

Risk Management in Public Procurement¹

"Developing countries' efforts and plans to strengthen core institutions and policies will be supported through approaches that aim to manage – rather than avoid – risk, including through the development of joint risk management frameworks with providers of development co-operation." (Busan Partnership for Effective Development Co-operation, Outcome Document, December 2011)

INTRODUCTION

When global leaders met in Busan late last year they reiterated commitments in the Paris Declaration and the Accra Agenda for Action relating to public procurement, in summary:

- The development partners will **use country (procurement) systems as the default approach** for development cooperation.
- In the case of country procurement systems, assessments will be done **using mutually agreed diagnostic tools**.
- Depending on the results, development partners will decide on the extent to which they can use country systems.
- When full use of country systems is not possible, development partners **will state the reasons for non-use** and discuss with government what would be required to move towards full use, including any necessary support for the strengthening of systems.
- The use and strengthening of country procurement systems should be placed within **the overall context of national capacity development**.

Moreover this is to be done in the context of shared principles which include:

- Ownership of development priorities by developing countries.
- Focus on results.
- Inclusive development partnerships with openness, trust and mutual respect and learning at the core.
- Transparency and mutual accountability.

¹ Written by Kirsten Ejlskov Jensen for the United Nations Procurement Capacity Development Centre as part of a series of discussion notes.

- Shared responsibility for risk and results.

Following the High Level Forum in Paris in 2005, the OECD-DAC Task Force on Procurement was formed to follow up on the procurement related commitments. Members included procurement specialists from developing countries, as well as multi- and bilateral development partners.

The Paris Declaration had a two pillared approach to procurement –relating both to strengthening AND using country procurement systems. However, the work of the Task Force over the years focused almost entirely on activities relating to the strengthening of country procurement systems. Some development partner representatives resisted the inclusion of activities relating to moving forward on use of country systems arguing that each organisation has a different risk tolerance making it an internal issue and that there is no direct cause and effect link between the strength of a country procurement system and use of it by development partners.

Evaluations of progress since the Paris Declaration prepared prior to the Busan High Level Forum showed that while most developing countries had made some progress in strengthening their public procurement systems the progress of development partners in using those systems was limited.

As a result the lack of progress in moving towards use of country systems, the concept of **risk** came to the fore in Busan. That approaches to manage (rather than avoid) risk should support developing countries efforts to strengthen core institutions and policies and that this should include joint risk management frameworks between the countries and their development partners.

The purpose of this paper is to open a discussion among those involved in public procurement in developing countries, as development partners or in other related roles about what this commitment means in practice.

First of all we will take a general look at the issue of risk and risk management in public procurement. Then we will look at the current practices relating to risk and risk management in procurement in a development cooperation context and finally the paper will raise some questions for further discussion.

RISK MANAGEMENT IN PUBLIC PROCUREMENT: GOOD PRACTICE

Risk is the exposure to loss as a consequence of uncertainty. Risk is unavoidable in public procurement and exists at each stage in the procurement process. Managing risk in public procurement is an operational activity that is the responsibility of the procuring organization or entity that “owns” or is accountable for the procurement. Good practice in public procurement involves putting in place measures to understand and manage these risks.

Sources of risk in public procurement can be **Strategic** or **Operational**²:

² Draft Standard of Practice: Risk Management, NIGP 2012 <http://www.principlesandpractices.org/>

Strategic Risk	<ul style="list-style-type: none"> • <i>Political</i>: associated with a failure to deliver government policy. • <i>Economic</i>: affecting the organization's ability to meet its financial commitments. • <i>Social</i>: relating to delivery of organization's services. • <i>Technological</i>: relating to organization's technological capacity. • <i>Legislative</i>: associated with current or potential changes in the law. • <i>Competitive</i>: associated with the cost, quality or competitiveness of a service. • <i>Customer/citizen</i>: associated with the failure to meet the needs or expectations of customers or citizens.
Operational Risk	<ul style="list-style-type: none"> • <i>Professional</i>: associated with the practice of procurement. • <i>Financial</i>: associated with failure to secure a most economically advantageous procurement outcome. • <i>Legal</i>: related to a breach of legislation. • <i>Physical</i>: related to health, security, accident prevention. • <i>Contractual</i>: associated with the failure of contracts to deliver goods, services or works to the agreed cost and specification. • <i>Technological</i>: relating to the reliance on operational equipment. • <i>Environmental</i>: relating to pollution, noise or energy efficiency of on-going operations.

Moreover, the source of these risks can be **internal** (i.e. within the control of the organization), or **external** (i.e. outside the control of the organization). For example, risks associated with a planned legal reform are outside the control of the procuring organization, while risks associated with selecting an inappropriate procurement method are internal.

The steps involved in managing procurement risk typically include:

1. **Identifying risks**, for example through brainstorming, discussions with end-users, reviewing previous cases or use of checklists.
2. **Assessing identified risks** in terms of the likelihood of them occurring and the consequences should they occur.

3. **Prioritising the risks.** Often this is done by quantifying the level of each risk (high, medium or low) by combining scores for how likely a risk is to occur (from almost certain to rare) with the consequences (from catastrophic to insignificant).
4. **Manage risk.** Identify mitigation strategies; assign responsibilities and monitor, for example through a risk log.

Mitigation strategies can include:

- Accepting the risk e.g. for low levels of risk.
- Transferring the risk to or sharing with another party, for example to the supplier, or through insurance or even by outsourcing to a procurement agent.
- Reducing the likelihood and/or consequence of a risk for example through planning, developing clear specifications, selection of procurement methods, drafting contract terms and conditions etc.³
- Developing contingency plans.

Obviously the level of resources invested in the risk management process and the mitigation strategies should be appropriate to the importance of the procurement. For small value routine procurement the risk is minimal but for complex and/or high value procurements, considerable time and effort ought to be invested in risk management. Risk assessment and preparing risk management plans should be done as part of procurement planning, but revisited and updated throughout the stages of the procurement process.

This approach represents good procurement practice, but it is difficult to know how widespread it actually is in reality. In 2005, the Chartered Institute of Purchasing and Supply (CIPS) and Cranfield University conducted a survey of CIPS members including the public sector (presumably mainly based in the UK)⁴ which looked at approaches to risk identification and analysis. The responses for the public sector showed that only 56.5% undertook some kind of formal risk analysis, while 43.5% undertook only informal or limited analysis. This would suggest that in developed and developing countries alike it is often not the norm to apply formal risk management processes in the procurement process.

RISK MANAGEMENT IN PUBLIC PROCUREMENT: USE OF COUNTRY SYSTEMS

In the case of development cooperation, there are additional sources of risk affecting the public procurement process. We can probably assume that the operational sources of risk discussed

³ UN Procurement Practitioner's Handbook (2006) includes a list of possible risk treatment options for various (page 4-5)

⁴ Opening the Way to Successful Risk Management in Purchasing and Supply: Report for the Chartered Institute of Purchasing & Supply, Dr. Helen Peck, March 2006

<http://www.unpcdc.org/media/5364/successful%20risk%20management.pdf>

above, are still valid, but there are additional risks, both for the country itself and the development partner.

Country:

The role of procurement in a public sector organisation is to contribute to the achievement of the organization's mandate through the acquisition of goods, works and services while adhering to the values, principles and practices of public procurement within that jurisdiction. As such, it is accountable to the leadership of the organization i.e. the government and ultimately to the beneficiaries i.e. the citizens. It is within this context that risk needs to be managed, in order to minimize loss to the government and the citizens.

In situations where procurement is whole or partially funded by development partners there is additional complexity and additional risks need to be considered, such as:

- The complexity of the relationship with the development partner (or multiple development partners).
- Unpredictability of funding.
- Following different procedures for different procurement cases dependant of different sources of funding (driven by development partner requirements/procedures).
- Adhering to conditionalities and/or reporting requirements.

Development Partner:

For development partners the issues relating to identifying, assessing and managing procurement related risk associated with using country systems are somewhat different.⁵ The OECD⁶ defines three categories of risk relating to use of country systems:

- Developmental risks: risks relating to non achievement of goals of the development intervention.
- Fiduciary risk: the risk that aid money may not be used as intended or approved.
- Reputational Risks: that events relating to the intervention rebound negatively on the development partner.

Clearly then when identifying procurement risks, the development partner needs to view potential risks through this lens. In addition, procurement risks may also be closely linked to assessment of other types of risk such as PFM, Project Management and Monitoring and Evaluation.

In writing this paper, we decided to look at the current practices of development partners in terms of identifying, assessing and managing procurement risks. Annex 1 provides an overview of some of

⁵ For the purposes of this paper we are concentrating on project or sector approaches rather than budget support where procurement risk plays a smaller role in decision making.

⁶ Better Aid, Managing Development Resources: The Use of Country systems in Public Financial Management, OECD, 2009

these.⁷ One of the most significant things that emerges from the overview is there is no agreement or coordination regarding diagnostic tools, with the exception of the [OECD-DAC Methodology for Assessment of Procurement Systems \(MAPS\)](#) which does form the basis of a macro level assessment for many of the development partners. Evidence suggests⁸ that this is also a popular diagnostic tool for countries' themselves wishing to strengthen their procurement systems. However, the majority of development partners also conduct micro-risk assessments of implementing partners and there is no one commonly agreed tool. On the contrary a number of organizations have developed new tools within the last 5 years – presumably in response to the increased pressure to use country systems.

Another issue that arose in preparing the overview is the absence of transparency regarding many of these development partners' assessment tools. Only a few of them are available in the public domain and that's just the tools. It is not known to what extent the results of assessments are being shared with the implementing partner, or indeed with other development partners. In the case of GFATM assessments, it is specifically mentioned that the results are confidential and may not be shared.

MUTUAL ACCOUNTABILITY FOR RISKS AND RESULTS

Using instead of just strengthening country systems in isolation has significant implications for accountability systems. When it comes to *using* country systems, the concepts of risk and results are inextricably linked and form a complex web of inter-relationships and accountabilities. Developing country governments are accountable to their citizens, but when using development funding, also accountable to their development partners (and their citizens). While development partners are accountable to their stakeholders (member organizations and/or citizens), they are also, by the nature of the relationship, accountable to the developing countries.

Yet it seems that, when it comes to risk, this latter accountability takes a back seat. Reputational and fiduciary risk seems to weigh heavier on the scale than developmental risk. However, emphasizing fiduciary risk over development risk undermines ownership and mutual accountability – the very principles laid out in declarations from Paris, Accra and Busan.

TOWARDS A JOINT RISK MANAGEMENT FRAMEWORK

Moving towards joint frameworks for procurement risk depends on more than creating a risk management tool. It requires identification of a path relating to procurement both globally and at country level to reinforce ownership of development priorities by developing countries, to focus on results, on partnerships with openness, trust and mutual respect and learning at the core and last but not least, on transparency and mutual accountability.

⁷ For more information see Chapter 6 of [Strengthening Country Procurement Systems: Results and Opportunities](#), OECD-DAC Procurement Task Force, 2011

⁸ See [Strengthening Country Procurement Systems: Results and Opportunities](#), OECD-DAC Procurement Task Force, 2011

Clearly the current situation is a long way from the commitments from Busan quoted in our opening paragraph:

- The commitment calls for developing countries to take the lead in the development of joint risk management frameworks, yet it seems that formal approaches towards risk identification, assessment and management in procurement are not yet the norm.
- Many development partners demonstrate a strong reluctance to discuss approaches to or the results of risk assessments. Currently each has its own approach to risk identification, assessment and management and the lack of transparency about the various tools makes it difficult to evaluate how easy or difficult it would be to identify a common approach.
- Often the development partners are in the driving seat for conducting risk assessments and in many cases the results are not shared with the country.
- As a general principle, risk needs to be identified, assessed and managed within the context of the “owner” of the risk. We have identified that while there is most likely overlap in the risks facing the country itself and/or its development partners, there are also differences.
- Unless these differences are explicit to both sides through very clear and open dialogue and communication there is the potential for at best misunderstanding and at worst conflict since the “what” and the “how” of managing risk will differ significantly.
- Mitigation strategies can only be identified and owned by the organization holding the risk i.e. it needs to be within the control and implementable by the organization itself. Therefore development partner lead risk mitigation strategies cannot impose system strengthening activities, which rather need to be owned and lead by the country (or entity) itself. However, development partners can support such efforts.
- This raises challenges relating to accountability for the process and responsibility for results.
- In the context of development assistance the relationship itself adds a layer of risk both to the country and the development partner. Risk mitigation strategies put in place by a development partner (e.g. reporting requirements, special procedures etc) can add risk for the country. Clearly using country systems also adds risks for development partners.
- The future of the OECD-DAC Procurement Task Force is unclear since Busan and it isn't clear who will take responsibility for moving forward with this work at a global level. At the country level, not all countries⁹ currently have development partner coordination mechanisms relating to procurement.

⁹ [Strengthening Country Procurement Systems: Results and Opportunities](#), OECD-DAC Procurement Task Force

QUESTIONS FOR FURTHER DISCUSSION

- Is it possible to put in place joint risk management frameworks for public procurement?
- Are there concrete examples or cases where joint procurement risk management frameworks have been developed lead by a developing country with development partners?
- Is it possible for development partners to be persuaded to relinquish control over conducting their own procurement risk assessments and rather to participate in coordinated effort lead by the developing countries'? If so how?
- What could be some next steps to developing such frameworks?
- What kind of process would need to take place to develop a joint framework so as to consider the risks to each party?
- What is the relationship between risk management and capacity development?
- Is Risk Management currently considered a core skill for procurement professionals? If not should it?
- What organisational frameworks (existing or new) should be responsible for moving forward with this work at organisational, sector, country and/or global level?

ANNEX 1: EXAMPLES OF DEVELOPMENT PARTNERS' APPROACHES TO PROCUREMENT RISK MANAGEMENT

World Bank	<p>At the national level the World Bank uses the Country Procurement Assessment Report (CPAR)¹⁰ "to diagnose the health of the existing system in a country". The CPAR is often conducted with the involvement of multiple donors as well as partner country. It is used "to develop and establish an action plan to improve a country's system for procuring goods, works and consulting services". Both the CPAR guidelines and many of the resulting reports are publically accessible.</p> <p>At the project level the World Bank has a tool called Procurement Risk Assessment and Management System (P-RAMS). This is apparently an internal tool used to identify, assess and manage procurement risk related to implementing partners. Very little information about the tool is publically accessible, and the assessments seem only to be accessible to World Bank staff.</p>
Asian Development Bank	<p>In 2008 ADB introduced a new procurement risk assessments tool¹¹ which is integrated with risk assessments of PFM and corruption, all at country, sector and project level. The guidelines encourage conducting joint assessments with the government and other development partners where possible. The approach follows the steps of identification/assessment/and management and recommends identification of risk management measures that ADB can implement either on its own or in conjunction with others.</p>
Inter-American Development Bank (IADB)	<p>IADB has issued a "Guide for acceptance of the Use of Country Systems" June 2010¹² in which the decision on whether or not to use national systems is based on the OECD-DAC MAPS tool.</p>
Nordic + ¹³	<p>The Nordic + Procurement Group published a "Joint Guide for Strengthening and Using Country Procurement Systems"¹⁴ in 2009 which advocates an approach to risk assessment based primarily on the OECD-DAC MAPS tool.</p>
AusAID	<p>AusAID has produced guidelines on assessing the risks and benefits of using partner government systems including procurement and a tool has been developed for sector and agency level assessment. Neither the tool or assessment results are available in the public domain.</p>
USAID	<p>USAID is currently developing a Public Financial Management Risk Assessment Framework (PFMRAF) the details of which are not known.</p>
Millennium Challenge Corporation (MCC)	<p>MCC has an approach called the Procurement Agent Due Diligence¹⁵ Methodology which assesses the capability of a proposed government entity to fulfil the roles relating to working with MCC. The tool covers</p>

¹⁰ [Country Procurement Assessment Report Instruction](#), World Bank

¹¹ [Guidelines for Implementing ADB's Second Governance and Anticorruption Action Plan](#), Asian Development Bank, 2008

¹² [Guide for the Acceptance of Country Systems](#), Inter-American Development Bank, June 2010

¹³ The Nordic+ Procurement Group includes Denmark, Finland, Ireland, the Netherlands, Norway, Sweden, the United Kingdom, Canada and Germany.

¹⁴ [Joint Guide to Strengthening and Using Country Procurement Systems](#), Nordic+ Procurement Group, 2009

¹⁵ [Procurement Agent Due Diligence Methodology](#), MCC, 2007

UN	operational procurement areas. The United Nations has no tool relating to assessing procurement risk, however the UN Development Group has an approach called Harmonized Approach to Cash Transfers (HACT) which assesses PFM risk relating to implementing partners at both a macro and a micro level. The Macro level consists of a review of existing PFM assessments of PFM. ¹⁶
Global Fund for HIV/Aids, Tuberculosis and Malaria (GFATM)	GFATM has a tool to assess risk associated with procurement and supply chain management by potential implementing partners. ¹⁷ The results of the assessments are highly confidential and not shared with the implementing partner.

¹⁶ [Harmonized Approach to Cash Transfers](#), United Nations Development Group, 2005

¹⁷ [Procurement and Supply Management Assessment Tool](#), GFATM, 2003