency. Developed in South Africa to specifically target those groups disadvantaged under the apartheid system, it has also been used to support local economic development, to promote growth within the small business sector and to target the unemployed in poverty alleviation programmes.

Traditionally, when procurement has been used as an instrument of social policy, the models adopted are prescriptive and inefficient. The proponents of targeted procurement claim that models like price preferencing policy, set asides, step-in mechanisms, fixed contract participation or prescribing employment-intensive technologies can constrain the private sector’s ability to deliver. This can impact negatively on the time, cost and quality aspects of a contract.

In contrast, targeted procurement provides a system for setting clearly definable social objectives which are contractually enforceable. The specification is used to set measurable and quantifiable objectives and determine how they can be achieved. This allows the objectives to be monitored and evaluated, permits them to be verified and audited to satisfy public sector requirements for transparency.

A scoring system leads to bidders competing on the basis of price and how they incorporate social objectives into the project (for example, 10 points for price, 10 points for social objectives). This means that the social benefits are obtained from the contract award and not from the specification. Sanctions are applied to contractors where they fail to deliver their social obligations.

In South Africa, the use of targeted procurement has opened up the construction industry to emerging enterprises and delivered socio-economic benefits to the target group. For example, the market share of small businesses that were owned, managed and controlled by black persons increased from approximately 2.5% of the Department of Public Works budget immediately prior to implementation, to 22.2% after the first nine months of implementation, and to 32.4% in its third year of operation, with nominal direct financial premiums. However, where practical problems have arisen, it is often due to poor planning and design with a failure to identify appropriate socio-economic goals and inappropriate choice of implementation methodology.

When using the "indirect" model, clients employ their procurement strategies and requirements to promote policy objectives by constraining the manner in which the project is delivered, for example, specifying labour-based construction methods or community contracting. The classification system used in Indonesia constrains the ability of enterprises of certain sizes to bid for work of stated value. This has the effect of reducing the ability of overseas contractors to bid. More information on this system can be found in the case study report in Appendix I.

Supply side measures are provided to targeted enterprises to overcome barriers to competing for tenders or for participating in procurements within the supply chain. Examples of mentorship and workshops were provided from projects in Singapore and Lesotho. Such measures could also include access to bridging finance.

3.4.7 Initiatives to strengthen country procurement systems

Recently attention has focused on strengthening local procurement systems. As a part of its efforts to increase the effectiveness of aid, the OECD/DAC is leading a coordinated initiative to build the capacity of country procurement and financial management systems so as to persuade donors to direct their aid flows through country systems and reduce the number of parallel implementation units. Country systems include public procurement rules, national budget processes, accounting, auditing, and the planning, programming and management of projects. Under this initiative, OECD/DAC established a Roundtable on procurement involving developing countries and bilateral and multilateral donors. The OECD/DAC Roundtable developed an integrated set of tools and good practice guides to improve developing country procurement systems and their contribution to development outcomes. These are now undergoing review and refinement by donors and by the Roundtable on Procurement consisting of the MDBs and Procurement.

3.5 Tender and selection

3.5.1 Corruption inflates project cost

Corruption is prevalent throughout the procurement and project life cycle but seems to attract most attention when it occurs at tender stage. Corruption and the fear of corruption are major inhibitors to improvement in contractual and social performance, hindering decision making and undermining the efficiency of the procurement process. Stakeholders report instances where they have walked away from bids because of corruption. Others build corruption costs into the price.

In response to the calls for increased transparency, many countries have attempted to reform public procurement, usually through legislation. The legislative framework creates a series of checks and balances that aim to create an open and transparent tender selection process. This includes developing post-publishing scoring systems, pre-tender meetings, where potential bidders can clarify tender requirements, setting up committees to evaluate bids, opening bids in public, publishing tender results and providing losers with reasons as to why they were not selected. Despite these changes, stakeholders report that many clients fail to apply these procedures and often abuse them. For example, the requirement to open the financial envelope only after the technical envelope has been opened and...
evaluated against the stated criteria is often flouted. Stakeholders also reported cases of bids being opened and resealed before the public announcement.

3.5.2 Accepting lowest price tender can have negative repercussions

The case studies have shown a number of developing countries, at the prompting of the World Bank, are establishing a legal framework for public procurement based on the UNCITRAL Model Law. One of the basic tenets of the Model Law is that best value is achieved by maximising competition. The Model therefore directs procurement entities towards competitive tendering, with restrictions on other methods such as two-stage tendering, negotiated tendering and restricted tendering. All four of the case study countries have adopted this principle. Donors may also have thresholds above which basic rules of competition apply.

However, accepting the lowest priced tender can have negative repercussions with implications for the achievement of social objectives. If the tender price is very low the successful bidder may be led to cut costs (and cover potential losses) by cheating on materials and taking other shortcuts, which can affect the quality of the final product. Contractors may also cut back on labour costs by pushing down wages, hiring casual workers and failing to meet contractual requirements to ensure the health, safety and welfare of the workers. In many countries intense competition, particularly from Chinese companies, is seen to be driving down standards and leading to neglect of social obligations. It also includes cases of local contractors from bidding as they do not have the financial capacity to take on the risk of bidding at such low prices.

3.5.3 Alternatives to lowest price tender

To ensure technical quality and not just lowest price, innovative practices have emerged over recent years. The standardised procurement procedures of the multi-lateral development banks promote the award of contracts based on the lowest evaluated tender which includes consideration of the time schedule and quality requirements. The Asian Development Bank also has a policy of raising the price by 20-30% if the bid price is lower than the client’s estimate. A two-envelope system is commonly practiced (particularly for consultants) whereby the technical bid is submitted first and financial bids only solicited from a chosen few. UNDP uses the kind of two-envelope system to assess bids, with 70% of points issued for technical quality and 30% on the basis of price. There may also be some marking of method statements that contractors submit with their bids. However, when scoring systems are introduced, clear criteria are needed to avoid subjectivity such as the Targeted procurement scoring system in South Africa (see 3.4.7).

Practices that can help to ensure that the lowest price is not selected at the expense of the labour force include assessing the company’s record on the implementation of labour standards as a bid assessment criterion. It is also recommended that the standards required in the employment of labour are explained in detail at all pre-bid meetings, as well as how the requirements can be met. Contractors in developing countries have little knowledge of labour standards, even though they are legally responsible.

3.5.4 Prequalification excludes social issues and registers are not robust

An alternative to open tendering is inviting bids from a short list of firms. In this situation prequalification procedures can be used to assess potential bidders before placing them on the tender list. References can also be requested. Typically, prequalification forms for contractors have required information on financial capacity, previous experience (record of contracts of a similar nature), personnel capacity and experience and available equipment. There is seldom any reference to social issues, such as the firm’s record on health and safety. This is in contrast to the UK where generic social and environmental factors are embedded into the prequalification procedures.

Registers can support or even supplant prequalification if they are robust and well maintained. Where registers of contractors or consultants are stratified...
into different classes, clients may assume that those in a particular class have a minimum level of capacity and expertise and have not been involved in litigation. The record of companies on health and safety can be used to inform the prequalification process, with blacklisted practices used to inform the blacklists of companies guilty of corrupt practices.

3.5.5. Measures to curb corruption

Greater transparency in tender awards can help reduce corruption. Some clients and financiers (for example the EU) provide feedback to bidders following bid evaluations. The amount of detail provided was not stated, and the classification system may lack credibility. At a more sophisticated level, some UK clients are increasingly making use of common registers, as explained in Box 9.

Blacklists of companies guilty of corrupt practices can be used in the prequalification process. With blacklisted companies barred from tendering, the development banks have led the way in issuing blacklists but with varying effect. There are calls for blacklisting procedures to be strengthened and for others to follow the lead of the banks. The UK Anti-corruption Forum recommends that an international database be developed containing details of prosecutions and blacklisting to which procuring entities may refer during due diligence and tendering procedures. Transparency International has made similar calls.

Corruption Forum recommends that an follow the lead of the banks. The UK Anti-corruption Forum has very recently recommended that business associations and institutions encourage members to implement an anti-corruption policy embedded in a code of conduct with a disciplinary mechanism to sanction members in breach of the code. Clients should then only allow companies to tender if they can show evidence that they are implementing the policy. Positive weighting should also be given during evaluation to companies that can provide credible external verification.

This has also developed an ‘integrity pact’ to be signed by the client and the company bidding for work and sent out with the invitation to tender. The pact is independently assessed and the assessor has open book access to the tenders and is present at all tender meetings throughout the duration of the procurement cycle. The pact can provide credible external verification. It is expected that clients will introduce effective anti-corruption monitoring and reporting procedures and that financiers ensure that these are in place. The relevant paragraph in the Forum’s Anti-corruption Action Statement reads as follows:

Box 9: An example of prequalification in the UK

Some UK clients are making increasing use of common registers. The Highways Agency and the Strategic Rail Authority both currently use the Capability Assessment Toolkit (CAT) which is based on the Business Excellence Model. The CAT system is popular with contractors and requires that at least 63 companies sign up to this code and a further 63 in 2005. The Highways Agency, for example, requires an external examination of potential contractors who have been certified submit ‘slimline’ prequalifications. The CAT system is popular with many contractors who have requested to apply it and extend it themselves to their own supply chains. Some contractors consider that the process promotes continuous improvement, particularly in the areas of health and safety management and in partnering. In bids, community relations officers have to be listed by name when contractors state that they liaise with communities to consider their diverse interests in project design and implementation.
Corrupt practices are normally concealed. It is very difficult for anyone who does not have the appropriate skills, who does not have access to the relevant documents and people, and who does not have in-depth involvement in the project, to be able to prevent or uncover these practices.

The Forum believes that independent monitoring mechanisms capable of preventing and identifying corrupt practices need to be introduced at project level. It recommends the development and implementation of mechanisms under which:

a. The participants in projects commit to act with absolute integrity in relation to the project.

b. Compliance with the integrity commitments is monitored throughout major projects by an independent expert who is given appropriate access to documents and individuals for the duration of the project.

c. Breach of the commitment leads to contractual and, if appropriate, criminal sanction.

The Forum also recommends that increased resources be allocated to investigation and prosecution, and that blacklisting should be more effective and transparent. Mechanisms also need to be established for reporting corruption and for providing effective responses to allegations of corruption.

3.6 Contract agreements and documents

The contracts in most common use are either the standard FIDIC/World Bank documents or national contract models. The NEC contract model has a small, but increasing, international market that includes South Africa and Botswana. In most international regions and on larger projects FIDIC’s Conditions of Contract for Work of Civil Engineering Construction are used. FIDIC and World Bank models also form the basis from which other models are derived. For instance, stakeholders in Nigeria stated that even on projects not funded by the development banks, they used FIDIC documents or one of the similar models to NEC models. This is because the guidelines and frameworks are disclosed and available for reference.

However, Indian stakeholders reported that all risks are invariably passed to the contractor who then ignores the contract completely. As a consequence relationships between client and contractor deteriorate and disputes become the norm. While international consultants and contractors are well versed in utilizing FIDIC and the local variants of the NEC, many Indian stakeholders felt that local consultants and contractors would benefit from shorter, simpler contracts in the local language, with risk apportionment where it is best managed and transparency ingrained into the management of the contract (see Box 10).

Box 10: Achieving transparency under the NEC contracts

The NEC achieves transparency by making sure that client and supplier have access to the same information at the same time, and that there are no ‘hidden’ transactions. The NEC contracts have a range of provisions which help to achieve a high level of transparency. These include:

1. Separation of the role of Project Manager and Supervisor avoids potential conflicts of interest.
2. Client Control: the Project Manager is not independent of the Employer.
3. The early warning obligation provides for effective communication.
4. The disclosure of the terms of sub-contracts to the Project Manager thus overcoming the problem of onerous, usually undisclosed, sub-contract terms damaging the achievement of the Employer’s objectives.
5. The transparency of scheduling, methods and risk allowances through a detailed updated Programme to show progress achieved and the Contractor’s intentions for completing the remaining work.
6. Notification of compensation events and the assessment of cost and time consequences is made at the time the event arises thus allowing the Project Manager to manage change.
7. More precisely defined ‘force majeure’ events with the Project Manager making the final decision on how to deal with the event through consultation with the Contractor to identify the options.
8. In Cost reimbursable or target payment option, the contractor is required to keep detailed cost records and provide forecasts of future costs to the Project Manager at regular intervals.
9. An obligation on the contractor to notify the Supervisor of defects. Thus there is no ‘hidden’ correction of defects.
10. In the event of a dispute an independent third party appointed as adjudicator will give its decision on the dispute at that time when it arises.

By including terms requiring both transparency and cooperation, the NEC simultaneously helps to remove corruption and promote best practice management.
3.6.1 Responsibilities for social objectives are not well defined

Responsibilities for social objectives are not well defined in the national standard bidding documents that were examined. Minimum requirements, such as in the national standard bidding documents that contractors must obey all local laws and regulations. Some requirements are not specified in the contract. For example, contractors are expected to take reasonable care of the environment. But instructions are not well defined in the national standard bidding documents. However, some stakeholders have questioned whether the contract clauses are the right place for consideration of social requirements. A contract defines the management framework by which the contracting parties operate. The specification sets out the client’s obligations and to the extent possible. The country case studies also noted some ambiguity in FIDIC contracts on the issue of local labour. FIDIC (4th Edition) defines responsibility for social objectives as the right place for consideration of social requirements. A contract defines the management framework by which the contracting parties operate. The specification sets out the client’s obligations and responsibilities. In some cases, however, there is a lack of clarity about the obligations to the labour force. Child labour and forced labour are prohibited and the contractor has to inform the contractor or employer of what is actually to be done.

3.6.2 Vague language and conflicting messages in contracts

Vague and sometimes conflicting obligations in contracts complicate compliance. For example, contractors are expected to take reasonable care of the environment. But national standards and guides are lacking and little attention has been paid to the specification of sustainable materials and resources in design and delivery. Environmental impact assessments are now a standard requirement but it is not clear whether the recommendations of studies are carried over and reflected in the contract document. The country case studies also noted some ambiguity in FIDIC contracts on the issue of local labour. FIDIC (4th Edition) defines responsibility for social objectives as the right place for consideration of social requirements. A contract defines the management framework by which the contracting parties operate. The specification sets out the client’s obligations and responsibilities. In some cases, however, there is a lack of clarity about the obligations to the labour force. Child labour and forced labour are prohibited and the contractor has to inform the contractor or employer of what is actually to be done.

3.5.3 Some labour clauses in FIDIC contracts

The harmonised edition of the ILO (2006) contract law case study summary does not cover the design and delivery of FIDIC 1999 contracts. FIDIC 1999 bidding documents do not consider the obligations to local labour force. Child labour and forced labour are prohibited and the contractor has to ensure the supply of food and water. There is also a requirement to appoint an accident prevention officer at the site, who is responsible for maintaining safe working practices and protecting the workforce against accidents. Objectives for labour and labour clauses have also been included in contract documents that comply with the ILO definition, has suggested that the wider regulatory framework is better placed to ensure that social obligations are met with any specific project requirements defined with measured benchmarks in the specification. For example, as most countries have labour laws there should be no need for special requirements into the contract. Environmental issues should be handled in national dialogue between government and donors rather than suddenly applied through contracts. This has been the World Bank view until recently when bidding for NGOs and community groups began to break through their resistance to the inclusion of some labour and environmental objectives in contract documents. The view finds support in the fact that the contract documents and specifications, and the legal language of contract documents is often not understood. Contract clauses are rarely enforced.

However, some stakeholders have also noted some ambiguity in FIDIC contracts on the issue of local labour. FIDIC (4th Edition) defines responsibility for social objectives as the right place for consideration of social requirements. A contract defines the management framework by which the contracting parties operate. The specification sets out the client’s obligations and responsibilities. In some cases, however, there is a lack of clarity about the obligations to the labour force. Child labour and forced labour are prohibited and the contractor has to inform the contractor or employer of what is actually to be done.

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which predominate in the public sector in
Under the traditional forms of contract,
and/or social areas is inadequate
performance and failure to comply with
ability to pay wages on time.
inflate claims, as well as affecting his
cash flow and provides an incentive to
quality and performance as long delays
workforce. Late payment from clients,
protect the health and safety of the
them to take only minimal measures to

3.7 Monitoring, enforcement and evaluation
3.7.1 Poor project performance due
to inadequate supervision

In low-income countries, the independence
of the consultant from the contractor is
poorly guarded on the grounds that it
creates a system of checks and balances.
The consultant represents the client's
interests and assumes responsibility for
supervising the work of the contractor to
ensure that the terms and conditions of
the contract are fulfilled. However, the
quality of supervision is often inadequate
due to distance, ignorance or collusion.

On infrastructure projects in remote areas
the client/consultant's ability to supervise
the project may be compromised by
the supervisory function becoming
inadequate. For example, the consultant
may be unable to visit projects due to
transport and accommodation during site
visits or due to distance, ignorance or collusion.
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inadequate. For example, the consultant
may be unable to visit projects due to
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visits or due to distance, ignorance or collusion.

Box 11: Social Aspects of Construction Project
The SAC project identified nine labour standards and undertook research to
examine the extent to which they are actually observed on the ground under
different types of contract arrangement. If projects were then undertaken to
meet the standards and supervision was adequate, contractors should be able
to monitor social provisions in the contract. As a follow-up to the research,
joint venture projects funded by DFID in Ghana have included in the contract
documents requirements that contractors observe the nine labour standards. The
SAC guide recommends that for each separate contract detailed specifications
should be provided so that contractors observe the requirements. In some cases contractors
had to
invest to meet the required standards (eg in clean drinking water) but the costs did
not present a problem because they had been included as a lump sum in the tender.

In the countries studied, project
performance is often poor. Frequently the
technical as well as the social requirements
of the contract are not fulfilled. Sometimes the failure can be traced back
to earlier stages in the procurement
process. For example, acceptance of very
tender and the need to recover costs
may cause contractors to use substandard
materials. Inadequate costing and/or poor

3.7.2 Weak government enforcement
of laws and regulations
The case studies have shown that national
or local regulations regarding health and
safety, as well as other social and
environmental standards, are frequently
ignored. The regulations are often there
yet implementation is poor.

In addition to supervision on behalf of the
client, responsibility for monitoring and
enforcing standards and social obligations
is shared by a variety of agencies.
Monitoring of health and safety and other
labour and environmental standards is the
responsibility of other government agencies
or departments at central or local level.

In very poor countries, government
regulatory agencies rarely manage to
enforce standards in practice. Influencing
factors include lack of capacity and the
difficulty of monitoring the involvement of
numerous small subcontracts over a
wide geographical area. Monitoring and
enforcement of the provisions for health,
safety, as well as other social and
environmental standards, is frequently
ignored. The regulations are often there
yet implementation is poor.

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In very poor countries, government
regulatory agencies rarely manage to
enforce standards in practice. Influencing
factors include lack of capacity and the
difficulty of monitoring the involvement of
numerous small subcontracts over a
wide geographical area. Monitoring and
enforcement of the provisions for health,
and safety is certainly inadequate in the case study countries. Health and safety inspectorates are understaffed and visit construction sites only after an accident has occurred. New contracts have been awarded despite breaches of regulations. A similar situation prevails in Tanzania where a recent study has shown that in the few occasions when inspectors visit sites they speak only with the manager and ignore the labour force. Inadequate monitoring and enforcement of the health and safety and labour regulations in that country has left contractors free to choose whether or not they obey the law, which has resulted in a very wide diversity of standards.

3.7.3 Post contract evaluation focused on financial audits

Project auditing, in the sense of analysis after completion to identify shortcomings, errors and mistakes, is limited. Stakeholders expressed the view that the implementation of many objectives, not just social, is not evaluated to a relevant and appropriate standard. Auditors tend to follow paper trails rather than actually checking that the physical asset and its components are in place and that they are to the specifications. Project appraisal staff at development banks are said to perform and be assessed according to fund disbursement quantity rather than project performance. Development bank appraisal systems reportedly do not integrate financial appraisal with technical appraisal and financial issues take precedence.

The supervision, monitoring and auditing of client financing by commercial banks and the application of the Equator Principles during the project life cycle has mixed reports. Some stakeholders state that commercial banks have made genuine efforts towards internal monitoring and accounting of project expenditures and that there may be on-site monitoring and evaluation. Usually below the next loan installment is released. While some banks have made a genuine effort to implement the Equator Principles and even extended their scope to non-project finance and publicly reported on these efforts, other banks have made little effort and performance is unclear. The main areas of improvement are public and transparent reporting, on the ground impact assessments and scrutiny of implementation systems. Critics state that the Principles do not seem to prevent banks from financing the same kind of projects that have proven to be environmentally destructive in the past.

In cases of non-compliance, banks can default on loans, yet this is a very rare occurrence. The bank is required to engage the client and bring the client back into compliance. In high-risk projects there is annual reporting with some external environmental and social consultants hired to review and report.

3.7.4 Lack of standards for monitoring

Effective monitoring requires clearly defined standards and objectives. International consultants report that measures and indicators for environmental management are not being “trumped” for instance, roadside clearing of vegetation as a community management objective in road construction yet there is little that is being monitored or necessary levels so that wood can be sold. In Indonesia, international and national standards for environmental monitoring are used, but national standards are said to be of a reduced quality, with low standards for accreditation.

Objectives and indicators for community involvement may also not be sufficiently well defined to capture the intended impact. In one example monitoring showed that the requirements of the contract were apparently being complied with, in that manual labour was locally recruited and local businesses were involved. But the impact was not as intended as the locally recruited labour was unpaid and the chief beneficiaries were local business monopolies. Independent monitoring highlighted the malpractices, allowing improvements to be made.

“Effective monitoring requires clearly defined standards and objectives.”
3.7.5 Positive examples of monitoring, evaluation, enforcement

Labour standards in contracts are generally not implemented because they are not monitored and enforced through incentives and/or sanctions. The SAC project has shown how monitoring and enforcement of labour standards that are spelled out in the contract can occur as part of the supervisory process within the project team. The process is greatly facilitated if the labour force is fully aware of their rights and entitlements and all the key stakeholders are involved. This has been tried on donor funded projects in Ghana, where the stakeholders (including the client, association of contractors, labour department, and unions) collectively identified the relevant labour standards to apply and then periodically reviewed problems and proposed solutions. Contractors complying with the standards were rewarded with bonuses. Over time, and after a number of different monitoring approaches had been tried, the supervising engineers began to take over the role of monitors. At first there was resistance, but gradually they began to see this as part of their normal work. The experiment has shown that monitoring can be an effective way to improve the implementation of labour standards and multi-sectoral accounts, especially when specific obligations to the labour force are included and budgeted in contract documents.

Mid-term reviews and end of project evaluations are undertaken by several donors and development banks, and a lot of changes can take place during these reviews. The European Commission reports that it has national indicative programmes, regional and country reviews that are undertaken mid-term. The EU country delegation and donor monitor implementation performance and undertake budget reviews that may result in budget increases, decreases or stalling. Problems in project implementation have resulted in funds being deferred or moved from infrastructure projects into sectoral policy and governance programmes. The EC also claims to have both process and system indicators (which measure performance in things like capacity building) and also outcome indicators (which measure the impact on the beneficiaries). Verifiable indicators on an EC funded rural water project include the number of installations completed in the different sectors and their quality, along with evaluations of their social performance. Impact will be assessed through surveys of a random selection of sites. Indicators of social performance include the number of persons involved in communal labour, contributions to fund raising and organisational aspects. Independent evaluations are planned 18 months after the start and six months before the end of the programme.54
Figure 1: Summary of the factors inhibiting and enabling the achievement of social objectives at various stages of the procurement process

<table>
<thead>
<tr>
<th>Identification, planning and design</th>
<th>Enabling factors</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Project identification</strong></td>
<td></td>
</tr>
<tr>
<td>Lack of national or sectoral</td>
<td>NDGs mainstreamed into national or</td>
</tr>
<tr>
<td>operational plans</td>
<td>regional plans and budgets</td>
</tr>
<tr>
<td>No alignment of projects with plans</td>
<td>Project identification in line with plans</td>
</tr>
<tr>
<td>No public consultation</td>
<td>Budget support from donors linked to national and sectoral strategies</td>
</tr>
<tr>
<td>Corruption including undue influence from national or local politicians</td>
<td>Community involvement in project identification and design</td>
</tr>
<tr>
<td>Inadequate consideration of social objectives in project design</td>
<td>Social objectives are included in the lending framework and budgeted accordingly</td>
</tr>
<tr>
<td>Funds not set aside for social development objectives</td>
<td>Costs of meeting social obligations are estimated and funds ring-fenced (as happens for HIV/AIDS)</td>
</tr>
<tr>
<td>Neglect of maintenance considerations at design stage</td>
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<tr>
<td>Inadequate budgets for maintenance</td>
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<tr>
<td>Corruption in project design</td>
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<tr>
<td><strong>Design and budgets</strong></td>
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<table>
<thead>
<tr>
<th>Finance and appraisal</th>
<th>Enabling factors</th>
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</thead>
<tbody>
<tr>
<td><strong>Public finance</strong></td>
<td></td>
</tr>
<tr>
<td>Donor conditionalities may inhibit attainment of social objectives</td>
<td>Use of Social Impact Assessments which necessitate public consultation</td>
</tr>
<tr>
<td>Some donors are more concerned with the asset than the delivery process and do not consider social objectives in project approval</td>
<td></td>
</tr>
<tr>
<td>EIAs identify risks but not carried over to project design or risk management systems</td>
<td>Social and environmental risks identified and systems established to manage the risks – as required by revised ‘Equator Principles’</td>
</tr>
<tr>
<td>Private banks fail to ensure the ‘Equator Principles’ are carried over to procurement</td>
<td></td>
</tr>
<tr>
<td>Export credit agencies rarely incorporate social objectives in EIAs and fail to tackle corruption</td>
<td></td>
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<tr>
<td><strong>Private finance</strong></td>
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<table>
<thead>
<tr>
<th>Procurement strategy</th>
<th>Enabling factors</th>
</tr>
</thead>
<tbody>
<tr>
<td>Corruption in national procurement systems leads to donors by-passing and setting up alternatives</td>
<td>Flexible procurement options may lead to better outcomes</td>
</tr>
<tr>
<td>De facto nationalisation may further inhibit delivery</td>
<td>Smaller contracts to maximise the participation of local contractors</td>
</tr>
<tr>
<td>World Bank procedures considered inflexible and promote competition at the expense of social development objectives (eg local content)</td>
<td>Targeted procurement to deliver social benefits at minimum cost</td>
</tr>
<tr>
<td>Large projects inhibit participation of local firms</td>
<td>Donors strengthen and use national procurement and financial management systems</td>
</tr>
<tr>
<td>Community contributions in the form of ‘free’ labour can hurt the most vulnerable</td>
<td></td>
</tr>
<tr>
<td>Concession contracts limited and serve the richer locations and groups</td>
<td></td>
</tr>
</tbody>
</table>
Inhibiting factors | Enabling factors
--- | ---
Tender and selection | Corruption and failure to apply proper procedures undermines efficiency and inflates costs.
Selection based on lowest price leads to shortcuts and neglect of social obligations.
Intense competition pushes contractors to under price and prohibits local contractors from bidding.
Social performance not considered in prequalification.
Registers of contractors/consultants are not always robust and classification systems lack credibility.
Greater transparency in tender and awards, including feedback to tenderers, to tackle corruption.
Blacklisting, codes of conduct and integrity pacts can also be used to reduce corruption.
Two envelope system (as applied by UNDP) allows for evaluation on merit and price.
Social performance of companies by health and safety record included in assessment criteria for prequalification and/or registration.

Contract agreements and documents | Responsibilities for social objectives are not well defined in contract documents or supported by project design and budget.
Undeclared definition of responsibilities is a particular problem in community contracts.
Vague and conflicting messages regarding social obligations in contracts (eg contractors must take ‘reasonable’ steps to protect the environment, free to employ who they wish but local labour ‘encouraged’).
National standards and guides are lacking.
Difficult legal language in contract documents leaves them often not read or understood.
Social objectives detailed in specifications, included in designs and budgets and priced in the tender (as with detailed specification for combating HIV/AIDS in standardised documents of MDBs).

Monitoring, enforcement and evaluation | Poor technical and social performance on projects due to inadequate supervision.
Distance of sites makes supervision difficult but ignorance of social issues and collusion between client-contractor-consultant are also common.
Minimal monitoring and enforcement by government local laws and regulations.
Standards and indicators not sufficiently well defined.
Post contract evaluation limited and focused on financial audits.
Projects reviewed mid-term and outcomes (including poverty reduction impact) monitored.
Social obligations in contracts monitored by the project team, with incentives for compliance and sanctions for non-compliance (as undertaken on DFID projects in Ghana).
Workers’ made more aware of their rights to aid monitoring of labour standards.
Independent monitoring and auditing of social performance.
4. Role of key stakeholders

In Figure 2 (pages 39-40) some of the inhibiting and enabling factors have been rearranged according to the stakeholder who is mainly responsible for the particular factor. This leaves a very large degree of influence with the donors, governments and clients. Consultants acting as designers can have some influence but ultimately they are responsible to the clients and take their cue from them. This section sets out the role and responsibilities of the stakeholders.

4.1 Donors

Some of those consulted complained that many donors are "results-oriented" that is more concerned with the asset to be delivered than with the delivery process itself. Another problem is that donors’ initial feasibility appraisals and final reviews focus on financial rather than technical or social issues, which could partly be because donor performance is measured by the quantity of funds disbursed rather than by the quality of the investment. This means that donors and suppliers are not driven to incorporate social or environmental conditions into the contracts. Moreover, the responsibility for the implementation of the project, and therefore for the award and administration of contracts under the project, rests with the borrower. What is not clear is whether the borrower can be fully responsible when they have not set the conditions, terms and standards, with which they have to comply. It therefore understandable that consultants and contractors report confusion over the roles and responsibilities of the stakeholders.

Donors have considerable power to promote the achievement of social objectives and there are examples where these powers have been used to good effect. For example, donors are driving procurement reforms and building the capacity of procurement officials, a development which is linked to the move on the part of several donors to provide budget support linked to national and sectoral strategies. The OECD/DAC is leading this initiative. The MDBs have now adopted standardised contract documents which address some social issues, notably minimum labour standards and HIV/AIDS. MDBs have also agreed a common approach to rooting corruption which involves improving the consistency of their investigative rules and procedures. They have also agreed to share information and ensure that compliance and enforcement measures taken by one institution are supported by the others. The banks also agreed to collectively develop proposals to assist country capacity in anti-corruption measures and to cooperate with civil society and institutions to enhance transparency and accountability.

Donors can be even more influential in the projects that they fund directly. For instance, they can ensure that social objectives are incorporated into the design and budget and they can monitor the outcomes. Examples include the monitoring of poverty reduction and sustainability in EU funded water projects and monitoring of labour standards on labour-based construction projects funded by the International Labour Organisation.

4.2 Private financiers

Private financiers have not traditionally influenced the design or delivery of projects to achieve social objectives. But pressure groups and policy changes are nudging them in this direction, although only in terms of managing social risks not the social opportunities. Many private financiers have adopted the Equator Principles (see Box 5) to guide the management of social risks. They require borrowers to agree to abide by the social conditions attached to the loan, which are part of the lending framework and may encompass some monitoring of the outcomes. However, it is not clear how often the social conditions attached to the loan actually filter down into the tender.

"Donors have considerable power to promote the achievement of social objectives and there are examples where these powers have been used to good effect."
It is the client who must create the enabling environment and culture for successful project implementation.

The 2005 Indonesia Infrastructure Summit, the Government announced a series of projects that would be put out for tender which were linked to their infrastructure road map. Further details are included in the Indonesian case study in Appendix I.

Budgets can be monitored by civil societies, which governments can promote. Governments of many countries are revising procurement procedures and undertaking reforms. Examples were also found of governments (with help from donors) adopting and promoting appropriate labour standards, incorporating these standards into contract documents and ensuring that they are monitored by raising awareness among the workers and the end of the project team.

4.4 Clients
All those consulted were unanimous in the view that it is the client who must create the enabling environment and culture for successful project implementation. The public sector client may be ministry or department of the central government or a semi-autonomous agency. Increasingly it is a local authority (regional, district, municipal) and in some cases a community group which acts as the client. Clients, particularly in Africa, are often unfamiliar with procurement procedures, tend to underestimate costs, encourage overly detailed design and focus on getting the lowest price with little attention given to operation and maintenance or to social objectives. Current moves to devolve procurement to local authorities are likely to exacerbate many of these problems. However, clients do have the authority to promote the achievement of social objectives should they so wish. They can do this in a variety of ways, for example by incorporating social issues into the design of the project, by providing funds, detailing requirements in the contract documentation, offering preferences to local contractors or suppliers or those who fulfil other specified social objectives.

4.5 Consultants
Consultants are employed by, and responsible to, the client. However, they report that they often have to juggle demands from both clients and financiers which can cause tension. Most consultants say that they recognize the importance of environmental and social management and they can exert some influence over the client. They are also being engaged by donors in capacity building and management roles. However, many consultants are weak on what are seen as ‘softer’ issues.

4.6 Contractors
Contractors have some power to influence the achievement of social objectives. They are responsible for the terms and conditions under which labour is employed, for subcontracting to, and/or buying from, local suppliers. Consultants say that they recognize the importance of environmental and social management and they can exert some influence over the client. They are also being engaged by donors in capacity building and management roles. However, many consultants are weak on what are seen as ‘softer’ issues.
for work (as well as the desire for profit) often leads to price cutting at tender stage and subsequent failure to comply with regulations and standards in order to cut costs. In the absence of strict enforcement of standards by the government, contractors are in practice free to choose which standards they will observe.

International contractors predominate on large projects in sub-Saharan Africa and recent research has revealed a very wide variation in standards practices by the various nationalities.

In many African countries, local contractors and suppliers are under-capitalised and inexperienced and have difficulty winning contracts. International contractors often partner with local companies and this can be beneficial to both partners. Joint ventures support access for local contractors that do not have the managerial or financial capacity to bid for work on their own. Simultaneously, the local contractor will bring knowledge of the local culture, customers and practices, including environmental and social context. There is evidence that joint ventures have facilitated knowledge transfer in Asia and the Middle East, leading to the establishment of a local cadre of skilled local contractors. However, the extent of the transfer of technology through the training and development of local companies may be quite limited.

4.7 Non-governmental organisations (NGOs)

NGOs are beginning to play a role as consultants or as independent auditors. They have undertaken work with the World Bank, the Asian Development Bank and the African Development Bank on infrastructure projects and in planning, design, construction, implementation, operations and maintenance. There are good examples of this practice from Africa, such as WaterAid in Nigeria, which aims to bring cities to meet the MDGs down to the local level instead of adopting the usual national level approach. The NGO believes that the decentralised Local Government Councils hold the golden key to achieving the MDGs in Nigeria.

NGOs are also being contracted by contractors to deliver the WASH management obligations that are now requested in projects funded by the development banks and other donors. In the few cases where the NGOs were approached, their performance was said to be good, as was the relationship between the contractor and NGO. The costs of engaging NGOs were also considered reasonable.

4.8 Communities

There are examples of the community, usually through a community-based organisation (CBO) working with the client, contractor, operator or performance monitor on small, donor-funded projects. The available evidence suggests that the record of communities as managers of projects is largely positive with a high quality of asset performance and service delivery being achieved at a low cost. However, there are also reports of communities being used for their labour alone, while being engaged in the planning or procurement process or consulted on the project type, key delivery and management issues. It is also suggested that community leaders may appoint the weakest members of society (usually the poorest) to undertake the labour inputs.

There are indications of renewed interest in increasing the role of the community in various stages of the procurement process, in particular in monitoring and in operations and maintenance. Development organisations stress that infrastructure tends to be unsustainable where the necessary institutional frameworks do not exist within the communities and local authorities. WaterAid in Nigeria is supporting the construction of physical water and sanitation infrastructure in parallel with the establishment of water and sanitation committees based on traditional community institutions. They have also supported the training of local government representatives to understand the roles and responsibilities of participatory community project management and managing facilities at community level.

“In the absence of strict enforcement of standards by the government, contractors are in practice free to choose which standards they will observe.”
<table>
<thead>
<tr>
<th>Actors</th>
<th>Inhibiting factors</th>
<th>Enabling factors</th>
</tr>
</thead>
</table>
| Donors           | MDBs results-oriented: concerned with the asset more than the delivery process and exclude non-economic objectives  
Success measured by disbursement (quantity) rather than quality  
Tied aid raises costs and limits effectiveness  
World Bank procedures inflexible and exclude possibility of adapting the strategy to suit the project  
FIDIC contracts too adversarial with all risk passed to contractor  
Donors focus on financial auditing with minimal monitoring of social outcomes  
Blacklists not robust  
Has not traditionally influenced design and delivery or been concerned with social issues  
Has begun to focus on minimizing social risks but not on maximizing opportunities  
Social conditions attached to loans may not filter down to procurement | Donors are funding capacity building and driving procurement reform  
MDBs agreed a common approach to fight corruption  
Access to budget support linked to national and sectoral strategies  
Funds to local government linked to performance  
Donors promote social objectives in design and budgets to meet them  
New standardised documents of MDBs do address social issues  
Donors can monitor social outcomes  
(Poverty reduction on EU water projects: standards on labour-based works) |
| Private financiers | Have not traditionally influenced design and delivery or been concerned with social issues  
Have begun to focus on minimizing social risks but not on maximizing opportunities  
Social conditions attached to loans may not filter down to procurement | Adoption and monitoring of the ‘Equator Principles’  
Social objectives included in the lending framework  
Mandatory BAs |
| Governments      | Lack of national, regional or sector plans and/or failure to align projects with plans  
Short-term changes in line with political leadership  
No standards for social and environmental requirements  
Registers of consultant and contractors not robust  
No proper inspection of sites  
Failure to enforce compliance with law | National policies to promote social objectives and ensure project identification is in line with plans  
Promote civil society monitoring of public budgets  
Raising awareness among workers of their rights and monitoring of labour standards  
Promotion of integrity pacts among procurement officials |
### Figure 2: Continued

<table>
<thead>
<tr>
<th>Actors</th>
<th>Inhibiting factors</th>
<th>Enabling factors</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Clients</strong></td>
<td>Lack of familiarity with procurement, especially in local authorities</td>
<td>Can create the environment for the achievement of social objectives by:</td>
</tr>
<tr>
<td></td>
<td>Unrealistic estimates of costs</td>
<td>Incorporating social issues into design</td>
</tr>
<tr>
<td></td>
<td>Responsibilities ill defined</td>
<td>Ring-fencing funds for social objectives</td>
</tr>
<tr>
<td></td>
<td>Tendency to encourage over design</td>
<td>Detailing requirements in contract documents</td>
</tr>
<tr>
<td></td>
<td>Main concern is lowest price</td>
<td>Preferences for domestic goods/services</td>
</tr>
<tr>
<td></td>
<td>Little attention to operation and maintenance or social objectives</td>
<td>Pre-qualifying on social performance</td>
</tr>
<tr>
<td><strong>Consultants</strong></td>
<td>Not strong on ‘softer’ issues</td>
<td>Can exert positive influence on clients</td>
</tr>
<tr>
<td></td>
<td>Responsible to client and donors and may have to juggle conflicting demands</td>
<td>Engaged by donors in monitoring and capacity building roles</td>
</tr>
<tr>
<td><strong>Contractors</strong></td>
<td>Contracts often under priced to win tenders</td>
<td>Responsible for labour standards</td>
</tr>
<tr>
<td></td>
<td>Social objectives neglected</td>
<td>Can generate employment, but only within the parameters set by design</td>
</tr>
<tr>
<td></td>
<td>Companies have wide variety of standards</td>
<td>Can increase local content by buying from local suppliers and subcontracting</td>
</tr>
<tr>
<td></td>
<td>Limited involvement of local contractors or suppliers</td>
<td></td>
</tr>
</tbody>
</table>
Inhibiting factors
The research has shown that there are a large number of factors in procurement procedures that seem to be inhibiting the achievement of social development objectives. The main inhibitors are:

- lack of public consultation, national plans and other clear criteria for project identification
- failure to incorporate social objectives in project appraisal, design and budget
- failure to plan and budget for operations and maintenance
- inflexible procurement strategies and adversarial contract forms
- intense competition and selection based on lowest price
- vague and conflicting messages regarding consideration of social objectives in contract documentation
- few clear standards for social (and environmental) 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

The analysis of the role of the various stakeholders revealed a number of other inhibiting factors:

- MDBs are results oriented and success is often measured by the quantity of funds disbursed rather than the quality of outcomes
- MDBs 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, notably OECD/DAC, to a move away from project funding toward budget support linked to national and sector plans, which is seen as a factor in improving the effectiveness of Aid. These initiatives would seem to have potential to enhance delivery of social development objectives. The recognition that the quality of public institutions plays a key role in influencing development outcomes, and contributing to the achievement of the MDGs, rather than being simply a technical function, is welcomed. The OECD’s objective of harmonising donor policies and channeling funds through country budgets are also key to promoting ‘ownership’ of donor funded projects and programmes and improved development outcomes. Eventually government should hold the responsibility for finance, procurement and outcomes as this will make it easier for national civil groups to measure accountability.

We have also seen in the case studies that the development banks have now adopted standardised contract documents that do address some social issues, although there are questions over their enforcement. 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. It is now important that these opportunities are taken up and that inflexible procurement procedures and the drive for market competition do not compromise donors’ desire to derive increased social benefit.

Role of stakeholders as agents of change
The analysis also revealed the key role played by those involved in the early stages of procurement. It is by now a well-established fact that the decisions taken in the early stages of project procurement have the greatest potential impact (negative or positive) on cost. This is also true for the identification and exploitation of social development opportunities. Hence the greatest chance to influence the setting and achievement of social development objectives lies in the early stages of project procurement.

Hence 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.

5. Conclusions and recommendations

Inhibiting factors
The research has shown that there are a large number of factors in procurement procedures that seem to be inhibiting the achievement of social development objectives. The main inhibitors are:

- lack of public consultation, national plans and other clear criteria for project identification
- failure to incorporate social objectives in project appraisal, design and budget
- failure to plan and budget for operations and maintenance
- inflexible procurement strategies and adversarial contract forms
- intense competition and selection based on lowest price
- vague and conflicting messages regarding consideration of social objectives in contract documentation
- few clear standards for social (and environmental) 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

The analysis of the role of the various stakeholders revealed a number of other inhibiting factors:

- MDBs are results oriented and success is often measured by the quantity of funds disbursed rather than the quality of outcomes
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. Environmental Impact Assessments are 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 particular examples of good practice can be singled out. The first is the use of ‘targeted procurement’ by government clients to assist disadvantaged groups. Targeted procurement is a system for awarding tenders that provides the option to set targets or goals to achieve socio-economic objectives that are contractually enforceable, whilst retaining donor rules of competition, fairness, efficiency and transparency. A scoring system leads to bidders competing on the basis of price and how they incorporate the social objectives into the project (for example, 90 points for price and 10 points for social objectives). Developed in South Africa to specifically target those groups disadvantaged under the apartheid system, the system has also been used to support local economic development, to promote growth within the small business sector and to target the unemployed in poverty alleviation programmes. However, successful implementation clearly depends on appropriate planning and design and clear identification of goals, as well as the willingness and ability to apply sanctions to contractors who fail to deliver the social objectives they are contractually committed to.

The second example addresses the key issues of monitoring, evaluation and enforcement. One clear message emerging from the research is that contract agreements that require certain actions on the part of the contractor (even if this is simply to observe the law of the land) have to be monitored and enforced. The Social Aspects of Construction project, supported by UK/DFID and tested in Ghana, has demonstrated how social obligations in contracts (in this case labour standards) can be monitored as part of the supervisory process within the project team. The process is greatly facilitated if the labour force is fully aware of their rights and entitlements and if the key stakeholders (including the client, contractor, labour department and trade unions) collectively identify the appropriate labour standards to apply and periodically review problems and proposed solutions. Contractors complying with the standards were rewarded with bonuses. Over time and after a number of different monitoring approaches had been tried, the supervising engineers began to take over the role of monitors. The experiment has shown that consultant engineers can effectively monitor compliance with social obligations and review accounts when these are clearly defined and budgeted in contract agreements.

Recommendations
A number of key messages emerge from the research. These need to be kept in mind when proposing changes to procurement procedures in order to enhance the delivery of social development objectives.

First, it is clear that there are many stages in the procurement cycle and actions in one stage are constrained by decisions taken earlier. The very first decision, with possibly the biggest potential social impact, lies in the choice of the project. Therefore, project identification must be carried out in a clearly defined and transparent manner. It is suggested that it should be in line with national, local or sectoral plans and carried out in consultation with the community. The participation of user groups and civil society is widely believed to be beneficial...
at every stage of the procurement process from project identification right through to completion, operation and maintenance. It can also increase the social benefit derived.

Second, it is equally clear that there is little point in including obligations in contract documents (whether in the agreement or specifications) that require certain actions on the part of the contractor unless the actions have already been considered at the design and planning stage and budgets drawn up accordingly. Some method has also to be agreed for monitoring and enforcing compliance. If these things are in place the contract agreement has potential as a means to promote social objectives at the tender stage.

Greater flexibility is needed in identifying a procurement strategy. The ‘one size fits all’ approach creates an inflexible system that is not appropriate for all projects. A move away from the lowest cost approach is envisaged, with a greater willingness on the part of donors to allow two stage and targeted procurement methods. A more flexible approach by clients and donors can contribute to the creation of a sustainable environment and the achievement of social objectives.

Fourth, the long recognised problem of poor maintenance is still very real. This is traced to the failure to consider the whole life cycle of an asset during planning and design, so as to ensure that the asset can be operated, as well as maintained, at minimum cost and with the resources that are available locally. If these considerations are at the forefront of decision making it is likely that ‘local content’ (of materials, labour and business) will automatically be enhanced. Respondents from all of the case study countries and many representatives of international agencies maintained that promoting local content is an efficient means of delivering significant social development impact. They recommended that investment to meet the MDGs should use and strengthen national engineering industries and resources.

Finally, it is worth noting that corruption (a major inhibiting factor) is pervasive and must be tackled at all stages of the procurement cycle. Building on the work of the selection stage alone which is the stage that currently receives the most attention is unlikely to be effective as the problem will simply move to a different stage of the process. The first step in tackling corruption is to increase transparency. It is therefore essential that processes at each stage of the procurement cycle are as transparent as possible.

On the basis of the above a number of recommendations are put forward for consideration. The recommendations are directed at improving existing mechanisms in procurement procedures to deliver social objectives. They are presented below according to the research definition of procurement procedures consisting of ‘project identification, planning and design’ through to ‘monitoring, enforcement and evaluation.’ The table also shows who should take the responsibility for implementing the recommendation by identifying the principal and secondary stakeholder.

“There are many stages in the procurement cycle and actions in one stage are constrained by decisions taken earlier. The very first decision, with possibly the biggest potential social impact, lies in the choice of the project.”
Further research is needed to test the feasibility of implementing the recommendations in particular contexts, as well as to test their effectiveness in achieving social development objectives.

<table>
<thead>
<tr>
<th>Procurement stage</th>
<th>Recommendations</th>
<th>Principal stakeholder</th>
<th>Secondary stakeholder</th>
</tr>
</thead>
<tbody>
<tr>
<td>Identification, planning and design</td>
<td>Project identification should be in line with national, local or sector plans and/or based on public consultation.</td>
<td>Government</td>
<td>Donor</td>
</tr>
<tr>
<td></td>
<td>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.</td>
<td>Client</td>
<td>Donor</td>
</tr>
<tr>
<td></td>
<td>Social objectives should be clearly identified at the planning stage and incorporated into the design.</td>
<td>Client</td>
<td>Donor</td>
</tr>
<tr>
<td>Finance and procurement strategy</td>
<td>Funds are set aside in the budget for the realisation of social objectives.</td>
<td>Client</td>
<td>Donor</td>
</tr>
<tr>
<td></td>
<td>Consider alternative procurement strategies to ensure the appropriate approach to deliver the specified social objectives.</td>
<td>Client</td>
<td>Donor</td>
</tr>
<tr>
<td>Tender and selection</td>
<td>Social objectives must be clearly described in tender documents and explained at pre-tender meetings.</td>
<td>Client</td>
<td>Donor</td>
</tr>
<tr>
<td></td>
<td>Attention should be paid to the bidders’ social performance and capacity to deliver social obligations.</td>
<td>Government</td>
<td>Donor</td>
</tr>
<tr>
<td>Contract agreement</td>
<td>The project team must agree contractual mechanisms to deliver social objectives.</td>
<td>Client</td>
<td>Contractor/consultant</td>
</tr>
<tr>
<td>Monitoring, enforcement and evaluation</td>
<td>Contractual obligations must be monitored and enforced through incentives and/or sanctions.</td>
<td>Client</td>
<td>Donor</td>
</tr>
<tr>
<td></td>
<td>Social performance audits should be conducted with the same rigour as financial audits.</td>
<td>Client</td>
<td>Donor/consultant</td>
</tr>
</tbody>
</table>
Appendix I

Case study reports

Case study report A: India

A.1. Introduction

In the absence of a procurement authority at central or state level, procurement policy is left to the ‘finance rules’ at both national and state levels to exercise some limited control on the procuring entities. Each ministry, department, agency, local body and state enterprise is free to devise its own procurement procedures. This has created a procurement system where, even though the government, the procurement objectives, the works and the bidding community are all the same, each agency will employ different procedures and practices. The Indian Government’s policy of decentralisation of powers to state, rural and city authorities and increased private sector participation has the potential to further increase the number of procurement procedures in use.

Despite such a disparate mix of procedures and practices, there is a surprising amount of consistency in the application of social objectives within procurement procedures, particularly (un)known objectives. These objectives are usually limited to reflect legislation. The exceptions are on MOR-funded projects, where greater social objectives, particularly environmental objectives, are included.

Procurement procedures are also being affected by the Indian Government’s belief that the private sector has a better position to deliver infrastructure projects and plans to decrease delivery to local levels of government. Part of the Tenth Economic Plan (2002 – 2007), these policies are key to delivering the infrastructure targets of the Indian MDGs. However, the take-off from the private sector has been lower than expected and the capacity and capability of local governments being questioned.

A.2. Procurement policy

A.2.1. No central procurement authority

Despite a recommendation from the World Bank Country Procurement Assessment Report for a central procurement authority, to date no such body has been created. Governance of procurement is left to the individual public procuring entities at all levels of government. The nearest example of such an authority is the Infrastructure and Project Finance Division within the Ministry of Statistics and Programme Implementation. This body contains some of the functions usually found in a procurement authority; however, it addresses the implementation of the project rather than procurement procedures. The Ministry will monitor the performance of infrastructure projects, assist the Public Investment Board in the appraisal of projects and identifies causes and their remedies for time and cost overrun. From their analysis they have identified that many projects suffer from inadequacies in project formulation and implementation, resulting in large time and cost overruns, affecting the very validity of the projects.

Procurement rules

The Indian Government acknowledges the problems within the procurement procedures in the Tenth Economic Plan (2002 – 2007) by stating that ‘procurement is an area especially prone to multiplicity’. It seeks to resolve these problems by enacting ‘legislations/regulations to mandate strictly competitive bidding of all contracts and procurement of works, goods and services by the Government and its entities’. As of February 2008, the research team had found no evidence that legislation was being pursued. Therefore, any notion of a procurement framework public procurers have to comply with is a limited to a few highly flexible rules within the 2005 General Finance Rules, published by the Ministry of Finance.

Rule 128 of the General Finance Rules, demonstrates the flexibility allowed to public agencies. It states:

| Subject to the absence of these general rules, the initiation, authorization and execution of works allocated to a particular Ministry or Department shall be regulated by detailed rules and orders contained in the respective departmental regulations and by other special orders applicable to them. |

The guidance for works are limited to setting out the powers to sanction works and the procedures for execution of works. Rules on tenders are limited to prescribing open tender for works costing above five lakhs to five crores and invited tenders for works costing below five crores. There are no statements on invitation to tender, prequalification system, what should be contained in the tender documents, tender evaluation process or the conditions of contract to be used. Therefore, each individual agency has the power to determine their procurement procedures including which, if any, additional social objectives to include, beyond those contained in legislation.

This has created a system of multiple tender and contract documents, directives, instructions and manuals. The World Bank country assessment report provides an example where, in one state, there are four different tender documents for road construction depending on whether it is issued by the Public Works Department or the Municipal Urban Development Authority or State Road Development Corporation. These qualification requirements, selection criteria, payment terms and the dispute settlement mechanism are all different.

Despite this, each agency tends to follow a basic framework of rules and procedures based on an open tendering system governed by a tender board with public bid opening and either a pre-qualification, or a two-envelope tender selection process used. These are then tweaked to meet their own requirements. Examination of the bidding documents from two central government agencies charged with procuring construction and maintenance work reveals how, although the general rules of government include their own variations. Both the National Highways Authority of India (NHAI) and Pradhan Mantri Gram Sadak Yojana (PMGSY) follow an open tender, public bid opening, two-envelope tender selection process and a very similar set of conditions of contract. However, as part of
A.2.3. Consistency of approach to social objectives

The bidding documents for both agencies state that the contractor must comply with labour regulations and then lists the salient features of the major laws. The list is extensive and includes the laws dealing with minimum wages, payment of wages, industrial relations, workers compensation in case of injury, pensions, maternity benefits, the prohibition of child labour and health and safety provisions.

However, no mechanism for measuring the implementation of these objectives could be found.

A.2.4. Contract penalty and negotiation

The Indian Government reports that inequity in construction contracts has been identified as one of the major maladies in industrial relations, workers compensation in case of injury, pensions, maternity benefits, the prohibition of child labour and health and safety provisions.

In comparison, the PMGSY requires five percent of the contract price in liquidated damages (0.5% per week capped at five percent), prequalification, variations, payment, and size for each of the last seven years. In its report, the World Bank stated that this policy had become counterproductive in the current economic philosophy of liberalisation, privatisation and market mechanism and called for its gradual removal. It is hoped that the new standard contract will mitigate the potential risks.

A.2.5. Procurement legislation at state level

The promotion of greater transparency within the procurement process has been a state level. Three states, Tamil Nadu (Transparency in ‘tender’ Act 1998), Karnataka (Transparency in Public Procurement Act 1999) and the Punjab (the Punjab Transparency in Public Procurement Act 2002) have created a legal framework that provides for the creation of separate tender inviting and accepting authorities, the publication of a tender bulletin containing tender notifications and a detailed explanation of why a particular bid was successful. However, this legislation does not attempt to address social objectives beyond improving the governance of public procurement.

A.2.6. Emerging attempts to harmonise procurement procedures

Attempts are being made to improve the contracts used and to develop greater uniformity in procurement procedures. Initiatives include the development of standard World Bank bidding documents specifically for India and the publication of a standard contract document for domestic bidding. The latter has been published by the Construction Industry Development Council (CIDC) report that as many as 10 to 12 agencies may be involved in the procurement process, creating multiple layers of scrutiny, evaluation, review and approval with inevitable delays. As the core clauses address eligibility and prequalification, variations, payment, liquidated damages (0.5% per week capped at five percent), dispute resolution and risks. The new standard contract includes the same compliance with labour regulations and list of major laws as the bidding document reviewed earlier.

A.2.7. Local content

The new standard contract continues a trend away from the policy of building the road at the lowest possible price through the provision of preferential margin. For example, the PMGSY bidding document states that no preference is provided. Historically, to promote small and medium enterprises, a preference margin of 15% was given to contractors both at a national level and state level, where ‘state enterprises were favoured over’ out of state enterprises. In its report, the World Bank stated that this policy had become counterproductive in the current economic philosophy of liberalisation, privatisation and market mechanism and called for its gradual removal. It is hoped that the new standard contract will mitigate the potential risks.

A.2.8. Improving quality

The new standard contract a performance security of 10% of contract value, a financial capacity to manage the potential risks. The new standard contract includes the same compliance with labour regulations and list of major laws as the bidding document reviewed earlier.

A.2.9. Local content

The new standard contract continues a trend away from the policy of building the road at the lowest possible price through the provision of preferential margin. For example, the PMGSY bidding document states that no preference is provided. Historically, to promote small and medium enterprises, a preference margin of 15% was given to contractors both at a national level and state level, where ‘state enterprises were favoured over’ out of state enterprises. In its report, the World Bank stated that this policy had become counterproductive in the current economic philosophy of liberalisation, privatisation and market mechanism and called for its gradual removal. It is hoped that the new standard contract will mitigate the potential risks.

A.2.10. Improving quality

The new standard contract includes a decision becomes very difficult. As the layers of scrutiny, evaluation, review and approval with inevitable delays. As the layers of scrutiny, evaluation, review and approval with inevitable delays. As the layers of scrutiny, evaluation, review and approval with inevitable delays.

A.2.11. Improving quality

The new standard contract includes a decision becomes very difficult. As the layers of scrutiny, evaluation, review and approval with inevitable delays. As the layers of scrutiny, evaluation, review and approval with inevitable delays. As the layers of scrutiny, evaluation, review and approval with inevitable delays. As the layers of scrutiny, evaluation, review and approval with inevitable delays. As the layers of scrutiny, evaluation, review and approval with inevitable delays. As the layers of scrutiny, evaluation, review and approval with inevitable delays.
social development goals, the Tenth Plan has set a number of indicators. These indicators are set out in the table A.1, against the MDG target and current status of the indicator.

In its First Country Report on the Millennium Development Goals, the Government states that the report marks substantial improvements in the lives of people. The report details improvement in education levels and infant mortality.81

A1. Targets delivered by decentralisation and private sector participation

To meet these challenges, the Tenth Economic Plan proposes the decentralisation of power from the centre to states, to district and areas within districts to villages and increased private sector participation.

Decentralisation will see the Indian Government establish a policy framework and subdivide it into a direct provider. The local offices of government will be expected to not only deliver the service by fully engaging with the private sector and community groups. Although this leads to a significant increase in delivery agencies, the Government expects this will ensure a more effective in delivering local needs.

However, questions remain as to the capacity of state and city authorities to deliver. In 2001, UNESCO reported that the shift in responsibility to local bodies had come without ensuring they had the capability and economic capacity to deliver.82

The lack of central, state and local revenue and the reduction of current and capital expenditures on infrastructure and social sectors has led to uncertainty with regard to the provision of basic amenities to the urban population, particularly the poor.

Secondly, to ensure the operation and maintenance of the asset, the Government proposed the continuation of its economic liberalisation programme, with a move away from ‘free’ services at the point of access with user charges expected to augment budgets and the participation of the private sector. NGOs and community groups are encouraged. It is these bodies, who will then set a pricing structure that is affordable to the community it serves more particularly, what the market will bear. The effect of these proposals is a shift away from ‘free’ services at the point of access with user charges expected to augment budgets and the participation of the private sector.

A3.2. Roads sector

The move towards self-financing road projects is a good example of this policy.

<table>
<thead>
<tr>
<th>Tenth Economic Plan targets</th>
<th>Millennium Development Goal targets</th>
<th>Where are we now</th>
</tr>
</thead>
<tbody>
<tr>
<td>Extreme poverty to be halved</td>
<td>National definition 20%</td>
<td>India</td>
</tr>
<tr>
<td>Ensure that all children can complete five years of schooling by 2007</td>
<td>8 out of 10 children start primary school and 6 complete the full five years</td>
<td>Kerala 11, Orissa 90</td>
</tr>
<tr>
<td>Eliminate the difference between male and female literacy by half</td>
<td>Literacy 65% men 74%</td>
<td>Kerala 60, Orissa 75</td>
</tr>
<tr>
<td>Infant mortality: 68 per thousand births</td>
<td>Under-five mortality: 83 per thousand births</td>
<td>Kerala 85, Orissa 95</td>
</tr>
<tr>
<td>Infants mortality: 68 per thousand births</td>
<td>Levels around four to 5.5 per thousand births</td>
<td>Kerala 85, Orissa 95</td>
</tr>
<tr>
<td>Reduce one per thousand by 2012</td>
<td>Halve the proportion without safe drinking water (target – 85% of people have safe water)</td>
<td>Kerala 85, Orissa 95</td>
</tr>
</tbody>
</table>

Source: Department for International Development (2004), India Country Plan 2004
The Pradhan Mantri Gram Sadak Yojana by the Indian Government in 2000, achievement of the MDGs. Launched delivery of rural services and the infrastructure a precondition to the all weather roads, with improvement in 500 unconnected habitations by 2007. NGOs to carry out an HIV/AIDS awareness cattle crossings. The NHAI is also appointing requirements at each stage, provision of reporting and recording objectives include road safety requirements applicable law and permits. Society highway to determine the conformity with consultants are appointed to each project and Social Impact Assessment reports includes Environmental Impact Assessments poverty impact assessment, economic and assessment, environment, resettlement, provided technical assistance on social this case the Asian Development Bank (ADB) been due to the influence of the financier. In contracts. In this case, it is likely to have contracts go beyond the traditional social objectives within the concession strategies are adopted to ensure delivery. of maintenance and expansion. Different to four times in real terms to meet the cost of maintenance and expansion. Different strategies are adopted to ensure delivery.

Firstly, the upgrading of the national highway network is to be carried out through 20 year concession contracts. Private sector participation is encouraged through a fixed annual payment and the potential income from tollbooths. The National Highway Agency India and the regional states are directed to use private operators and award routes on the basis of least subsidy. In this way benefits would be clearly targeted and costs more apparent. It was anticipated that this procurement model would ensure that roads are maintained to an acceptable level when the traditional procurement and finance models have failed. However, the procurement model is also critical from the private sector’s viewpoint to ensure adequate provisions are made for land acquisition, shifting utilities, cutting of trees and law and order.

The social objectives within the concession contracts go beyond the traditional contracts. In this case, it is likely to have been due to the influence of the financier. In this case the Asian Development Bank (ADB) provided technical assistance on social assessment, environment, resettlement, poverty impact assessment, economic and financial analysis, design standards and procurement. The concession contract includes Environmental Impact Assessments and Social Impact Assessment reports with any requirements built into the project documentation. Independent consultants are appointed to each project highway to determine the conformity with the environmental requirements set out in applicable law and permits. Social objectives include road safety requirements particular emphasis on child safety requirements at each stage, provision of truck by legs, the burned, education and road crossing. The NHAI also appointing NGOs to carryout an WHO/UNICEF awareness programme on these concession contracts.

Secondly, a traditional procurement route for delivering roads to over 500 unconnected habitations by 2007 with the construction of 365,000 km of all weather roads, with improvement in infrastructure is a precondition to the delivery of rural services and the achievement of the MDGs. Launched by the Indian Government in 2000, the Pradhan Mantri Gram Sadak Yojana (PMGSY) scheme is seen as crucial to an effective poverty reduction strategy. The plan was established following the plan was established following the highest poverty in the poorest states and rural community. The plan is costed at an amount costs estimated at Rs1,322,100. Although the aim of the scheme is poverty alleviation, the procurement procedures are not used to enhance other social performance objectives.

A.3.3. Water and sanitation

The Thirteenth Five Year Plan (2016 – 2021) envisages 100% coverage of both rural and urban population in terms of access to safe drinking water. In order to deliver this the plan proposes to reform the structure and functioning of water supply planning and implementing agencies to ensure sustainability, cost effective and socially acceptable operation and maintenance strategies. Water is to be viewed as an economic asset rather than a free commodity, with responsibility for water management on all user agencies. The three key objectives of the supply of drinking water and sanitation facilities from a central government and state government joint project and supply driven approach to a more decentralized demand driven policy reflects the overall ethos in the Thirteenth Five Year Plan.

At a local level, the plan stresses the development of water resources with the village as the focal unit. Villagers would be empowered to make decisions in the choice of scheme design, control of finances and management and by ensuring partial capital cost sharing and shifting responsibility of operations and maintenance completely to end users. Effectively, the villagers would become the client and so such can determine the procurement procedures used. However, the Government estimated that $0.45m per annum would be required to meet the operation and maintenance costs of rural water supply and sanitation. With only $1.0m set aside the Government is worried about the ability of villagers to save the shortfall, especially in the poorest areas. The Midnapur model in West Bengal is held up as a success story in the provision of sanitation through the demand driven solutions. Effectively, the village becomes the client, part financier as well as the user. The model sees the creation of private sector retail outlets that offer a wide range of sanitation products and promotion of personal hygiene. The resources for construction come from users, with the emphasis placed on subsidy to create the demand for services. Local government agencies help facilitate the creation of the retail outlets and in the provision of technical and organisation training to village masons and the women caretakers of hand pumps. The Water Supply and Sanitation Collaborative Council (WSSCC) states the most important lesson of models like Midnapur is that small approaches are most effective when they seek not to do things but to motivate and support community based initiatives.

However, the Thirteenth Five Year Plan recognises that most State Governments lack the financial resources and technical and management capability to provide water and sanitation to a rapidly growing urban population. The Government proposed the use of local incentives and urban reforms to encourage local bodies to improve their financial capacity, undertake market driven reforms and enforce user charges. Future urban water supply and sanitation projects, should take into account the potential problems that can arise along commercial lines. The Government encouraged delivery to be achieved through private sector participation and public private partnerships through concession contracts and BOT agreements.

A.4. Health and safety

A.4.1. Legislation

In the mid-1990s, pressure from a coalition of trade unions and NGOs resulted in legislation designed specifically to protect the construction workforce. In 1996, the Federal Government passed the ‘The Building and Construction Workers (Regulation of Employment and Conditions of Service) Act’ (Act 27 of 1996) and ‘The Building and Construction Workers Welfare Cess Act’. The first Act contains detailed requirements for health and safety, as well as proposals for the establishment of ‘Construction Workers Welfare Boards’. In each state the second provides for the raising of a cess on all new construction to provide social security benefits to construction workers (sickness, pensions, etc) as well as to improve the wages and conditions of labour. In addition, the second Act contains detailed requirements for the operation of ‘Construction Workers Welfare Boards’. Together the two Acts are considered adequate to protect the health, safety and welfare of the construction workers in India. The following are some of the main provisions of Act 27 of 1996.

Rules for OSH

The appropriate government (state or central) may make ‘Rules’ to fix working hours, wages for overtime work, rest and meal breaks, other welfare measures and rules for the safety and health of building workers: the central government may make model rules. Drinking water, latrines, bathing, washing, and supply driven approach to a more decentralized demand driven policy reflects the overall ethos in the Thirteenth Five Year Plan.
The establishment of welfare boards is also progressing at a very slow rate. The two southern states of Kerala and Tamil Nadu were the first to have functioning construction labour welfare boards, which were set up under earlier legislation. The state of Delhi constituted its Board in two southern states of Kerala and Tamil Nadu. The establishment of welfare boards is currently proposed that the Central Rule be notified in 1998. To date only a few states have drawn up the Rules. Five states (including Delhi) have a few states have drawn up the Rules.

A.4.2. Implementation of the legislation

The appropriate body to make and enforce the ‘Rules’ for carrying out the requirements of the legislation is ‘apathy to worker welfare’. Underlying this attitude is the fact that there is a large surplus of labour looking for work, much of which is migrant labour from the rural areas. Employment in the construction industry is largely on a casual basis. In 1993 it was estimated that 68% of the men and 95% of women working in construction are employed as casuals, and casualisation is still increasing. In this situation, if workers are injured or killed they are easily and quickly replaced. At another factor is the long-established practice of recruiting labour through subcontractors and intermediaries. Subcontracting may go through several stages on a large project, creating a rank-and-file contracting system. At the bottom are the intermediaries, known as ‘mukadams’, who recruit and control the labour. The long chain of subcontracting effectively separates the principal employer from the workers, offshore any claims for compensation resulting from accidents. While many builders probably have insurance policies to cover injuries or death of employees, they do not register their workers (as required by the legislation) and revisit private hospitals to avoid official attention and compensation claims. If dispute arise they are resolved out of court. In practice few claims are taken up and disputes rarely go to the labour courts, even where employers are compelled to pay dues they rarely face further penalties.

A.4.3. Prosecutions

To date in no state has the state of Delhi been prosecuted for failure to comply with the requirements for health and safety under the Act, or for any other ‘lapse’ under the Act. There has also been no prosecution in the states of Kerala, where the Labour Department is the body responsible for enforcing health and safety legislation under the Act. At central level there have been an increasing number of convictions, rising from 81 in 2001-02 to 305 in 2004-05, with 2,051 cases pending. According to the office of the Chief Labour Commissioner (central) in New Delhi, in 2004 penalties were imposed in 268 cases and 214 cases to dates in 2005. But the penalties are very small, averaging only Rs. 320, 515.31 in 2004 and Rs. 1,301,512.38 in 2005.

A.4.4. Health and safety culture

A questionnaire circulated to contractors by the Construction Industry Development Council (CIDC) asked whether contractors and their subcontractors had complied with the health and safety law. Contractors indicated that the law was effective in protecting the health and safety of workers on their premises but not on the site. The main reason given for ignoring the existing legal obligations is ‘apathy to worker welfare’.

Employers are required to report accidents to the ‘appropriate body’, which is the designated enforcement agency at central or state level. As the majority of states have not yet designated their enforcement agency, it may be assumed that only limited data is being collected. However, data on accidents has been obtained from the Construction Labour Welfare Board (CLWB) of Tamil Nadu and is presented in Table A2. The level of registration by employees is low and this is a factor that may affect the number of registered workers and not all workers in the construction industry are registered with the Boards in these two states. The official estimate of construction workers in the state of Kerala in 2002 was 1.5 million, 1.2 million of whom (84%) were registered with the Board. The official estimate of construction workers in Tamil Nadu in 2002 was 2.075 million but only 384,250 (19%) were registered. This gives a death rate of 2.5 per 100,000 workers in 2003-04 and 48 per 100,000 workers in 2004-05.

A.4.5. Prosecution of contractors

The CIDC Core Clauses requires the contractor and subcontractors to abide at all times by all existing labour regulations, with powers as prescribed by the appropriate authority. The CIDC Core Clauses requires the contractor and subcontractors to abide at all times by all existing labour regulations, with powers as prescribed by the appropriate authority. The CIDC Core Clauses requires the contractor and subcontractors to abide at all times by all existing labour regulations, with powers as prescribed by the appropriate authority. The CIDC Core Clauses requires the contractor and subcontractors to abide at all times by all existing labour regulations, with powers as prescribed by the appropriate authority. The CIDC Core Clauses requires the contractor and subcontractors to abide at all times by all existing labour regulations, with powers as prescribed by the appropriate authority. The CIDC Core Clauses requires the contractor and subcontractors to abide at all times by all existing labour regulations, with powers as prescribed by the appropriate authority. The CIDC Core Clauses requires the contractor and subcontractors to abide at all times by all existing labour regulations, with powers as prescribed by the appropriate authority.

Women comprise up to 50% of the workforce. The Self Employed Women’s Association (SEWA) based in Ahmedabad in the state of Gujarat has been bringing women construction workers since 1986. In 1994 it was estimated that about 50% of women construction workers at that time were confined to a few trades and that many of them were also pregnant. Women construction workers at the time revealed that almost 90% of them felt that physical health had been affected because of their work. Accidents at work are also commonplace but the women receive no compensation from the contractor. In response to this situation SEWA has developed its own insurance scheme for women construction workers.

A.4.6. OHS in contracts

The CIDC Core Clauses requires the contractor and subcontractors to abide at all times by all existing labour regulations, whether enacted at Central, State or local level. In 2002 there were 3,565 cases pending. According to the office of the Chief Labour Commissioner (central) in New Delhi, in 2004 penalties were imposed in 268 cases and 214 cases to dates in 2005. But the penalties are very small, averaging only Rs. 320, 515.31 in 2004 and Rs. 1,301,512.38 in 2005.

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A.4.7. Reporting of accidents

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A.4.8. Prosecution of contractors

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recover money from the contractor for making good any loss or damage he has suffered at the hands of the contractor. Responsibility for the labour force rests entirely with the contractor. Contractors interviewed for a film commissioned by the ILO confirmed that there are health and safety requirements in public contracts at central and state level. However, the penalties are not spelled out and no monitoring and enforcement takes place hence the majority of contractors ignore them. A large state consultancy based in Delhi, Engineers India Ltd, was campaigning in 2002 to make the conditions of contract more visible in the area of labour standards and environment and to strengthen compliance in these areas. They expressed the views that considerable improvement is feasible in the employment of labour by contractors on major national projects, including improvements in living conditions, health and hygiene of the workforce. It was proposed that a number of requirements for inclusion in the general conditions of contract should be spelled out and agreed with clients, and that the client and consultant should ensure means of monitoring for compliance before signing the contract. Progress on these issues could not be established.

**Table A2: Accidents in the construction industry in Kerala and benefits paid**

<table>
<thead>
<tr>
<th>Year</th>
<th>Non fatal accidents</th>
<th>Fatal accidents</th>
<th>Benefits</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998-99</td>
<td>2639</td>
<td>1,693,847</td>
<td>18</td>
</tr>
<tr>
<td>1999-2000</td>
<td>9253</td>
<td>4,110,874</td>
<td>3</td>
</tr>
<tr>
<td>2000-01</td>
<td>6237</td>
<td>3,577,719</td>
<td>20</td>
</tr>
<tr>
<td>2001-02</td>
<td>4159</td>
<td>4,338,750</td>
<td>12</td>
</tr>
<tr>
<td>2002-03</td>
<td>6211</td>
<td>8,725,066</td>
<td>18</td>
</tr>
<tr>
<td>2003-04</td>
<td>5121</td>
<td>7,487,230</td>
<td>13</td>
</tr>
<tr>
<td>2004-05</td>
<td>5875</td>
<td>7,747,484</td>
<td>31</td>
</tr>
</tbody>
</table>

Source: Construction Labour Welfare Board, Trivandrum.

**Table A3: Accidents in the construction industry in Tamil Nadu and benefits paid**

<table>
<thead>
<tr>
<th>Year</th>
<th>Non fatal accidents</th>
<th>Fatal accidents</th>
<th>Benefits</th>
</tr>
</thead>
<tbody>
<tr>
<td>1995-96</td>
<td>2</td>
<td>50,000</td>
<td>1</td>
</tr>
<tr>
<td>1996-97</td>
<td>1</td>
<td>7,500</td>
<td>4</td>
</tr>
<tr>
<td>1997-98</td>
<td>6</td>
<td>10,375</td>
<td>6</td>
</tr>
<tr>
<td>1998-99</td>
<td>8</td>
<td>187,500</td>
<td>9</td>
</tr>
<tr>
<td>1999-2000</td>
<td>5</td>
<td>185,000</td>
<td>20</td>
</tr>
<tr>
<td>2000-01</td>
<td>24</td>
<td>465,000</td>
<td>69</td>
</tr>
<tr>
<td>2001-02</td>
<td>45</td>
<td>512,800</td>
<td>73</td>
</tr>
<tr>
<td>2002-03</td>
<td>7</td>
<td>137,000</td>
<td>84</td>
</tr>
<tr>
<td>2003-04</td>
<td>1</td>
<td>24,000</td>
<td>99</td>
</tr>
<tr>
<td>2004-05</td>
<td>13</td>
<td>585,000</td>
<td>188</td>
</tr>
</tbody>
</table>

Source: Construction Labour Welfare Board, Chennai.
Case study report B: Indonesia

8.1 Introduction
Public procurement in Indonesia has been regulated through a mix of presidential decrees, ministerial decrees, letters of information and other decrees and instructions by government, mayors and bupatis (heads of district government), thus creating a confusing system of overlapping regulations. Public procurement has also been used to service local and medium enterprises, through a classification system and applying preferential laws within the procurement rules. This led to strong criticisms from multilateral banks, with the Asian Development Bank describing it as a system of procurement that is not market driven, prone to misuse and abuse and fails to result in the best value for money for public funds.

Since the late 1990s, the Indonesian Government has sought to simplify the public procurement regime through the use of presidential decrees, with the aim of creating an open, fair, non-transparent and efficient system. Keppres 80/2003 was aimed at providing a simple regulation to govern public procurement of goods and services.

In parallel to this process is the ‘Infrastructure Road Map’, that aims to improve the level of infrastructure funding required to meet the Indonesian Government’s twin objectives of reducing unemployment and poverty. Through new infrastructure laws the ‘Infrastructure Road Map’ seeks to establish a new regulatory regime, fair competition and a simplified pricing structure to ensure predictability of income and reduce project uncertainty. The Government anticipates that this will create a more attractive environment for private sector participation.

These new laws also clarify that infrastructure assets are to serve a social and environmental function as well as an economic one. However, these new laws create a new system of overlapping regulations.

8.2 Procurement policy

8.2.1 Public procurement reform to improve governance objectives

The basic principles for all government procurement were set out in Keppres 80/2003; however, this only updated the laws on Government Procurement of 1994. In addition, a new construction law (19/1999) and a presidential decree permitting to normalise approval of construction contracts (Kappres 12/2002) contained important procurement provisions.

This may have improved the public procurement regime but there was still a multiplicity of laws, decrees and regulations. For the procurement of civil works, not only have the three laws listed above to be referred to, but also draft laws on State Finance, Treasury and Audit, the Law on Small Scale Business (9/1995), and new regulations relating to decentralisation published in November 2000 that could lead local and provincial governments to adopt their own procurement rules.

In 1994, the Law on Government Procurement (12/2000) contained important regulations regarding the procurement of goods and services. In addition, a new construction law (19/1999), and new regulations relating to decentralisation published in November 2000 that could lead local and provincial governments to adopt their own procurement rules.

These new laws create a new system of overlapping regulations. This led to strong criticisms from multilateral banks, with the Asian Development Bank describing it as a system of procurement that is not market driven, prone to misuse and abuse and fails to result in the best value for money for public funds.

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These new laws also clarify that infrastructure assets are to serve a social and environmental function as well as an economic one. However, these new laws create a new system of overlapping regulations.

8.2.2 Anti-corruption part

The decree seeks to improve the governance of the public procurement regime and reduce corruption by introducing the ‘Pact of Integrity’. This Pact is unique among the case study countries, as it legally forces the project officer, procurement committee, supplier/contractor/consultant or other party to sign a declaration form, which contains a pledge to prevent and not commit collusion, corruption and nepotism through the procurement process. All those directly or indirectly involved in the procurement process must also comply with a code of ethics.

8.2.3 Local content reform

Traditionally, public procurement in Indonesia has been used as a means of enhancing the capacity of small and medium enterprises. As recently as 2000, Construction Law 187/1999 and Keppres 18/2000 established a procurement system that had a specific purpose in providing work with the highest possible local content. In its report, the World Bank stated that these regulations had the effect of limiting competition, thus violating the principle of one country, one market, and forgone benefits that arise from increased competition. Competition was reduced by a classification system that placed contractors within four separate classes based on their capacity to carry out the works. Contractors in a higher class were then unable to bid for those contracts reserved for a lower class.

For works, contracts under Rp. 1 billion are reserved for small firms, between Rp. 1 and 10 billion reserved for medium-sized firms domiciled in the geographical area of the project, and between Rp. 10 and 50 billion reserved for large firms domiciled in the geographical area of the project.

Lower-priced firms are restricted to bidding for contracts below Rp. 25 billion and those required to form partnerships with or subcontract to domestic firms. Competition was then restricted with advertising of tenders confined to a particular locality that restricting bidding firms to those residing in the geographical area of the project for certain sized contracts.

In an ADB/OECOP ‘Thematic Review on Public Procurement’, the Indonesian Government stated that Keppres 80/2003 removes the local government list of eligible suppliers/contractors. However, it is not clear if the classification system has been removed or modernised. The decree does incorporate rules for the advertisement of a tender.
B.3. Lack of progress in meeting MDG targets

The First Progress Report on the Millennium Development Goals published in February 2004, highlights the huge task Indonesia faces in achieving its Targets. Despite this progress, it is not evident that all indicators will be met. This includes Target 1: halving, between 1990 and 2015, the proportion of people whose income is less than one dollar a day. In fact Indonesia is struggling to reduce the proportion of people who live on less than $2.50 a day from 17% in 1990 to 35.5%.” However, even where the Targets will be met, there are large regional disparities that have to be overcome.

The problems set out in the report in reaching Target 10 (to halve by 2015, the proportion of people without sustainable access to safe drinking water and basic sanitation) illustrate the kind of difficulties Indonesia has to overcome to meet the MDG targets. The report states that only 50% of the population have access to either safe drinking water or to sanitation. By 2000 the proportion of people with access to piped water increased by 4.8% per year. The report blames this low priority given by regional and central government to the provision of water, lack of finance and a supply-oriented service that does not accommodate community needs and consumers expectations. As well as ensuring that planning is linked to demand and sufficient funds, the report advocates a senior that mobilizes users through community participation.”

Since the publication of the report, the Indonesian Government has made poverty eradication as an agenda item in the Medium Term Development Plan, 2004-09 and elaborated in more detail in the Annual Government Work Plan. This document is used for reference by ministries and regional administrations in their annual development programmes.”

B.3.1. Infrastructure regulatory reform to meet poverty reduction targets

The Indonesian Government’s twin objectives are to induce unemployment from 9.7% in 2004 to 5.1% in 2009 and reduce the poverty rate from 6.1% to 2.6% by 2008.” To achieve these targets, economic growth has to increase from 5% in 2005 to 7.1% in 2009. To meet this economic growth target the Indonesian Government states that $145 billion is required from 2004-08 in infrastructure investment.” The Government would set up a new state-owned enterprise to identify and implement an investment project portfolio.”

The motivation for the Government’s termination of Jasa Marga’s role as acquirer may have been its poor performance in its concession operations. The Government’s decision not to reappoint Jasa Marga rather than the potential for a conflict of interest.” However, with a commitment to use less contractual procedures and methods showed to ensure that potential projects are properly identified, fairly procured and that disputes, when they arise, do not escalate.” The Government is also aware that the procurement process has not always been appropriate. It may also explain the problems of developers abandoning toll road developments.

B.3.2. Deregulation of roads

With these new laws influencing the private sector’s role, clients and potential bidders have to consider an overlapping set of regulations. For example, when procuring a new toll road, as well as complying with Keppres 67/2005, the client and potential bidders have to consider road law no. 38/2004, which aims to establish the role of the road operator, determinant of a transparent and public road management and define the community’s participation in the operation of the road.” In addition, they must consider Keppres 67/2005, which seeks to develop and improve cooperation between the government (at both national and regional level) and enterprises in procurement of infrastructure and related services.

The Government has undertaken to revise the 1985 Electricity Law, taking into account the Supreme Court decision in December 2004 to annul Electricity Law no. 34/2002.” The court ruled that was against the Nation’s Constitution to open the door to full competition in the electricity business.”

Under the 1985 Electricity Law the monopoly of Perusahaan Listrik Negara (PLN), the state-owned electricity company, was abolished by liberalizing the power sector with private companies able to purchase and resell power to the public. The court stated:

“Economic sectors which are important to the state and social for the welfare of the people are controlled by the state and must be developed.”

The decision meant that the Government could not separate the generation and distribution of power, thus threatening to doubt the legal framework for the power industry and creating uncertainty about the future direction of reforms. The Government has thus issued a new regulation that allows private sector participation in the form of a partnership with state-owned utility companies. The partnership will be established by the utility calling for bids for new power generation projects; the utility would then be responsible for regulating the new companies operating under a legal framework for this proposal, the Government has undertaken to revise the 1985 Electricity Law, taking into account the Constitutional Court’s concerns, and will submit the revised law to Parliament.”

B.3.3. Project identification and planning for private sector participation

At the 1999 Jakarta Infrastructure Summit, the Minister of State for National Development Planning, Sri Mulyani Indrawati, stressed that it was not the absence of funds that led to more private sector involvement, but their efficiency and the greater likelihood of a lower cost and price to the consumer.”

B.3.4. Project identification and planning for private sector participation

The Government states that $145 billion is required from 2004-08 in infrastructure investment.” The Government would set up a new state-owned enterprise to identify and implement an investment project portfolio.”

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B.3.5. Infrastructure regulatory reform to meet poverty reduction targets

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With such a demand on private sector input, clients and bidders procuring a road toll must consider Kepkes 67/2005 (the second law), which seeks to develop and improve cooperation between the Government (at both national and regional level) and private enterprise in procurement of infrastructure and related services. It also provides a legal framework that sets how and by whom projects are identified. The decree states that a cooperative project between the public entity and private enterprise with the purpose of ensuring continuous funding by private enterprise for infrastructure, improve quantity, quality and efficiency of services through healthy competition, improve quality of management and maintenance in infrastructure procurement and develop the use of the ‘user shall pay for the services received’ principles.122

The decree goes on to describe the type of infrastructure project that can be undertaken in cooperation with enterprise (transport, toll roads, drinking water, waste generation, transmission and distribution of electricity, ports, factories and hotels) and the principles upon which the procurement entity and enterprise shall operate (transparency, competition, accountability, mutuality, benefit, mutuality and mutual need and mutual interest).123

Accountability for the identification of projects is clearly placed with the Minister/Head of Institution/Regional Head. These individuals must ensure that each project conforms to national/regional medium-term development plans and infrastructure plans, and the Regional Spatial Arrangement Plan. Each project proposal that is undertaken in cooperation with private enterprise must include a cost and social benefit analysis, a pre-feasibility study and a cooperation plan with the private enterprise. It should also include a project finance plan that sets out the sources of funds, and the means of generating revenues, including a schedule, process and methods of evaluation.124

B.3.5. Social objectives

The recent legislation for roads and water services establishes social and environmental objectives as a central component in the delivery of new infrastructure. For example, Article 4 of Law 7/2004 states:

water resources shall serve social, environmental and economic functions that will be implemented and realized in a harmonious manner.125

Both laws specify community entitlements and obligations. For example that the road laws states the community should participate in the operation of the road, obtain reasonable compensation for any error in the development of the road and that the community is obliged to participate in maintaining order in alluding the road’s function.126

The law concerning roads refers to a series of laws that will impact on new roads, explicitly including the Law Concerning Environmental Management (Law no. 23, 1991);127 the law states that environmental impact analysis must be carried out as part of a business plan or activity. An environmental audit is then carried out to measure the performance of the business and/or activity.128 The analysis will have to comply with the Regulation regarding Environmental Impact Assessment (Government Regulation no. 51 of 1998) and Guidelines for Preparation of Environmental Impact Assessment (MOE Decree no. 14, 1994).

8.2.6. Decentralisation and the need to build capacity

Indonesia is similar to India and Nigeria in that it is a huge country with great diversity in terms of physical, social and economic characteristics. Some regions have good connections between urban and rural areas, while the eastern provinces are generally lacking in infrastructure and human resources. The very unequal distribution of poverty between regions has led to the proposal that the MDGs should ‘decentralised’ and progress monitored in each region rather than in the country as a whole. However, in the short term the plans to address this unequal distribution are few, the problem of clean water and basic sanitation in regions that lack these services and second, construction of roads, bridges and ports in isolated regions.129

Roads provide a good example of the regional approach for infrastructure delivery. Road infrastructure projects in developed regions such as Java and Sumatra islands could be fully funded by the private sector. Due to the higher socio-economic status of these regions, the Government expects to attract a considerable level of interest from the private sector. The developing regions that cover Kalimantan, Sulawesi Islands and West Nusa Tenggara require basic connectivity between activity centres. The road projects in this region may not be financially viable; therefore the Government will consider some level of financial support for projects in these regions, in partnership with the private sector. In newly developing regions that cover Moluccas, the Papuan Islands and the Kalimantan Islands, the Government expects to attract a level of interest from the private sector but the financial requirements are met with financial support mainly from the national and/or government. Private sector participation will be in the form of lump sum contracts as well as structured annuity schemes.130

Decentralisation means that while the national government retains overall policy making functions, regional councils have been given the right to supervise the regional executive, to approve the regional budget, including expenditure allocation, and determine major policies at this level of government.131 The Government expects decentralisation to improve the delivery of public services, to make the public sector more responsive and accountable to the needs and priorities of regional communities and to increase community participation in the policy making and oversight process.132

However, decentralisation is also seen as a major obstacle to the achievement of MDG objectives. The progress report for 2004 notes that, while the management of the provision of drinking water and other infrastructure has been delegated to district and city governments, financing mechanisms for drinking water facilities and infrastructure are still centralised. The report warns that the MDG target for safe drinking water will not be reached if present funding trends continue. It advocates the development of alternative financial resources at the local level, through the issue of municipal bonds, incentives to private finance and cost sharing with local communities. In 2005, Indonesia made a Special Fund to be set up to distribute funding to the regions.

The extent to which decentralisation is seen as a major obstacle is illustrated by the following:

Rapid decentralisation in public service provision in Indonesia (and also other Asian countries) poses a serious challenge to fiscal efficiency owing to weaknesses at the local government level. The current obsession of many, if not most administration to have maximum local source of revenue. Another alarming sign evident in the decentralisation process is the tendency of local governments to raise levies and charges that were previously abolished.133 Fundamentally there is not the capacity within the regions to take on this additional responsibility.

This problem can be illustrated by the number of...
capacity-building exercise was required. In effect, a large government procurement professionals had to be created. In effect, a large cadre of trained procurement staff. It was also identified that a new cadre of trained procurement professionals had to be created. In effect, a large capacity-building exercise was required. Initially, the led to the publication of decree 339/2003, 'Guidelines for Implementation of Procurement of Service Construction and Government Institution published by the Ministry of Defence and Developmental Administration. This decree was to replace the rules and regulations of 2002. In consultation with government agencies, procurement and construction workers, including those in the regions. This decree and its action plan can be seen as part of a larger capacity-building programme, initiated by the National Framework for Capacity Building to Support Decentralisation. This framework outlines the policy on capacity building in the context of decentralisation, explains the roles and responsibilities of the different stakeholders (national government, the regions, donor agencies) and determines several principles for capacity-building activities.

To support the implementation of regional authorities, in February 2005 the Government published ‘Guidelines on Capacity Building in the Regions’. The guidelines were published to assist in conducting a systematic capacity building needs assessment and then formulating a comprehensive medium-term regional capacity-building action plan.

Case study report C: Kenya

C.1. Introduction
In recent years the Kenyan Government has taken steps to reform the public procurement system. The focus has been on the establishment of a legal framework, appropriate public procurement institutions and making monitoring and evaluation mechanisms. Calming in the Public Procurement and Disposal Act 2005. This Act replaces the confusing set of regulations that were perceived to be weak in authority and open to corruption by public officials. This reform process has been central to governance objectives. However, labour and society objectives are included within procurement procedures for civil works, mainly due to other legislative requirements and donor policies.

Infrastructure is regarded as enabling to developing the Kenyan MDE. However, the infrastructure is such a poor state that programmes focus on rehabilitation as opposed to new build. As a consequence, there is not the same emphasis on private sector participation in less than towards new procurement models.

C.2. Procurement policy
C.2.1. Background to the procurement reform
In 1997, the Government in collaboration with the World Bank commissioned a study to assess the country's procurement process and procedures. The study illustrated the problems of the public procurement procedures, particularly the lack of transparency, fair competition and professionalism among procurement officials. The غيروت هوايي the new procurement regulations and infrastructure targets. In 2002, the Government had estimated that approximately 4,000 project managers were required to carry out public sector procurement at the national level. This number increased to 20,000 when considering the numbers required for the project procurement committees and were not increase again when local governments were considered. It was also identified that a new cadre of trained government procurement professionals had to be created. In effect, a large capacity-building exercise was required.

Public procurement rules were based on the Ministry of Finance's Government Financial Regulations and Procedures, which covered by the frequency of circulars and guidelines issued by the Ministry of Finance to the procurement officers in ministries and local authorities. There were restrictions against government officials who breached the procurement rules with the Government Contracts Act. The guide provided a single document which enabled all public officials to understand the public procurement process, made auditing easier and provided an easily accessible guide to the public. It was an admission that the current system was unsatisfactory.

C.2.2. Interim procurement authority and procurement rules to improve governance objectives
Due to the length of time it would take to introduce this framework, the Exchequer and Audit Act 2001 was used as an interim measure to help regulate public procurement and improve its governance. The Act created the Public Procurement Board as the central organ for policy formulation, implementation, human resource development and oversight in the public procurement process. It would also produce standard operational manuals and documents, monitor, inspect and report on the functioning of the public procurement system, and develop, promote and support training and professional development of officials and other persons engaged in public procurement.

In October 2002 the Public Procurement Directorate published a User’s Guide to Public Procurement with which all public sector institutions defined in the scope of coverage had to comply. The guide set out the purpose of procurement, programme and sub-agency, considerations, procurement rules, the monitoring and evaluation of bids and execution of contracts, rules set out a comprehensive code of professional ethics in public procurement management and provided a process or punishment if an official was accused of breaking the code. The guide provided a single document which enabled all public officials to understand the public procurement process, made auditing easier and provided an easily accessible guide to the public. It was an admission that the current system was unsatisfactory.

C.2.3. Governance objectives
The Public Procurement and Disposal Bill was first submitted to Parliament in 2002 but only enacted in 2005. The objectives of the Act aim to improve procurement management and create a strong governance structure by ensuring integrity and fairness within the procedures and increasing transparency, accountability and public confidence in those procedures. The Act seeks to remove the multi-layered approach by establishing an effective governance structure to ensure and report on the public procurement system. It sets out the procurement procedures that public entities are legally obligated to follow similar to those in the UNCTAD model.

Social objectives are focused on improving the governance of public procurement, with labour and society objectives limited.
to providing a preferential margin of 10% in the evaluation of tender price for domestic companies. This policy was first introduced in the World Bank's recommendation of 1998 and is thus a good example of the Act being used to harmonise the various codes and guidance into a single document.”

C.2.4. Procurement authority

The Act will establish a new Public Procurement Oversight Authority under the auspices of a new Advisory Board, to monitor and report on the procurement system but not to intervene itself in actual procurement. Its objectives, such as preparing standard documents, providing advice and assistance to procuring entities, developing, promoting and supporting training and establishing an examination body are similar to those of the Public Procurement Directorate but do not appear to replace it.” However, the Authority has greater powers of investigation to ensure the public procuring entities comply with the new Act.

A feature of the previous system was the lack of an effective mechanism to deal with a breach of procurement laws under the new legislation, the Director General of the Authority has the power to order the new Act. However, the Director General of the Authority has the power to order the new Act. Under the new Act, the Director General of the Authority has the power to order the new Act. Under the new Act, the Director General of the Authority has the power to order the new Act.

The Act also seeks to improve the governance of procurement procedures by imposing the definition of ‘corruption’ as defined under the Anti-corruption and Economic Crimes Act 2003 by including the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement or disposal process in contract execution.” The definition of ‘corruption’ is similar but also some differences to the World Bank standard bidding documents but the definition of corruption has greater clarity than that of the World Bank. Local contractors also receive a preferential treatment by the Kenyan Environmental Impact Assessment (EIA) Act 1999 not only for the inclusion of local contractors in its tender documents, tender security and tender evaluation but the tender evaluation criteria must be objective and quantifiable and applied in the same way to all tendering methods. The successful tender shall be selected on the basis of the lowest evaluated price.”

In addition to proving, equipping and maintaining adequate first aid stations throughout the works, the specification sets out a contractual obligation to provide and maintain a fully-equipped dispensary on site for the duration of the contract. This has to be staffed by a qualified medical officer or nurse who is able to offer medical advice on HIV/AIDS and related diseases to the engineers and contractors’ site staff. The contractor should allow for this in the rates and be responsible for all site welfare arrangements at their own expense.”

The Act also sets out a number of labour and society objectives that generally emphasise legal requirements. The procedures used have many similarities but also some differences to reflect the type and size of works for which they will be used. For example, the use of a two envelope system is restricted to consultants. This is also reflected in the amount of labour and society objective included, with the standard tender document for civil works including the largest number. Based on RDB 6th edition, reproduced in 1992, the conditions of contract for civil works contractually oblige the contractor to formulate and enforce adequate welfare programmes and provide a minimum set of labour standards in accordance with legislation with regard to wages, compensation for injury, hours of work, housing amenities, and facilities, and trade union rights. The contractor also has to take measures to reduce or eliminate adverse environmental effects of the site works.

Local contractors also receive a preferential margin in the bidding process. Advance payment of 10% with strong contractual guarantees for late payment by the client. Like the RDB standard bidding document, contractors are encouraged to employ domestic staff and labour, with the same consequence of lack of employability.

Although the standard tender document only makes limited reference to additional social objectives, there are other legislative requirements that will lead to their inclusion under procurement procedures for civil works. The Environmental Management and Coordination Act 2009 not only empowers stakeholders to participate in sustainable management of natural resources but makes Environmental Impact Assessments (EIAs) a legal requirement for all development projects. EIAs are guided by the Kenyan Environmental Impact Assessment and Audit guidelines and their implementation is supervised and coordinated by the National Environmental Management Authority.”
The effect of this Act and other legislation such as the Kenya Roads Board Act 1999 can be seen in the implementation of the socio-economic impact assessment (SEIA) for the construction projects. Not only has the DA to measure the socio-economic and environmental impacts, the Act also led to an assessment of the socio-economic impacts of the road on the local community. This has resulted in the inclusion of other social objectives within the project's procurement procedures, such as the planning of roadside amenities, a comprehensive resettlement plan, HIV management, gender issues, and training requirements for the project team. These measures were enhanced by the requirement to consult with all stakeholders, including project-affected people, in the Kenya Roads Board Act 1999 and supported by the policies of the World Bank, particularly their resettlement policy.

In this case consultation took place through the creation of a local capacity in village elders and local administration. Examples of the inclusion of some of these social objectives can also be seen in water management projects. Implementation of these objectives is achieved through specialist consultants, eg gender issues, resettlement processes or as a specified requirement within the bidding document and subsequent agreement with the main contractor (OHS management and awareness, construction of roadside amenities).

C.3. Health and safety

C.3.1. Legislation

The principal legislation relating to Health and Safety in construction are as follows:

1. Factories Act (Amendment) Act, 1990 (renamed as Factories and Other Places of Work Act, 1990) – Contains new general provisions for health and safety, including welfare provisions (drinking water, washing facilities, first aid, etc), special provisions for offshore work, appointment of safety officers and health inspectors.

2. Factories Act, 1951 (as amended) – Contains special provisions for building and construction industry.

The core function of the Directorate is the implementation of an effective system to minimize:

1. the prevention of occupational accidents
2. the prevention of occupational ill health and disease
3. the prevention of damage to property

To achieve these objectives the Directorate engages in inspections to ensure compliance with the Factories Act and institutes legal proceedings against those found contravening the Act. It also conducts audits to identify dangerous machinery, equipment and health hazards, investigates occupational accidents and diseases, conducts medical examinations of employees, and provides training and dissemination of information.

There are also decisions: occupational health, training and field services. Construction sites comply with the safety direction. In the past (in the 1980s) DOHSS had a specialist construction unit which targeted large sites on a regular basis. There are currently only two officers with expertise in construction and the inspection and auditing services have been contracted out. At the time of writing 600 health and safety ‘advisers’ have been approved to conduct the auditing of workplaces (required since 2004) in all sectors of the economy including construction. The approved advisers negotiate with employers for auditing services and produce reports with recommendations which DOHSS then follow up. The annual report for 2004 shows that the Directorate carried out 1,680 routine inspections during the year and made 873 visits to check compliance with recommendations made during previous visits. It is not known how many of these inspections or visits were to construction sites.

In addition to auditing and inspections the DOHSS provides information and training in occupational safety and health. The Directorate does some training itself and also works with training institutions. A total of 1,017 officers from all different workplaces were trained during 2004 and 2000 certificates have been issued to date. However there are concerns that the pool of trainers is now drying up and there is no centre for training the trainers in Kenya.

C.3.3. Prosecutions

Under the Factories Act, DOHSS officers may prosecute offenders before a magistrate's court and serve an ‘Improvement’ notice or a ‘Prohibition’ notice if the offence is considered to pose
in favour of pricing for improved the JBC to be divided, with consultants transport of workers in trucks found government regulation to ban the regulations. A recent discussion over a under the auspices of the Joint Building in the construction industry in Kenya. of the scheme by DOHSS is expected to information on OHS issues. Administration objective would be prevention through Workmen’s Compensation. This would be a contributory scheme whose primary under the DOHSS). The bill of quantities used with the JBC compliance is recognised as a problem.170 C.3.6. OHS in procurement and contracts Contractual OHS obligations in national building document have been identified earlier in this case study. Bil documents for the separate road construction projects, funded by the World Bank in the “northern corridor” in May 2005 contain a whole section on labour with a large number of sub-clauses concerning fair wages (applicable to subcontractors as well), freedom to join trade unions, health and safety provisions, keeping of records, notification of accidents, etc. Some of these labour clauses would appear to be a new departure from standard position in World Bank procurement and compliance is recognized as a problem.171 In the private building sector the BC standard form of contract is in general use. This has been developed and modified over the years. The latest edition has a clause (11.1), which requires the contractor to indemnify the employer against any claims due to injury or death occurring during the work. The contractors also obliged to comply with the statutory, industrial and other rules and regulations governing the employment and working terms and conditions of labour, and to ensure similar compliance on the part of all subcontractors. The bill of quantities used with the BC contracts varies provisions relating to health and safety including the following: • provision for the safety of workers • improved methods of transport for workers • construction of toilets to specification • cost of insurance... some contractors choose to put a price against these items in the bill of quantities while others include the cost of insurance and other items in their overheads. The view of the contractors in the BC is that, while in Europe it may be acceptable to include such items in general overheads, in Africa they need to be spelled out in detail and separately priced.

Although some contractors are reluctant to include the full cost of some items for fear of losing the tender, consultants are generally of the view that contractors should price for compliance with all of the regulations. Consultants should then be responsible for ensuring that the
regulations are adhered to. This view is demonstrated by IRC Practice Note 01/2005/8 which states:

Transport of Workers:
All concerned to note that the Traffic Act rules currently effective shall be adhered to and contractors are requested to provide for compliance with the same as no claims for additional cost shall be payable.

While the IRC is trying to serve as a conduit for information and a tool to regulate the industry, it is hampered by the fact that there is no process for registration of contractors in Kenya (like in Tanzania, where the Contractor Registration Board is very effective). Prequalification on the basis of the SHS record of the contractor is never practised in any formal sense, although there is informal assessment.

However, good clients can do a lot to raise the standards of health and safety and labour practices generally. Kenya Breweries label OHS very seriously, as does the Aga Khan Foundation.

4.4.1. Planning

The Government of Kenya’s plans to reduce poverty have been outlined in a number of documents. The first focus on poverty was the National Poverty Reduction Strategy Paper (PRSP) published in 1999 with a planning horizon up to 2005. This was followed by the Poverty Reduction Strategy Paper (PRSP) 2001-2003 which took no account of it. A third PRSP (2001-03) took no account of it.

The 2003 MDG Country Progress Report for Kenya identified the MDG targets in which the country was lagging behind.†† The report also notes that, moving away from the MDGs rather than towards them. At the end of 2003 Kenya was chosen as one of a small number of “resource-constrained” countries where case studies would be carried out (the other African countries were Ethiopia, Ghana and Senegal) to identify specific public policy interventions and investments for achieving the MDGs and to calculate the resource needed to fund the investments. The resulting “Needs Assessment Reports” were to be used to produce national long term MDG-benchmark plans, which would be used for monitoring and reporting on resource use for poverty alleviation.‡‡

In 2005 the Government issued a directive to prepare an MDG report on national planning and budgeting processes. The Government directed that MDGs be provided for in specific budgets of ministries, departments and agencies, with relevant MDG indicators and that adequate funds be allocated for implementation. The outcome was reflected in the budget strategy paper 2005-06 to 2007-08, the objective of which was to shift resources progressively to the social and economic sectors.

This was taken as an indication of the Government’s commitment to meeting the MDGs and to aligning the ERS, sectoral policies and programmes, budgeting and monitoring and evaluation frameworks to the MDGs.

C.4.2. Infrastructure

Infrastructure figures prominently in the 2003 MDG Country Progress Report. In the final section, the report notes that infrastructure development is critical to achieving the MDGs, and that “infrastructure development is an integral part of the socio-economic progress the world is seeking through its efforts to achieve the MDGs”.

Another initiative is the Infrastructure Task Fund which was established with US$10 million from the Government of Kenya and US$6 million for the Slum Upgrading and Low Cost Housing and Infrastructure Trust Fund and allocated US$3.1 million for the Slum Upgrading Programme in 2005-06 (a national programme implemented in collaboration with UN Habitat).

The status report for 2005 also highlights energy as an essential input to the achievement of all eight of the MDGs.

Energy provides the stimulus, drive and momentum to all the MDGs, due to its ‘hidden multiplier effect’. The MDGs cannot be achieved without provision of sustainable, affordable and appropriate energy of all types.

The annual growth rate of rural access to electricity has not been above 1% over the previous five years but the target is to increase customer connections to 150,000 each year. Priority is afforded market centres, schools, health centres, dispensers and water pumps.

Infrastructure is afforded a further section in the 2005 progress report under the heading “Creating an Enabling Environment”. It is noted that infrastructure accounts for 10% of GDP and employed 183,000 workers in 2002. The ERS recognises the importance of infrastructure development in facilitating private investment, growth and job creation. The poor state of existing infrastructure is attributed, inter alia, to inadequate allocation of resources for construction, maintenance and rehabilitation. Particular mention is made of the fact that the road network has been neglected and fallen into disrepair over the past decade. A total of 170,000 km is reported to require upgrading or rehabilitation. In urban areas 20% of rail, air and sea transport are also reported to be substandard.

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To improve the lives of the 10 million slum dwellers by 2020, the Economic Recovery Strategy concentrated plans to facilitate the achievement of the MDGs by improving physical infrastructure (energy, water, rail and air transport) and to calculate the resource needed to fund the investments. The resulting “Needs Assessment Reports” were to be used to produce national long term MDG-benchmark plans, which would be used for monitoring and reporting on resource use for poverty alleviation.

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Case study report D: Nigeria

D.1. Introduction

Sadly, principles of transparency, fair play, accountability and open competition were replaced with a broken down competition system that entrenched inefficiency, inefficiency, influence-peddling and inflated costs with the attendant incidences of corruption. Over the past two decades estimates suggest a considerable portion of our public treasury was lost due to the poor contracting system. His Excellency Olusegun Obasanjo – at the Public Procurement B Workshop (July 2006) The above quote emphasises how far the public procurement system in Nigeria had degenerated and the importance of reform to deliver its National Economic Empowerment and Development Strategy (2004-2009) (NEEDS). NEEDS describes a procurement system of inflated contract costs and processes that were at best closed, discretionary and well-designed conduits for abuse of public power. Public procurement reform has focused on improving governance objectives, through a certifying mechanism called ‘Due Process’. Managed by the Budget Monitoring and Price Implementation Unit (BMPIU), due process certifies each public procurement transaction at the federal government level to ensure that they have complied with the stated criteria, including society objectives. The Federal Government is now seeking to establish a permanent legal framework through a Public Procurement Bill that is currently under review of the Federal Parliament. Based on the UNCITRAL Model, this legislation differs from the other case studies in respect of specific details on project planning.

Although procurement reform has been principally aimed at improving governance objectives, participation in the delivery of MDG infrastructure targets is leading to a change in the type of procurement strategies in use.

D.2. Procurement policy

D.2.1. Due Process Improves governance objectives

Following a highly critical World Bank Country Procurement Assessment Report in 2000, the Nigerian Government issued a circular that set out ‘New Policy Guidelines for Procurement and Award of Contracts in Government Ministries/Parastatals’. The guidelines aimed to improve the efficiency, quality and governance of the tendering process through open competitive bidding, clearly defined contractual requirements and a committee of professionals to evaluate bids. The establishment of the Budget Monitoring and Price Implementation Unit (BMPIU) has taken these guidelines and reform process further. This regime oversees the contract award, review and certification process but does not initiate the contract award process nor does it award contracts. With mandatory certification for public funding, only those projects that have passed the test for proper project implementation packaging leading to improved value for money are allowed to go forward.179

In its first two years, the Federal Government claimed that due process had led to reasonable progress in bringing competition into procurement, leading to cost savings of around $800m for the Federal Government. It claimed that these cost savings were due to preventing overpriced contracts and securing a reduction in contract sums in a number of contracts. The BMPIU has denied certification and reversed the rightful bid winners on over 250 contracts and cancelled or sent for re-procurement another 150 or more contracts.180 These do seem to be some occasions over these claims, with opposition MPs describing the due process mechanism as ‘a mere bureaucratic bottleneck that stalls public procurement through over-certification of contract certification the procedures.181 The research team has not been able to substantiate the claims of the Government or opposition.

As part of its objectives, the BMPIU is tasked with harmonising all federal government policies and practices on public procurement, including a draft procurement manual for the public sector. This document is consistent with the current finance and treasury circulars and the World Bank Country Procurement Assessment Report (1999) recommendation for new procurement procedures based on the UNCITRAL Model. The manual provides guidance and authority procurement procedures for all government procurement agencies with the main objective of meeting economy and efficiency.182

The BMPIU sets six core requirements with which all procuring entities of the Federal Government have to comply:

1. Compulsory advertising requirements for passing the due process compliance
2. The criteria and scoring system to evaluate bidders for prequalification are to be specified with 65% of the total score based on experience and technical qualifications/credentials of the bidder.
3. Invitation to tendered process is in two parts: a technical bid and a commercial (financial) bid.
4. Opening of tender should take place immediately after the tender period has closed and must be witnessed by the bidders.
5. Evaluation of tender to be carried out by a five member committee including at least three individuals experienced in procurement. Financial bids are only to be submitted by those successful in the technical bid.
6. The winner of the bid submitting the lowest evaluated tender cost.183

At the conclusion of the tendering procedure, the procuring entity is required to submit a report of its handling of the procurement process to the BMPIU. The BMPIU reviews the process and the outcome (was the winner and the price right?) and seeks to determine the degree of compliance with Treasury Circular Number A4 and B4/2002 and the due process check list.184 BMPIU has the power to issue a certificate of compliance, advise the procuring entity to re-procure, or the due process certificate will be issued upon resolution of the cost is is if the original valuation is deemed too high; the winner has the opportunity to reduce their cost.185

The due process checklist goes beyond the governance and procedures of tender and procurement processes and includes a check list of issues and procedures, such as project planning and design, financing, procurement plans and their implementation, estimating, technical and economic appraisal, maintenance and operational manuals and the environmental impact assessment report. It is also a requirement to align the project with the federal government’s strategic and sectoral priorities.186

D.2.2. Due process and society objectives

Environmental objectives and local content objectives have a high prominence within due process. Links have been sympathetic to all development projects since 1991.187
The Bill seeks to establish a two-tier structure and a legal framework that sets out requirements for ‘procurement planning’ (which relates to the project planning phase of the research definition of procurement). The requirements include a needs assessment and evaluation that will identify the works or services required. The Bill also requires an analysis of the cost implications of the proposed procurement ensuring that these costs are provided for in the Federal Budget.

Governance of public procurement is to be improved by empowering the Public Procurement Bureau to investigate any matter related to the conduct of procurement processes or operation of a contract. The Bureau can notify the procurement proceedings or cancel the procurement contract. The Act also allows for any bidder to seek administrative review for any omission or breach by a procuring entity under the provisions of the Act, with the complainant able to take the matter to the Federal High Court if they do not obtain a satisfactory outcome. All those involved in the procurement of public assets are bound by a code of conduct. Anyone convicted of an offence in contravention of the Act will serve at least five years in prison.

D.2.4. Procurement authority
The Bill seeks to establish a new regulatory structure for public procurement. Chaired by the President, the National Council on Public Procurement is the political approval authority for public procurement policies, guidelines or regulations. Reporting to the National Council is the Public Procurement Bureau. The Bureau takes on many of the functions of the BMFU including the role of certification and is also responsible for:

- the harmonisation of existing policy and practices
- building the capability of the procurement staff and the requisite institutional capacity through training programmes
- ensuring probity, accountability and transparency in the procurement process
- the inspection and review of procurement transactions to ensure compliance with the provisions of the Act
- acting on complaints by public procurement entities with the power to stop, suspend or void any payments paid or due under any procurement contract, activity or proceeding which has contravened or is likely to be in contravention of any provision of the Act.

D.2.5. Procurement procedures include project planning phase
The procurement procedures are based on the UNICITRAL open competitive bidding process, with other bidding processes also included. The Act sets out the requirements for advertising tenders, receiving, evaluating and selecting bids, and contract award and agreements. The Bill differs from the UNICITRAL model by setting out requirements for ‘procurement planning’ (which relates to the project planning phase of the research definition of procurement). The requirements include a needs assessment and evaluation that will identify the works or services required. The Bill also requires an analysis of the cost implications of the proposed procurement ensuring that these costs are provided for in the Federal Budget.

D.2.6. Society objectives not included in legal framework
As with due process, the objective in selecting the winning bid is to choose the lowest cost bidder. However, under due process, certain factors other than price can be taken into account. The Bill provides for bonus scores for demonstrating a history of community social responsibility. A margin of preference to domestic bidders applies to tenders under international competitive bidding, but is left to the procuring entity to stipulate the percentage margin.

D.2.7. Private sector participation
Private sector participation in the delivery, management and operations of infrastructure is being actively encouraged through privatisation and new procurement strategies, particularly the use of concession contracts.

D.3. The role of infrastructure in achieving the MDGs

D.3.1. Planning
To meet its development objectives, Nigeria has produced a plan known as NEEDS (National Economic Empowerment and Development Strategy). The plan built on the consultation process started in 2001 to produce an interim PRSP. The goal of NEEDS is wealth creation, employment generation, poverty reduction and ‘value reorientation’. There are also state plans known as SEEDS. NEEDS emphasises the critical importance of improving infrastructure in order to secure economic growth and meet the MDGs by stating that ‘infrastructure development is one of the key areas in which NEEDS intends to make a difference’.

Six sectors (health, education, agriculture, power, transport and water) are targeted as the starting point to ‘mainstream’ the MDGs. These (except glasses, water and transport) are infrastructure sectors. As such, they have the highest priority in resource allocation, about 40% of total capital budget. Objectives for power include rural electrification and the connection of schools and hospitals to power supplies. The objectives for water also emphasise connections to hospitals and schools and provision of potable water in the rural areas. Transport, including rail, supports agriculture and connects social services at a local level. Heavy investment is foreseen in these three sectors to meet the needs of rural communities.

The urban poor are identified as a second vulnerable group. To meet their needs it is proposed to promote labour-intensive public works schemes, affordable housing and the provision of water and sanitation. Privatisation of waste management is also mentioned and there is expected to be a new coal and steel industry driving boom in mining activity.

D.3.2. Implementation to be shared
The Federal Government sees its role as the starting point to ‘mainstream’ the MDGs. It also emphasises the need to ‘mainstream’ infrastructure development in order to secure economic growth and meet the MDGs. The Federal Government supports agriculture and connects social services at a local level. Heavy investment is foreseen in these three sectors to meet the needs of rural communities.

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The Electricity Power Sector Reforms Act (2003) led to the introduction of competitive bidding contracts in the electricity sector. The objective was to introduce the necessary investment and ultimately a competitive market to meet current and expected demands.205 By unbundling the Nigerian Electric Power Authority into a number of private business units, it is hoped that privatisation will overcome the problems of supply shortage, lack of investment, inappropriate capital structure, excessive executive interference and a lack of maintenance of existing infrastructure and facilities.

As such, targets are set for increased generation, transmission, distribution, collection of revenues, reduction of costs and losses. Targets with a date are to:

a. create eleven semi-autonomous business units (profit centres) – achieved by January 2004
b. make the transmission company semi-autonomous by April 2004
c. unbundling generation by the fourth quarter of 2004. Other important elements of strategy include rationalisation and outsourcing of revenue collection and managerial and technical support.

In contrast, the Rural Electrification Agency will set up and administer the rural electrification fund as the means of ensuring a separate budget, funded through subsidies and user charges, for rural electrification projects and implement the rural electrification strategy and plan in accordance with the rural energy policy of Nigeria. By promoting, supporting and providing rural electrification programmes through public and private participation the Federal Government seeks to achieve more equitable regional access to electricity, maximise the economic, social and environmental benefits of rural electrification subsidies, promote rural economic growth, encourage local participation in grid extension and stimulate innovative approaches to rural electrification.206

Transport

The Federal Government also wishes to introduce concession contracts, as it believes the ‘huge sums’ available from the private sector will help to develop physical infrastructure.207 The Infrastructure Concession Regulatory Commission Establishment Act 2005 will allow federal ministries and agencies to grant concession contracts to any duly qualified firm in the private sector. It also establishes an agency to control Build, Operate and Transfer (BOT) and Rehabilitate, Maintain, Operate and Transfer (RMT) procurement models.208 Concession schemes are to be used to complete 3,000 km of roads, with the aim that 70% of Nigeria’s road network will be completed by 2010. The Federal Executive Council has approved the implementation of 17.5 km of roads.

D.3.4. Monitoring

Implementations are in the hands of the National Planning Commission (NPC), but the individual states receive 15.2% of Federal resources. NPC and the donors (IBRD, ODA, EU, UNGP) have developed a system whereby performance can be monitored, including a set of benchmarks to assess target performance on SEEDS.209 The benchmarks come under four headings: policy, fiscal and budget management, service delivery and communication and transparency. The following benchmarks have been pulled out as having implications for procurement:

1. Policy – the state government uses participatory processes to produce a document (SEEDS) containing policy targets and strategies as to how they are to be met.
2. Budget and fiscal management – the budget demonstrates a clear link between the resources allocated and the poverty reduction strategies defined in SEEDS.
3. Service delivery – services are tailored to the needs of citizens who should have a mechanism to measure service quality.
4. Communication and transparency – ensure that due process, particularly in procurement procedures, is developed and positively assessed against federal government standards. Publication of all Procurement processes and payments for contracts above 10 million naira is a national and state newspaper and easily accessible information on the award of contracts as well as payment is required. The state government makes and publicises efforts to expose corrupt practices. People and the state have the opportunity to publicly question their leaders about performance, sector by sector, and related policies, high levels of poverty, low awareness of environmental issues and underdevelopment of rural areas.

D.3.3. Progress on MDGs

A progress report on implementing the MDGs, claims that the proportion of the population with access to improved water rose from 40% in 1990 to 57% in 2000 (from 78% to 81% in urban areas and 30% to 35% in rural areas).201 Failure to improve the situation in urban areas is attributed to poor urban planning, poor management and inability to expand at the rate required by the urban population growth. The proportion of the population with access to improved sanitation declined from 78% to 81% in urban areas and 33% to 39% in rural areas.202 Failure to meet these targets is seen as central to many aspects of human development and hence to poverty reduction. The National Water and Sanitation Programme proposes an intervention strategy in four areas: urban areas, small towns, rural areas and water resources management and sanitation. In urban areas the strategy foresees federal and state government cooperation in financing, a fundamental reorientation to see water supply as a service, separation of ownership and operation, and performance based procurement. In small towns the policy is to decentralise ownership and operation to attract community involvement and support from the private sector. For rural areas the policy is to attain 60% coverage by 2007 through rehabilitation, expansion and construction of low cost rural water schemes, with communities taking charge of ownership and management.

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2. Service delivery – services are tailored to the needs of citizens who should have a mechanism to measure service quality.
3. Communication and transparency – ensure that due process, particularly in procurement procedures, is developed and positively assessed against federal government standards. Publication of all Procurement processes and payments for contracts above 10 million naira is a national and state newspaper and easily accessible information on the award of contracts as well as payment is required. The state government makes and publicises efforts to expose corrupt practices. People and the state have the opportunity to publicly question their leaders about performance, sector by sector, and related policies, high levels of poverty, low awareness of environmental issues and underdevelopment of rural areas.

D.3.1. Monitoring

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Acknowledgements

We would like to thank Members of the ICE Expert Advisory Panel. They were:

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We would like to pay a special thanks to the ICE Country Representatives for all their hard work in ensuring that the case study country visits and Roundtable Meetings were a success.

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Endnotes

2. The information in this section is drawn mainly from the following sources: Meeting of the Millennium Development Goals, Millennium Project Office for South Africa (2006).
5. Bumpitera are ethnic Malays and other indigenous groups of Malaya who make up 58% of the population, originally in Malacca (2004) but later moved from Watermark (2006).
10. The UK Anti-Corruption Forum is an alliance of UK business associations, professional institutions, civil society organisations and government with interests in the domestic and international infrastructure, construction and engineering sectors. The purpose of the forum is to share information which can help to eliminate corruption.
11. Published by the Institution of Civil Engineers, ‘Society, sustainability and civil engineering’ (2003).
15. PMGSY (2005), Bidding document for Procurement of Works (July 2005), section VII, clause 4.18
17. Cost reimbursable contracts are less popular as the risk wholly lies with the client. NEC Contracts are very popular within the UK. The Target is set by the contractor submitting his price at the tender stage. It is in the interests of the client and contractor to work together as they share in any profit/loss made. Cost reimbursable contracts are not popular in Africa as there is little trust between the client and contractor. They tend to be used in large, experienced clients, such as BAA who used such a contract for Heathrow Terminal II.
24. Ibid.
30. www.equator-principles.com
31. see February 2006 article by Michael Warner
32. ECGD’s 2005 Sustainable Development Action Plan
36. The UK Anti-Corruption Forum is an alliance of UK business associations, professional institutions, civil society organisations and government with interests in the domestic and international infrastructure, construction and engineering sectors. The purpose of the forum is to share information which can help to eliminate corruption.
39. ibid.
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59. This was detected 30 years ago by Paulson,

58. WaterAid Nigeria (2005), paper submitted to

56. A pioneering project that looked at social

55. Asian Development Bank (ADB) news and

54. www.delnga.cec.eu.int/projects/Financing

53. WEDC, Loughborough University, UK (2004)


50. International Labour Organization, abatement

48. See endnote 16. The review of existing labour

47. International Labour Organization (www.mospi.nic.in/mospi_social_pr.htm) (MDGs) – India Country Report and Programme Implementation (2006); 'India Economic Road Map: The next five years' (2002) p5

46. Ministry of Finance, General Finance Rules 369,000 km of all-weather roads. More than 300,000 houses were constructed in this period. A road programme to link over 500 unconnected roaded by 2007 with the construction of 3.3 million additional homes to be added to the 2002-2006 target of 1.4 million homes


44. V. Krishnamurthy and R.P Nair, "The Welfare

43. The data was provided by Dr. R.P Nair. Vaid, K.N. "Contract labour in the


41. Amitabh Kundu, Urban Development, Infrastructure Financing and Emerging Challenges, presented to ICE Council on 14 March 2006


37. Information provided by the National Safety Council, Mumbai

36. Vaid, K.N. "The role of labour in the construction industry in India", in V.R. Nanda with Contract Labour in South Asia, Ed. Swaminath, 1999

35. "Accidents don’t have to happen", film produced by the National Safety Council, Mumbai

34. Department for International Development (DFID) India Country Plan 2001

33. Vaid, K.N. “Contract labour in the

32. Department for International Development (DFID) India Country Plan 2001

31. Vaid, K.N. “Contract labour in the


29. "Accidents don’t have to happen", film produced by the National Safety Council, Mumbai

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111. Ibid. Technical Assistance to Indonesia for improving Public Sector Procurement, June 2002.


118. Ibid. Technical Assistance to Indonesia for improving Public Sector Procurement, June 2002.


120. Ibid. Technical Assistance to Indonesia for improving Public Sector Procurement, June 2002.

121. Ibid. Technical Assistance to Indonesia for improving Public Sector Procurement, June 2002.


123. Ibid. Technical Assistance to Indonesia for improving Public Sector Procurement, June 2002.


133. Ibid. Technical Assistance to Indonesia for improving Public Sector Procurement, June 2002.


137. Ibid. Technical Assistance to Indonesia for improving Public Sector Procurement, June 2002.


139. Ibid. Technical Assistance to Indonesia for improving Public Sector Procurement, June 2002.

140. Ibid. Technical Assistance to Indonesia for improving Public Sector Procurement, June 2002.

141. Ibid. Technical Assistance to Indonesia for improving Public Sector Procurement, June 2002.


143. Ibid. Technical Assistance to Indonesia for improving Public Sector Procurement, June 2002.

144. Ibid. Technical Assistance to Indonesia for improving Public Sector Procurement, June 2002.


146. Ibid. Technical Assistance to Indonesia for improving Public Sector Procurement, June 2002.

147. Ibid. Technical Assistance to Indonesia for improving Public Sector Procurement, June 2002.


149. Ibid. Technical Assistance to Indonesia for improving Public Sector Procurement, June 2002.


152. Ibid. Technical Assistance to Indonesia for improving Public Sector Procurement, June 2002.


156. Ibid. Technical Assistance to Indonesia for improving Public Sector Procurement, June 2002.


158. Ibid. Technical Assistance to Indonesia for improving Public Sector Procurement, June 2002.

159. Ibid. Technical Assistance to Indonesia for improving Public Sector Procurement, June 2002.


166. Ibid. Technical Assistance to Indonesia for improving Public Sector Procurement, June 2002.


168. See Jill Wells, ‘Construction and capital
169. See endnote 161
170. Interview with Onesimus Mwangi Gichuiri,
171. See endnote 162
172. Interview with the Head of the Safety
173. Directorate of Health and Social Services,
174. Interview with the Acting Director of DOHSS,
175. Republic of Kenya Ministry of Roads and
176. MDG status report for Kenya – 2005
177. UNDP Newsfront, Kenya puts Millennium
178. Government of Kenya and United Nations,
179. Winnie Mitullah and Isabella Njeri Wachira,
180. Mr S. A. Ekpenkhio, ‘Public Sector Reforms:
181. National Economic Empowerment and
182. Compact to promote transparency and
183. AllAfrica.com/stories/200510060403.html
184. Mr S.A. Ekpenkhio, ‘Public Sector Reforms:
185. Budget Monitoring and Price Intelligence Unit
186. Ibid. pp14-15
187. Ibid. pp21-22
188. Ibid. pp31
189. Barannik A. D. The Federal Republic of
190. Ibid. p33
191. Public Procurement Bill 2004, p5
192. Ibid. p7
193. Ibid. p8
194. Ibid. pp7-8
195. Ibid. pp9
196. Ibid. p9
197. Ibid. pp10-11
198. Ibid. p11
199. Ibid. p12
200. National Economic Empowerment and
201. National Economic Empowerment and
202. National Economic Empowerment and
203. Bureau of Public Enterprises, ‘Overview of the
204. Eyo O. Ekpo, Team Leader, Power Sector
205. Bureau of Public Enterprises,
206. Ibid.
207. Ibid.
208. Ibid.
209. Ibid.
210. Presentation by Amina Ibrahim (SSAP MGGs)
211. Ibid.
212. Ibid.
213. Ibid.
214. Ibid.
215. Ibid.
216. Ibid.
217. Ibid.
218. Ibid.
219. Ibid.
220. Ibid.
221. Ibid.
222. Ibid.
223. Ibid.
224. Ibid.
225. Ibid.
226. Ibid.
227. Ibid.
228. Ibid.
229. Ibid.
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487. Ibid.
488. Ibid.
489. Ibid.
490. Ibid.
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493. Ibid.
494. Ibid.
495. Ibid.
496. Ibid.
497. Ibid.
498. Ibid.
499. Ibid.
500. Ibid.
Modifying infrastructure procurement to enhance social development

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