

# The National Procurement Strategy

2013-2016

Public Procurement Regulatory Authority  
Government of Pakistan





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# Acronyms

ADB	Asian Development Bank
AGP	Auditor General of Pakistan
AGPP	Advisory Group on Public Procurement
BIS	Bank for International Settlements
BLIs	Benchmark/Baseline Indicators
BPPRA	Balochistan Public Procurement Regulatory Authority
CIPS	Chartered Institute of Purchasing and Supply
CPTU	Central Procurement and Technical Unit
DAC	Development Assistance Committee (DAC)
EOI	Expression of Interest
FAST	National University of Computer & Emerging Sciences
FPPRA	Federal Public Procurement Regulatory Authority
GDP	Gross Domestic Product
HRM	Human Resource Management
IBA	Institute of Business Administration
KPK	Khyber Pakhtunkhwa
LUMS	Lahore University of Management Sciences
M&E	Monitoring and Evaluation
NAB	National Accountability Bureau
NIM	National Institute of Management
NUST	National University of Science and Technology
NWFP	North-West Frontier of Pakistan (Now Khyber Pakhtunkhwa)
OECD	Organization of Economic Cooperation and Development
PA	Procurement Agency
PEC	Pakistan Engineering Council
PFI	Private Financial Institution
PIM	Pakistan Institute of Management
PLIs	Performance Linked Indicators
PPP	Public Private Partnership
PPRA	Public Procurement Regularity Authority
RFP	Request for Proposal
SBDs	Standard Bidding Documents
SOP	Standard Operating Procedures
SPPRA	Sindh Public Procurement Regularity Authority
WB	World Bank

National Procurement Strategy 2013-2016 has been developed to outline a common vision and outlook on making procurement process efficient and transparent in the country. The Strategy endeavors to lay down a roadmap for the Federal and Provincial Regulators which can help them realize the objectives and principles of public Procurement. It has been developed keeping in view to remove the gaps in existing Procurement regime. Based on this analysis, strategic steps have been recommended to improve the legal and systemic framework of procurement. This strategy has been developed after a thorough review of primary and secondary research.

The Strategy is an initiative of the Public Procurement Regulatory Authority, Government of Pakistan through the Advisory Group on Public Procurement. The blue print of the strategy was presented by the Assessment and Strengthening Program (ASP-RSPN) team in the inaugural meeting of the Advisory Group on Public Procurement (AGPP) held on 1st-2nd April 2013 at Bhurban. The Strategy was also shared by PPRA with all stakeholders. Based on the feedback received from the delegates of the Advisory Group and other stakeholders for further improving the strategy, this Strategy was finalized and approved in the second meeting of the Advisory Group on Public Procurement held on 2nd-3rd September 2013. PPRA appreciates the technical assistance and efforts of ASP-RSPN in preparation of this strategy. PPRA is also thankful to all those organizations and individuals who either attended the consultative sessions or provided feedback when it was requested.

Nazrat Bashir  
Managing Director  
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# 1. NATIONAL PROCUREMENT STRATEGY

## *National Procurement Strategy*

### 1.1 Vision

Strengthening Public Procurement systems at the federal and provincial level.

### 1.2 Mission

Facilitate national economic development through ensuring value for money in Public Procurements.

### 1.3 Goals

To develop a framework for public procurement which achieves the following:

- a) Harmonization of procurement laws, rules and procedures including nomenclatures;
- b) Improving and updating laws, rules and procedures and making use of technology to facilitate transparency, fairness, competition and achieve value for money;
- c) Improving governance and institutional capacity of PPRAs and procuring agencies.;
- d) Strengthening monitoring and oversight capacity of procurement regulatory authorities;
- e) Capacity building of procuring entities and suppliers.

### 1.4 Reforms

To achieve above goals, following reforms are proposed:

#### 1.4.1 Legal Framework

- a) Harmonization of legal framework for procurement
- b) Strengthening of PPRAs through operational autonomy and financial sustainability
- c) Amendment and revision of rules
- d) Establishment of independent grievance redressal fora
- e) Development of regulations, standard bidding documents and manuals
- f) Strengthening procurement planning and its integration with budgetary operations
- g) Introducing e-procurement
- h) Creating legal framework for public private partnerships

#### **1.4.2 Institutional Arrangements**

- a) Strengthening HR of PPRAs- recruitments through competitive process, specialized training, framing of service regulations and provision of market based competitive package
- b) Professionalizing the procurement function by developing a procurement cadre, special incentive for procurement officials and introducing a code of ethics
- c) Enhancing outreach of PPRAs through awareness programs
- d) Strengthening of Advisory Group on Public Procurement

#### **1.4.3 Monitoring and Oversight**

- a) Strengthening monitoring capacity of PPRAs
- b) Setting up procurement data management and information system
- c) Strengthening monitoring capacity of procuring agencies
- d) Improving robustness of internal and external controls

#### **1.4.4 Capacity Building of Procuring Agencies and Suppliers**

- a) Capacity building of procurement staff
- b) Partnering with public and private sector universities and training Institutions
- c) e-learning
- d) Procurement certification
- e) Training of suppliers and other stakeholders

## 2. INTRODUCTION AND BACKGROUND

Governments all over the world are spending a significant chunk of their budgets on procurement. Public procurement spending is estimated to account for 15% of the world's GDP. Procurement is particularly prominent in developing countries with active infrastructure and social programs. In Uganda, for example, 70% of public spending goes through the public procurement system<sup>1</sup>. Any attempt, therefore, to bring fiscal discipline by efficient allocation of resources and then prudently spending must consider procurement to be an integral part.

Gains of a good public procurement framework makes available additional resources for development and leads to better outcomes of expenditure by assigning the tasks to best possible service provider. This ultimately has a positive bearing on the service delivery. An ADB report postulates that procurement reforms improve spending efficiency by 1% of GDP<sup>2</sup>. This means that this saving could be diverted to other pressing sectors like education, health and municipal services.

**CONTEXT:** Traditionally public procurement in Pakistan was regulated by the following instruments:

- a. the Purchase Manual of the defunct Department of Supplies and Disposal, which generally covered the purchase of commodities.
- b. the West Pakistan Building & Roads Department Code which governs the construction of buildings and roads and the hiring of consultants for this purpose and
- c. the General Financial Rules of the Federal Government and the delegation of financial power rules.

Public Procurement came to be considered as a critical function in the late 1990s as the quantum of public procurement<sup>3</sup> and in particular infrastructure procurement increased as part of the government expenditure. There was an increased realization that transparency and controls on corruption can lead to substantial public savings and could help in better utilization of available resources. World Bank carried out first ever assessment in 1999. On the basis of this assessment, recommendations were made by WB to bring legislative and systemic reforms for a robust and effective procurement regime in the country. After consultations with stakeholders and the multilateral donors, Government of Pakistan decided to establish Public Procurement Regulatory Authority (PPRA) at the federal level under the Public Procurement Regulatory Authority Ordinance 2002 followed by promulgation of Public Procurement Rules in 2004.

The PPRA is an autonomous body endowed with the responsibility of recommending laws and regulations governing public procurements. It is also responsible for monitoring the application of procurement laws and performance of federal procuring agencies with a view to improve governance, management, transparency, accountability and quality of public procurements.

<sup>1</sup><http://www1.worldbank.org/publicsector/pe/StrengthenedApproach/5ProcurementRoundtable2005.pdf>

<sup>2</sup><http://www.adb.org/sites/default/files/pub/2002/GovernanceBrief03.pdf>

<sup>3</sup>Procurement- Pakistan Performance Assessment by Ismailia 2009

The provincial governments (except Balochistan) have also established regulatory authorities and notified Public Procurement Rules. The provincial rules are broadly in sync with federal rules. The Sindh PPRA, however, is ahead of the PPRA of other provinces. The Sindh Public Procurement Rules are more exhaustive, they also provide an independent grievance redressal arrangement and a framework for regulating public private partnership (PPP) procurements. The Punjab PPRA has adopted federal rules while Khyber Pakhtunkhwa has notified the NWFP Procurement of Goods, Works, Services and Consultancy Services Rules. As regards Balochistan, the Public Procurement Act was promulgated in 2009 but rules have not been notified as yet. In the Azad Jammu & Kashmir, and in Gilgit-Baltistan, the procurement laws have not yet been introduced.

### 3. RATIONALE FOR A NATIONAL PROCUREMENT STRATEGY

The procurement reforms of last one decade have significantly improved the legal and institutional framework for public procurements in Pakistan. The existence of procurement laws and rules are broadly in line with the UNICITRAL model law and are based on principles of fairness, transparency, accountability, efficiency and value for money making it reflective of a reasonably effective public procurement regime. In practice, however, substantive qualitative change has not been observed in procurement practices of procuring agencies. Although 'First generation procurement reforms' in Pakistan have addressed all the basics i.e. laws/regulations, standard documents and so on but the performance of public procurement system is still less than satisfactory. Some work undertaken by the World Bank suggests the lack of clear incentives for a stronger focus on result and outcomes by procurement officials, uncertain budgetary resources, the culture of rent seeking and disregard for the law, the capture of systems by interest groups, bureaucratic turf battles and weak social demand for good procurement and accountabilities are amongst the causes of this situation. Reforms have to go beyond fixing the machinery to transforming the culture and behaviour of all involved including the policy makers and the political class.

An assessment of the procurement systems of the federal government and the four provinces suggests that gaps and weaknesses in legal and institutional structure and operational procedures still exist. Weakness in procurement system is seen as a major source of waste in public spending.

It is, therefore, important that governments at federal and provincial levels should have a clear understanding of how best to strengthen procurement systems in order to achieve value for money and qualitative improvement in procurement outputs.

Preparation of National Procurement Strategy will be an important step in this direction as it will articulate a common vision of procurement reforms at the national and sub-national levels. The National Procurement Strategy will provide a comprehensive roadmap for procurement reforms, harmonize the procurement systems in the country and enable the federal and provincial governments to initiate sequential and sustained measures for bringing in good governance and strengthening the procurement systems. Framing of a National Procurement Strategy will also be in accordance with international best practice<sup>4</sup>.

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<sup>4</sup>A number of countries have formulated national procurement strategies such as UK, Australia, Ireland, Tanzania, Kenya, Malawi etc. to institute reforms in a sequential and structured manner

To develop a roadmap for strengthening procurement systems at the federal level and the provinces, the Federal Public Procurement Regulatory Authority, in consultation with and approval of the Advisory Group on Public procurement has formulated a National Procurement Strategy. The development of the strategy involved following steps:

#### **4.1 Situation Analysis**

Situation analysis took note of the existing legislation, regulatory regime, systems and operational practices in vogue among the procuring agencies of federal government and the provincial governments.

#### **4.2 Literature Review**

Literature review included appraisal of:

- a) Legal and regulatory regime in Pakistan
- b) International best practices
- c) Regimes adopted by countries known for effective public procurement systems
- d) Assessment frameworks (esp. OECD-DAC BIS) and their application on Pakistan

A complete list of references may be seen at Annexure-A

#### **4.3 Consultation with stakeholders**

A consultative workshop was held at Bhurban on 1st and 2nd of April, 2013 to seek views and comments of relevant stakeholders including representatives of PPRAs and finance departments and the development partners.

#### **4.4 Interviews**

Interviews and discussions were also held with the core staff of the regulatory authorities and procurement practitioners from the federal and provincial procuring agencies to seek their input in the development of strategy.

### 5.1 Existing Legal Framework

#### 5.1.1 Fairness, Transparency, Efficiency and Accountability

*Fairness:* Fairness demands the procuring agencies to process the procurement in a way which should be just, impartial, in conformity with rules or standards and free from discrimination, and dishonesty. Fairness also demands providing equal opportunity. However, the general perception is that grievances are not redressed and there is no appropriate fora where grievances can be examined impartially.

*Transparency:* Transparency warrants access to all public documents to all the interested persons, this could be ensured through posting on PPRA website. PPRA Rules currently require posting of procurement plans and contract award documents above the threshold of Rs. 50 million on PPRA website. However, there are a number of important documents, which are not mandatory for the procuring agencies to post on PPRA website such as pre-qualification documents, bidding documents and RFP, reports on outcome of short listing process and bid evaluation reports (before the award contract and for contracts below Rs. fifty million)<sup>5</sup>, cancellation notices; contract variations and contract amendments etc.

*Efficiency:* Efficiency requires completion of procurement process within a reasonable and predictable timeframe. In its present shape, the PPRA Rules do not stipulate timelines for different stages of procurement process.

*Accountability:* With regards to accountability, experience of a number of countries<sup>6</sup> shows that association of citizenry and the civil society can help strengthen the integrity of procurement process. Currently, the PPRA Rules do not envisage engagement of civil society or third party audits. Besides, there is no mechanism for accountability even if there is material breach of mandatory provisions.

Procurement rules do provide for an integrity pact but neither rules nor the Act makes a statement on conflict of interest and its disclosure by all concerned. The rules are also silent with regards to code of ethics for procurement officials.

#### 5.1.2 Procurement Law

The FPPRA Board comprises of ten members of which seven are senior civil servants of the Federal Government. They are also the Principal Accounting Officers of the agencies regulated by the PPRA- thus giving rise to conflict of interest. In the absence of well-defined criteria the selection of members from private sector is left to the discretion of the Government. Even otherwise, due to the numerical strength of official members, the Government may control the decision making process of the Authority. Further, the Government can also issue binding policy directions to the Authority. As such, the PPRA does not have the desired level of autonomy that is essential for a credible and effective regulatory agency. Financially, the PPRA is dependent on annual grants allocated by the Ministry of Finance. Absence of financial independence compromises the operational autonomy of PPRA. The position of provincial PPRA is no different except that the composition of SPPRA board is more broad based and incorporates independent stakeholders.

<sup>5</sup> Sindh Rules are an exception as they prescribe mandatory posting of Bid Evaluation reports, EoI and pre-qualification notices on SPPRA website at the time of their announcement. Rule 47 of federal PPRA Rules also provide for making the Bid Evaluation Reports and documents related to award of contract public but after the award of contract. Besides, the mechanism for making these documents public (especially in case of contracts below Rs. 50 million) has not been specified.

<sup>6</sup> Which include countries such as Mexico, Mongolia etc.

The grievance redressal mechanism provides for a single tier only. This is not in line with the international practices. Absence of an independent forum to address the complaints of bidders has adverse consequences as it results in lack of trust of private sector in contracting by procuring agencies; adverse selection of contractors; litigation in superior courts; delays in award of contracts and higher transaction cost.

The public procurement law currently does not cover auction of government stores. The PPRA Ordinance and Rules made thereunder may require amendments to allow application of procurement laws on public auctions.

### 5.1.3 Systems, Policies and Procedures

The PPRA Rules prescribe framing of Regulations and Standard Bidding Documents so as to facilitate standardization of understanding and interpretation amongst different procuring agencies. However, little progress has been made in this regard. Few<sup>7</sup> regulations exist but there still remain areas where these regulations need to be developed such as situations under which negotiations can be allowed and the extent thereof; manner and format of publicizing procurements, situations where packaging of bids or splitting may be allowed, procedure of black listing; guidance on preparation of procurement plans and evaluation of bids; conditions which justify forfeiture of bid security; post qualification requirements; contract variations and amendments etc.

Procurement plans are a mandatory requirement as per PPRA Rules. However, a small number of agencies prepare these plans and fewer still post them on the website of PPRA. The reasons for not preparing the procurement plans are not only the lack of capacity but also uncertainty about availability of budget.

In order to provide technical assistance to procuring agencies, development of procurement manuals by the PPRAs for key departments can be done. Although, Federal PPRA have so far helped ten<sup>8</sup> major public sector organizations in developing their manuals, however no organizations have been identified further. Similarly, no review of existing ten manual has been carried out.

Framework contracts can be useful and efficient for standardized and routine items which are procured by a number of procuring agencies as they help reduce transaction costs and allow benefits resulting from economies of scale. PPRA Rules, however, do not provide sufficient guidance regarding framework contracts<sup>9</sup>.

The current regime does not assign weightage to quality even in cases where quality is critical to the objective of procurement such as drugs and medicines, medical equipment, education material etc.

It is noted that the selection of successful bidder, developer or concessionaire and award of contract in case of Public Private Partnerships generally require competitive bidding process or tendering while adhering to the principles of economy, efficiency, transparency and fairness. Thus, in most countries<sup>10</sup> procurement of PPPs is regulated through Procurement Laws<sup>11</sup>.

In case of Pakistan, the concept of Public Private Partnerships is still in its formative phase at the national level. At the federal level, the regulatory and legal framework for the PPPs is not backed by legislation. The federal PPRA Rules are silent regarding PPP procurements. At the provincial level, however, some progress has been made in

<sup>7</sup>The federal PPRA has notified s regulations on consultancies and documentation at federal level

<sup>8</sup>(1) Pakistan Steel Mills (2) Pakistan International Airlines (3) Telephone Industries of Pakistan (4) Capital Development Authority (5) Civil Aviation Authority (6) Pakistan Public Works Department (7) Pakistan Railways (8) National Telecommunication Corporation (9) Pakistan National Shipping Corporation (10) Utility Stores Corporation of Pakistan (Pvt.) Limited

<sup>9</sup>Several European countries have set up centralized bodies for procurement of standardized, uniform and routine items to ensure uniformity in prices, reduce the hassle and delays in procurement of routine items through framework contracts and tap the benefits of economies of scale. Key examples include Finland (Hansel Ltd) and Italy (Consip).



Sindh and the Punjab. Line departments at both federal and provincial level suffer from capacity constraints as there is dearth of professionals having expertise of managing PPP transactions. The private market for PPPs is also under developed.

## Recommendations

### I. Harmonization of Procurement Laws, Rules and Procedures including nomenclatures

Currently, procurement laws have been promulgated at the federal level Sindh, the Punjab and Balochistan. Similarly, procurement rules are in place only at the federal level, in Sindh and the Punjab. There is a need to introduce procurement law and rules in Khyber Pakhtunkhwa, Azad Jammu and Kashmir and Gilgit- Baltistan. In addition, different titles given to various activities in procurements are also required to be harmonized. (for example, for advertisement notice, Federal Public Procurement Rules used 'invitation to bid' in contrast to Sindh PPRA which is using 'Notice Inviting Tender')

In addition, the recently constituted Advisory Group on Public Procurement (AGPP) - a voluntary association of all PPRAs in the country established under the aegis of Federal PPRA - shall lead the initiative for harmonization of procurement laws and procedures as applicable at the federal and provincial levels. The harmonization will give a positive signal to the private sector participants, reduce barriers to participation, increase competition and help create synergies.

### II. Strengthening of PPRAs through operational independence and financial sustainability

In order to transform the PPRAs into autonomous, neutral and independent regulatory bodies, the mechanism for constitution of PPRA Boards may be reviewed. Inclusion of representatives of private sector stakeholders (such as trade bodies), Civil Society, Auditor General, NAB, PEC, a representative of opposition members in the National Assembly may be considered. The Managing Director may also be selected from public/private sector through open competitive process<sup>12</sup>.

<sup>10</sup>In 12 out of 18 EU countries, the procurement law regulates the PPP Procurements (How to Attain Value for Money: Comparing PPP and Traditional Infrastructure Public Procurement- Philippe Burger and Ian Hawkesworth. ) Similarly, where PPP Projects involve funding from the World Bank or ADB, the procurement regulations of the respective agencies apply. The EU Law also requires use of a competitive and open mode of selection of the contractor in case of PPPs, in accordance with the rules on public procurement contracts or concessions ([http://ppp4krakow.net/About\\_PPP/PPP\\_legal\\_framework/](http://ppp4krakow.net/About_PPP/PPP_legal_framework/)) In view of their peculiar requirements, the PPP Procurements may however, require some special provisions/arrangements to address the limitations of traditional procurement framework.

<sup>11</sup>In view of their peculiar requirements, the PPP Procurements may however, require some special provisions/arrangements to address the limitations of traditional procurement framework.

<sup>12</sup>The proposed arrangement is similar to that of SPPRA in terms of Section 6(2) of SPPRA Act, 2009.

For financial autonomy, the PPRA's may request the Ministry of Finance/ Finance Departments to:

- a) Prescribe a formula for funding their activities so that there is predictability in the expected resources from the government; alternatively,
- b) The PPRA's may be provided one time seed capital which can be invested and annual returns utilized for meeting budgetary requirements.

The levy/fee on tender notices hoisted on PPRA website appears to be the step in right direction for making it financially autonomous. The amount of levy may be enhanced. The authority may also charge a reasonable fee for the capacity building initiatives, and other facilities offered.

### III. Amendment and Revision of Rules

The legal framework may be reviewed and amended periodically to address the gaps and weaknesses, improve transparency and facilitate efficiency and economy in procurement processes. The legal framework could be made more robust and solid by addressing the following areas:

- a) Mandatory posting of all the important documents relating to public procurement;
- b) Code of ethics for procurement officials and staff of regulatory authorities;
- c) Guidance on value for money assessments;
- d) Enabling provisions for managing critical decisions and exercise of discretion through collective decision making bodies (such as procurement committees, inspection committees etc.);
- e) Creating space for oversight of procurement processes by Civil Society;
- f) Prescribing timelines for different steps in procurement processes;
- g) Allowing for consideration of quality aspect in case of procurements of goods, works and services;
- h) Incorporating guidance on framework contracts;
- i) Enabling provisions for e-procurements;
- j) Setting up procurement units manned by specialized staff;
- k) Allocation of an appropriate quota for the small contractors/ firms, which may serve as an incentive for the new businesses to enter market, thus expanding the supplier base and leading to improved procurement outputs due to increased competition;
- l) Specifying consequences of misprocurement and specific penalties for bid rigging or use of corrupt, fraudulent, collusive or obstructive practices in procurement;

- m) Second tier grievance redressal mechanism and effective anti-corruption measures;
- n) Bringing public auctions within the domain of public procurement laws.
- o) Conduct of procurement post reviews by the PPRA's. They may also refer cases to Auditor General and NAB (anti-corruption organization) where material non-compliance of PPRA Rules is suspected.

PPRA should make arrangements to address the gaps in legal framework during the first year of implementation of the strategy because only a sound legal system can enable realization of objectives of a healthy procurement system..

#### IV. Establishment of Second Tier Grievance Redressal Forum

PPRA's shall make arrangements to develop a second (independent) tier for redressal of grievances. This will help the public procurement system in better process management and accountability of public officials which will ultimately lead to efficiency in procurements. PPRA Boards may deliberate and decide on the contours of such a tier. There could be three options for this:

Option 1: An Ombudsman similar to the Tax Ombudsman is created who specifically addresses complaints on public procurement or creating a special cell within the existing Ombudsman office which should only cater to complaints regarding public procurements. Such an office should be provided with skilled and experienced procurement staff.

Option 2: Based on Turkish Model, three members from either the existing Boards of PPRA's or additional members, may constitute a forum specifically responsible for handling complaints. These members shall have expertise in law and public procurement and be willing to devote time for handling the complaints.

Option 3: Setting up an appellate forum headed by retired judge of High Court and comprising two other members- a retired senior civil servant having sufficient expertise in public procurement and an independent expert/professional having specialization in procurement.

In order to ensure that the public procurements do not suffer inordinate delays, a timeframe could be given within which these complaints can be filed. The PPRA Board can also consider a standstill period which will mean that if a complaint is filed within this period, the Board could bar the procuring agency from signing the contract till the complaint is resolved. The second tier office should duly publicize its decisions and keep a record of the complaints for identification of common issues and persistent aberration from the rules/ norms.

## **V. Development of Regulations, Standard Bidding Documents and Manuals**

The PPRA shall develop procurement regulations, standard bidding documents and model manuals for goods, works and services. These regulations, SBDs and manuals may be developed in consultations with the stakeholders.

## **VI. Procurement Planning and its alignment with the Public Financial Management System**

The PPRA may strengthen the capacity of procuring agencies to plan procurements. It may also introduce a compliance regime for developing the procurement plans. This may mean linking production of procurement plan with approval or sanction of budget and hoisting of advertisements on PPRA websites of only those PAs which have shared their procurement plans. It is also important that the fiscal planning is integrated with procurement planning. The role of Finance Division and provincial finance department would be critical in achieving this objective.

## **VII. Introducing E-Procurement**

International experience suggests that technological innovations such as e-procurements and electronic reverse auctions can enhance the efficiency of procurement, eliminate bid rigging, strengthen transparency and achieve value for money. The digitalization of procurement processes eliminates the direct interface between procurement officials and bidders and thereby significantly reduces the chances of bribery and corruption.

The PPRA may establish an e-procurement portal which shall allow:

- a) registration and pre-qualification of contractors whenever required
- b) downloading of bid documents and release of bid announcements
- c) competitive as well as alternate procedures
- d) receiving bidders' clarifications and managing all communication and information on line
- e) shortlisting, bid evaluation and bid comparisons
- f) online negotiations
- g) electronic auctions and reverse auctions
- h) collection, storage and systemizing information and statistics on the procurement process
- i) electronic aggregation of needs of public bodies at a central level
- j) developing a register of suppliers
- k) central electronic catalogue with information on products and services from the registered suppliers'

- l) exception reports' and alerts wherever there are significant deviations from certain benchmarks and norms
- m) comparisons of expenditures on procurement items
- n) spend analysis
- o) contract management options that allow monitoring of contracts concluded
- p) e-invoicing and e-payments etc

Initially, e-procurement may be mandatory for procurement contracts above a certain threshold to be decided by PPRAs. Subsequently, it may be made mandatory for lower threshold contracts.

A pre-requisite for e-procurement readiness is capacity building of the relevant staff of the PPRAs and procurement staff of the procuring agencies. Training plans shall, therefore, incorporate trainings in e-procurement. PPRAs would also have to launch a strong awareness campaign among stakeholders to explain the efficiency benefits of e-procurement.

### VIII. Creating legal framework for Public Private Partnerships

Fiscal limitations in countries have led to innovative approaches in provision of infrastructure. In order to bridge the growing deficit between the cost of the infrastructure and the resources available, and to achieve efficiency and effectiveness in delivery of infrastructure services, Public Private Partnerships have emerged as a growing element of public sector procurement.

To provide legal support to PPPs the federal and provincial governments may introduce a comprehensive legal and institutional framework that provides clear guidelines and procedures for development and implementation of Public-Private Procurement Partnerships in sync with international best practices<sup>14</sup>. The PPPs may be used where it is considered that private sector involvement in such projects would provide a more timely or cost-effective solution, lead to productivity or efficiency improvements in the public entities' functional processes and delivery of services;

PPRAs may frame rules for PPP procurements based on same principles as prescribed for traditional procurements<sup>15</sup>. PPRAs may further develop model contract documents for PPP concessions. Government(s) may also strengthen capacity of implementing agencies for managing PPP transactions. To achieve this objective, procurement trainings may also include modules on PPP to facilitate specialization in PPPs/ PFIs.

<sup>14</sup>Sindh and the Punjab Provinces have already promulgated PPP Laws. It may now frame Rules, Regulations/Guidelines, SBDs etc. to further strengthen the legal regime.

<sup>15</sup>This strategy envisages that the institutional framework of PPPs, project delivery and implementation, financing, financial support/subsidies by the Government etc. will be governed by PPP Law while the procurement of PPPs shall be regulated by the Procurement Rules

## 5.2 Institutional Arrangements

**Regulatory Level:** In terms of human resource, currently Federal PPRA is not adequately staffed. Besides, the staff lacks the desired level of professional expertise in public procurement. Service Regulations which may impart stability and predictability to the career path of the employees does not exist. There are no incentives in place which may attract and retain appropriate talent from the public/private sector. The Authority is required to recommend on procurement laws and policies and perform guidance role for procuring agencies and the suppliers. However, the capacity of PPRA staff in this regard is quite limited.

In terms of functions and powers, the Authority does not have a specific mandate to conduct post-procurement reviews or investigate cases where material non-compliance of principles of procurement is suspected.

The PPRA at federal level and in Sindh and the Punjab have made their presence felt especially to the procuring agencies. However, other stakeholders such as contractors, civil society, citizenry etc. may not be aware of the role and functions of the PPRAs. This may require awareness programs on the part of PPRAs. The awareness programs would be even more important in provinces where PPRAs are yet to be established.

**Entity Level (Professional Procurement Management):** The procuring agencies do not have a dedicated Procurement Unit comprising of specialist staff for managing procurements and contract administration. In most cases, the officers of generalist administrative cadres perform procurement functions. This affects the procurement outputs because of non-professionals dealing with procurement. Insufficient professionalism of officials may translate into poor planning, budgeting and risk management, leading to unnecessary delays and cost overruns for projects.

## Recommendations

### I. Strengthening HR of PPRAs

For efficient performance of Regulatory functions, employee service regulations may be framed<sup>16</sup> and actions may be taken for adequate staffing of the PPRAs. The vacant positions may be filled by hiring qualified staff through a competitive process.

In order to retain qualified personnel, a market based competitive package scheme may be introduced for the employees of PPRAs.

### II. Professionalizing Procurement Function

The federal and provincial governments may institute deliberate efforts to develop a public procurement professional cadre within the civil service through concerted staff training and development programs<sup>17</sup>.

<sup>16</sup>Employee Service Regulations is also a statutory imperative in terms of Section 18 of PPRA Ordinance, 2002.

<sup>17</sup>According to Hinson and Mc Cue (2004) public procurement cannot be perceived as a 'clerical routine,' as procurement practitioners are involved in strategic procurement planning (Hinson, C., & McCue, C. P. (2004)).

<sup>18</sup>A number of Developing countries such as Malawi, Indonesia, Tanzania, Montenegro, Serbia have taken measures for setting up a specialized procurement unit manned by personnel having expertise and specialization in procurement.

<sup>19</sup>A key challenge across countries is to find solutions to protect officials from pressure and influence. According to OECD (2000) a vast majority of countries have legislated standards and code of conduct expected of officials to insulate them from active waste.

In the medium term, the procuring agencies managing annual procurements above a threshold fixed by PPRA Board shall have dedicated procurement units manned by procurement professionals<sup>18</sup>.

<sup>19</sup>A code of conduct and ethics for public procurement professionals may also be notified.

### III. Enhancing outreach of PPRAs through Awareness programs

In order to enhance the outreach of the PPRAs, they may devise and implement a comprehensive awareness program. The awareness program may focus on role and responsibility of PPRAs, the benefits offered by PPRA framework to the citizens, civil society and private sector; information available on PPRA website, grievance handling etc.

## 5.3 Monitoring and Oversight

The monitoring of procurement processes, compliance of procurement laws and compilation of meaningful statistics on procurements undertaken by the public bodies constitute some of the core functions of the PPRAs in Pakistan. However, PPRAs lack the requisite capacity and tools to effectively undertake these functions.

**Procurement Data and Analysis:** Currently, the details of procurements through non-competitive methods are not shared with PPRA. For collection and analysis of procurement data and measuring performance of procuring agencies, an effective arrangement is missing<sup>20</sup>. Consequently, a significant portion of procurements in terms of value and a number of steps in procurement cycle may not be observable to PPRAs thereby constraining their monitoring ability.

**Entity Level:** At the entity level, even the larger public agencies do not have automated Management Information Systems which could enable them to track the compliance of public procurement rules during the procurement cycle. The manual contract management systems lack the capacity to raise red flags in case of deviations from conditions laid down in the contract document.

There are no written standards for internal audits except in a few autonomous agencies. Reports are not regular and there is no stipulated time frame for reporting. Post-audit system is independent but it focuses solely on financial matters and procedural compliance. The audits are usually carried out after significant delays and the auditors are not trained in conducting performance audits.

## Recommendations

### I. Strengthening Monitoring Capacity of PPRAs

The oversight capacity of the regulatory authorities needs to be strengthened. Particularly, an electronic procurement monitoring and evaluation (M&E) system may be established by the PPRAs which is able to generate automated reports on compliance of procurement rules by the procuring agencies. The electronic data management

<sup>20</sup>For example, PPRAs are not in a position to generate information regarding the average number of days taken by an entity to award a contract; percentage expenditure on procurements through alternative methods; percentage of tenders rejected in each process; size of competition, percentage of tenders that use PEC SBDs; percentage tenders cancelled more than once, price comparison of same item procured by different agencies etc. etc.

<sup>21</sup>The electronic systems in Portugal, Romania and UK enable the central procurement offices to collect and analyze information (regarding the use of public funds, rules and procedures used in procurement, data on procuring agencies and bidders etc.) which enables the oversight agencies to effectively monitor and manage compliance.

<sup>22</sup>Benchmark Indicators

<sup>23</sup>Performance Linked indicators



system shall have the capacity to collect, compile, collate and analyze procurement data and report on the performance and compliance of procurement agencies<sup>21</sup>. The system may use the baseline indicators, benchmarks and performance linked indicators based on widely accepted national and international standards (eg. OECD-DAC BLIs<sup>22</sup> and PLIs<sup>23</sup> or any other appropriate standards).

The rules may be amended to make it mandatory for the procuring agencies to upload the annual procurement planning, advertisements, pre-qualification notices, bid documents/prequalification documents, bid evaluation, post contract information on a standard format (with no threshold limits), and contract variations on PPRA website. Similarly, the procuring agencies shall also post periodic reports/details of procurements undertaken through use of non-competitive methods. Timelines may also be specified for posting of such data. Procurements undertaken through alternate methods may also be appropriately disclosed on PPRA website.

## II. Setting up Procurement Data Management and Information System

PPRAs will be able to get legitimacy, support and resources if its activities are perceived to offer value to the procuring agencies, private sector and the general public. Procuring agencies should see the monitoring system as assisting them in achieving the objective of value for money rather as a tool to monitor and punish them.

The mechanism for flow of nationwide procurement data from the procuring agencies to the regulatory entity be devised and vice versa. It should be complemented by creation of analytical capacity at the regulatory level. A uniform data reporting format may be conceived which may capture aggregated information at the macro level as well as entity level. This will help analyze trends and problems in public procurement which can later be used for structural improvements in the system. PPRA will also need to strengthen its analytical capacity by ensuring availability of required human/technical resources.

Pursuant to the above objective, the PPRA website shall incorporate a centralized database which can facilitate procuring agencies in their procurement decisions by providing them easy access to information regarding past contracts, performance of contractors and suppliers, black listed and debarred vendors, prices paid and other procurement related indicators for different objects of procurements<sup>24</sup>.

## III. Strengthening Monitoring Capacity of PAs

The procuring agencies managing high value contracts shall establish automated management information systems which enable them to monitor the progress and quality of contract execution. The system shall facilitate periodic monitoring of procured works, goods and services and report on quality, levels of achievement/ waste and options to continue implementing, adjusting or terminating contracts where necessary.

Procuring agencies shall disseminate and use quantifiable performance standards to evaluate the performance of procurement staff.

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<sup>24</sup>Ireland, Italy, Korea, US, Poland, Korea and Mexico compile data on bidders/ contractors and contract execution through electronic means. Similarly, Belgium, Portugal, Turkey and UK electronically collect information on past procurement contracts. This facilitates the evaluation of procurements.



#### IV. Improving Robustness of Internal and External Controls

Written standards may be prescribed for internal audits. Detailed protocols may be stipulated for reporting and compliance mechanism. External audits by the Auditor General of Pakistan may be strengthened. The auditors may be imparted specialized training for conducting procurement audits, performance audits and value for money assessments.

### 5.4 Capacity Building of Procuring Agencies and Suppliers

It is important for the procuring agencies to design and draft clear and succinct terms of reference and technical specifications. It is also equally important that the suppliers come up with well-developed and informed proposals so that the best possible consultants/contractors are picked up to undertake the assignment. It is thus important and critical that the federal and provincial regulatory authorities develop a training strategy which encompasses all the dimensions, facets of procurement and all the stakeholders- regulators, procuring entities and suppliers/potential contractors. Currently a training strategy neither exists for the procuring agencies nor on the supply side of procurements. PPRA has established a procurement training institute called National Training Institute of Procurement, and Punjab and Sindh PPRA's conduct training sessions for respective provincial procuring agencies, however, a detailed training calendar and structured capacity building programs does not exist.

## Recommendations

### I. Capacity Building of Procurement Staff

It will be useful and constructive that the federal and provincial regulatory authorities develop a training strategy which encompasses all the dimensions and facets of procurement.

The PPRA's may also develop an action plan for the capacity building strategy highlighting short, medium and long term interventions and work closely with the government and development partners to get the strategy adequately funded.

Training programs' design may be based on a skills gap inventory to match the needs of the system. The waiting time to get into a course (for public or private sector participants) shall be reasonable.

For design of course content and the curriculum, the PPRA's may consider collaboration with external professional bodies such as CIPS.

Training plans may also be developed by the provincial regulatory authorities as bulk of the procurement is done at the provincial level. The provincial authorities should include officials from different levels of Government- Provincial, Districts and Tehsils in the training plan because the City District governments in particular and other districts in general are engaged in extensive procurement.

A system may be put in place which allows for tracking and recording an individual's continuing professional development.

## II. Partnering with Public and Private Sector Universities and Training Institutions

The PPRA's may consider partnering with higher education institutions (LUMS, IBA etc.) and specialized training institutions (NIMs, PIM etc.) for developing training modules which cover full range of courses that are required for building procurement skills of procurement officials.

The National Institute of Procurement (NIP) – an institute that works under the administrative control of PPRA imparts trainings to officials of procuring agencies of Government of Pakistan- may be strengthened through its affiliation with a recognized institution such as FAST, NUST etc. and making it a diploma awarding institute.

The Government may encourage training in public procurement as part of the national education policy. It may also encourage and advise the institutions of higher learning especially the Engineering Universities to develop public procurement demand driven training curricula targeting specific procurement functions.

## III. E-learning

Multiple channels of delivery may be explored. The concept of e-learning may also be considered as it allows an opportunity to improve skills and professional credentials through on-line accessible training. Besides, e-learning can be easily updated (if designed appropriately) as the system matures and develops.

## IV. Procurement Certification

Certification be made mandatory for those officials who have to deal with procurement and shall be a pre-condition for postings against procurement assignments. The certification requirements shall be based on level of responsibility of the procurement personnel. The design and development of hierarchy of certifications (certificate course, diploma, degree course etc.) will require special attention.

## V. Training of Suppliers and other stakeholders

As part of its obligation to enhance the capacity of bidders to submit responsive bids, PPRA's may take the initiative of training the potential bidders in the important provisions of the PPRA Rules and Regulations as well as the procedures for the Procurement of goods, works and services.

In addition, training courses may be developed for other stakeholders such as Auditors (of Auditor General of Pakistan), investigators (of anti-corruption bodies), civil society, media etc.

## 6. ACTION PLAN

S/ N	Strategic Objective	Strategy	Output/ Targets	S/M/L <sup>25</sup>	Time Frame <sup>26</sup>	Implementing Agency	KPI <sup>27</sup>	Budget
1.	Strengthening Legal Framework to Operationalize Principles of procurement and enhance the effectiveness and efficiency of systems, policies and procedures	1. Harmonization of Procurement Laws		M	Year 2- Year 3	Govts./PPRAs	Harmonized Laws, Rules, SBDS notified	—
		2. Operational autonomy and financial sustainability of PPRAs	Independent members appointed subsequent to appropriate amendments in the Law  Financial Plan in place	S  M	12 Months (Year 1)	PPRAs  Govts./PPRAs	Draft Amendment Act finalized  Financial Plan finalized	—
		3. Amendment and Revision of Rules	Amended Rules (Document) approved by the respective Governments and disseminated among procuring agencies for implementatin	S	12 to 24 months (Year 1 to 2)	PPRAs/Govts.	Rules notified	Rs. 5.0 M
		4. Introduction of independent Grievance Redressal forum	Amendment in Rules notified by the Government	S	12 Months (Year 1)	PPRAs/Govts.	Rules- document	-----

<sup>25</sup> S/M/L= Short, Medium or Long term

Short = Year 1, Medium = Year 2-3, Long = After Year 3

<sup>26</sup> Time frame has been kept flexible and in a broad range keeping in view the differences among different provinces/PPRAs as function of their present progress.

<sup>27</sup> Key Performance Indicator

S/ N	Strategic Objective	Strategy	Output/ Targets	S/M/L <sup>25</sup>	Time Frame <sup>26</sup>	Implementing Agency	KPI <sup>27</sup>	Budget
		Constitution of review forum	Grievance redressal forum in place;	M	Year 2 to Year 3	PPRAs/Govt	No. of complaints handled by the forum and average time taken to decide a complaint	Rs 15 M/annum for each level of Govt
		Publicizing decisions of 2 <sup>nd</sup> tier forum	100 %Decisions posted on PPRA websites	M	Year 2 to 3	PPRAs	No. of decisions hoisted	-----
		Implementation of decisions by PAs	100% decisions complied by PAs	M	Year 2 to 3	PAs	% No. of decisions implemented	-----
		Awareness regarding complaints handling system	Media Campaign (TV/Newspapers)	M	Year 2 to 3	PPRAs	Awareness plan	-----
		5.Development of Regulations and Standard Bidding Documents	Regulations (Documents), SBDs for goods, works, services, consultancy services, medicines, pre-qualification documents, PPPs etc (Documents) approved by the PPRA Boards	S	12- 24 months (Year 1 to Year 2)	PPRAs	% Number of procuring agencies using SBDs and implementing regulations	Rs. 10 M
		Development of model Manuals	Model Manuals developed by PPRAs (Documents)	M	(Year 2 to Year 4)	PPRAs and Major Procuring Agencies	% No of large procuring agencies having developed their procurement manuals	Rs. 20 M

S/ N	Strategic Objective	Strategy	Output/ Targets	S/M/L <sup>25</sup>	Time Frame <sup>26</sup>	Implementing Agency	KPI <sup>27</sup>	Budget
		6.Strengthening procurement planning and its integration with budgetary operations	Allocation and Release of budgets as per procurement plans  Hoisting of procurement plans on PPRA websites	M  M	Year 2 to 4  Year 1 to Year 3	Finance Departments /PPRAs/ PAs  PAs/ PPRAs	% No. of procuring agencies submitting procurement plans with budget proposals  % number of procuring agencies posting procurement plans on PPRA websites	
		7. Introducing E- Procurement	Physical Setting up of e-portal  Training in e- Procurement  Awareness campaign	M	Year 2 to 4	PPRAs/Govts	E-procurement portal established Minimum 3 officials of large agencies and core staff of regulatory authorities trained	Rs M  Rs 20 M each*  Rs 30 M each*
		8. Creating enabling legal and institutional environment for Public Private Partnerships	Promulgation of PPP Law (except Sindh and Punjab)  Notifying Procurement Rules for PPPs (except Sindh)  Setting up of PPP Departmental Nodes	M	Year 2 to Year 4	PPRAs/Govts	Preparation of Draft PPP Law (Document)  Preparation of Draft Rules (Document)  No of departments having set up departmental nodes	Rs 2 M  Rs 1 M  Rs. 10 M/annum/n ode  Rs 2 M

S/ N	Strategic Objective	Strategy	Output/ Targets	S/M/L 25	Time Frame <sup>26</sup>	Implementing Agency	KPI <sup>27</sup>	Budget
			Capacity Building of Departmental Nodes				No of employees/ personnel of PPP Units and departmental nodes trained in PPPs	Rs 2 Million
			Development and notification of VGF and risk management Guidelines				Development of Draft Guidelines (Document)	
		9. Promulgation of PPRA Act in KPK, AJK and GB	Act approved by respective legislature	S	12 months (Year 1)	Govts. Of KPK, AJK AND GB	Act published in Gazette	—
2.	Strengthening Institutional Arrangements	1. Strengthening HR of PPRAs through Recruitment of vacant posts through competitive process, specialized training, framing of service regulations and provision of special incentives	Service Regulations and incentive scheme implemented.  Training Plan for PPRA staff finalized and implemented	M	Year 1 to Year 3	PPRAs	95% core staff recruited and trained.  Incentive scheme approved by PPRA Board	—
		2. Professionalizing the procurement function by developing a procurement cadre, special incentive for procurement officials and introducing a code of conduct for procurement	Framing of Procurement Cadre Rules and recruitment of specialized procurement staff  Setting up procurement Units in 75% of large PAs	M	Year 2 to Year 4	PPRAs/ Govts.	% of specialized procurement staff recruited  % of large agencies having dedicated procurement units  Incentive scheme	Rs 1 M  Rs. 5M/PA /annum  -----



S/ N	Strategic Objective	Strategy	Output/ Targets	S/M/L <sup>25</sup>	Time Frame <sup>26</sup>	Implementing Agency	KPI <sup>27</sup>	Budget
		officials	Special incentives scheme implemented				notified	-----
			Posting of certified professionals in 75% procurement units				% of procurement units having certified professionals	
		3. Enhancing outreach of PPRA through Awareness programs	Media Campaign (TV/Newspapers)	M	Year 2 to 3	PPRAs	Awareness plan	-----
3.	Monitoring and Oversight	1. Strengthening monitoring capacity of PPRAs through setting up electronic M&E system with the capacity to monitor compliance and measure performance of procuring agencies	A robust M&E system in place	M	Year 1 to Year 3	PPRAs	Percentage No. of procuring agencies incorporated into the M&E system	Rs 20M
		2. Setting up Procurement Data Management and Information System (incl. info on past contracts, prices, performance of contractors, black listing, info on procurements through non-	Electronic Database established	M	Year 2 to Year 3 to Year 4	PPRAs	Percentage No. of procuring agencies submitting data into the system	Rs 20M

S/ N	Strategic Objective	Strategy	Output/ Targets	S/M/L <sup>25</sup>	Time Frame <sup>26</sup>	Implementing Agency	KPI <sup>27</sup>	Budget
		competitive methods etc.)						
		3. Strengthen monitoring capacity of Large PAs	Establish electronic M&E system in large PAs and training of relevant staff in 50% of large procuring agency	M	Year 2 to Year 4	PAs	No. of large Procuring agencies having robust M&E systems in place	Rs 2M/PA
		4. Improving robustness of internal and external controls	Internal Audit Standards notified alongwith reporting mechanism/SOP	S	Year 2	Govt./Finance departments	Internal Audit Guidelines notified (Document)	Rs 2 M
			Internal Audit System in Place	M	Year 2 to Year 4	Govts	No. of large procuring agencies having Internal Auditors appointed	Rs 10 M
			Capacity Building of 60% Auditors to undertake procurement and performance audits	M	Year 1 to Year 3	PPRAs/ AGP	% No. of Auditors trained	
4.	Capacity Building of Procuring Agencies and Suppliers	1. Training and capacity building of procuring staff	75% staff trained	M	Year 1 to Year 4	PPRAs	Training plan; No. of people trained	Rs 20 M/annum for each PPRA.
		2. Partnering with Training institutions and universities	MoUs signed Courses introduced	M	Year 2-Year 4	PPRAs/ Universities	No. of courses offered by the partner institutions	
		Affiliation of NIP with a degree awarding institution and making it a	Approval of HEC/concerned university	M	Year 2	FPPRA/ NUST etc	No. of diplomas awarded	
				M	Year 2-Year 4			



S/ N	Strategic Objective	Strategy	Output/ Targets	S/M/L <sup>25</sup>	Time Frame <sup>26</sup>	Implementing Agency	KPI <sup>27</sup>	Budget
		diploma awarding institute						
		3. E-learning	E-learning courses introduced			PPRAs	No. of officials offered e- learning	Rs.
		4. Procurement Certification Design of hierarchy of courses	Certification mechanism in place Courses developed and introduced	S	Year 2- Year 3  Year 1 to Year 2	PPRAs  PPRAs	Guidelines in place  Course modules- document No. of people trained as per new courses designed	Rs  Rs 2 M
		5. Training of Suppliers and Contractors	Courses introduced for private sector	M	Year 2 to Year 4	PPRAs	Training plan; No. of people trained	Rs.3M/annum for each PPRA

## Survey of Literature<sup>28</sup>

According to Arrowsmith and Trybus (2003), “the last decade of the twentieth century....witnessed the start of a 'global revolution' in the regulation of public procurement.”<sup>29</sup> In the face of fiscal constraints and the need to fight corruption, governments are cognizant that significant savings can be gained by a well-managed procurement system. Most developing countries have also realized that a well-organized procurement system contributes to good governance by increasing confidence that public money is prudently spent. Procurement reforms have therefore, been instituted in a number of developing countries to achieve transparency and efficiency and increase the accountability of public agencies<sup>30</sup>.

**Strengthening Capacity of procuring agencies:** Oriana Bandiera et al<sup>31</sup> observe that Passive waste accounts for 83% of total estimated waste in public procurements. As such, a robust public procurement strategy shall focus on addressing inefficiencies emanating from weak capacity of procuring agencies and red tape in the processes.

**Professionalizing Procurement function:** An important aspect in which developing countries are reforming procurement systems is by bringing professionalism to those who carry out and manage procurement function. The OECD report (2007) also describes Professionalizing public procurement through a common body of knowledge, skills and ethical standards as cornerstone for an efficient procurement system<sup>32</sup>.

To strengthen professionalism and capacity building of procurement officials the UK's Office of Government Commerce introduced the following initiatives to reinforce professionalism<sup>33</sup>:

- (a) The Successful Delivery Toolkit – an online guide which covers procurement policy, tools and good practice for procurement, project and risk management;
- (b) The Successful Delivery Skills Program and Project Management Specialization – a scheme providing career route to senior management through specialization in project management; and
- (c) Centres of Excellence – within departments to support specific programs/ projects; providing oversight and advice and working to enhance skills and capacities<sup>34</sup>.

**Procurement network:** Netherlands set up PIANOo<sup>35</sup> in 2005- a professional and innovative public procuring agencies network. PIANOo aims at professionalizing procurement in all government departments<sup>36</sup>. It is a virtual meeting place that brings tendering experts together, pools knowledge and experience and provides expert advice and practical tips<sup>37</sup>.

**Role of Civil Society:** M V Pimentel based on the experience of Public Procurement Reforms in Philippines considers the role of civil society organization as pivotal to any strategy aimed at reforming the country procurement regime<sup>38</sup>.

<sup>28</sup> The literature review is categorized into different sections focusing on different themes in public procurement.

<sup>29</sup> Khi V. Thai, *Challenges in Public Procurement*

<sup>30</sup> Robert R. Hunja, *Obstacles to Public Procurement Reform in Developing Countries*, The World Bank, Washington D.C.

<sup>31</sup> Oriana Bandiera, Andrea Prat and Tommaso Valletti; *Active and Passive Waste in Government Spending: Evidence from a Policy Experiment*, 2008

<sup>32</sup> Draft Check List for Enhancing Integrity in Public Procurement: [www.oecd.org/dataoecd/18/15/38944200.pdf](http://www.oecd.org/dataoecd/18/15/38944200.pdf)

<sup>33</sup> The impact of the Office of Government Commerce's initiative on the delivery of major IT enabled projects, Report ordered by The House of Commons, 2005.

<sup>34</sup> Similar initiatives have been taken by the Government Procurement Development Group (GPDG) in New Zealand.

<sup>35</sup> PIANOo is part of the Dutch Ministry of Economic Affairs, Agriculture and Innovation

<sup>36</sup> [www.pianoo.nl](http://www.pianoo.nl)

<sup>37</sup> [www.pianoo-desk.nl](http://www.pianoo-desk.nl)

<sup>38</sup> Maria Kristina Villanueva Pimentel, Procurement Watch, Inc.: *The Role of Civil Society in Public Procurement Reforms in the Philippines* ([www.unpcdc.org/.../procurement%20watch,%20inc.%20](http://www.unpcdc.org/.../procurement%20watch,%20inc.%20))

**Oversight and Control Mechanism:** Jansen and Meckling (1976) observe that the principal can limit divergences from his interest by establishing appropriate incentives for the agent and by incurring monitoring costs designed to limit the aberrant activities of the agent<sup>39</sup>. In the context of public procurement Ohad Soudry<sup>40</sup> also highlights the importance of oversight and effective control mechanisms (both ex ante<sup>41</sup> and ex post<sup>42</sup>) in resolving the Principal Agent problem.

**Monitoring of Procurment Processes:** There exist a number of best practices for oversight and review of procurement processes which can serve as a guide for strengthening the monitoring framework in Pakistan. In Poland and Hungary, the procurement notices, documents and evaluation reports are filtered/ screened by Public Procurement Office (PPO). In case of major violation of Rules, the PPO may recommend re-evaluation of the bids, or the cancellation of the whole procedure. When infringements are neither substantial nor have influence on the outcome, the PPO may recommend course of action for future proceedings<sup>43</sup>.

The findings of the ex-ante controls are published in periodic reports every six months and are widely disseminated (e.g. on the website of the Public Procurement Office)<sup>44</sup>. Similar controls are exercised by procurement authorities in Lithuania, Tanzania, Kenya, Mauritius, Philippines, Slovak Republic, Malta, Denmark, Sweden etc. Slovak Republic, Malta, Denmark, Sweden etc.

**Electronic Data Collection on Procurement:** In US, the "Acquisition Central"<sup>45</sup> is an E-Government initiative that aggregates federal procurement data. One of its features is to provide a link to the numerous databases that help collect, configure and communicate information about public procurement. The information systems include among others, the Central Contractor Registration (CCR)<sup>46</sup> - Government's primary supplier database that collects, validates and disseminates supplier data<sup>47</sup>; the Excluded Parties Lists System (EPLS)<sup>48</sup> - a web-based system that identifies black listed contractors<sup>49</sup> and the Past Performance Information Retrieval System (PPIRS)<sup>50</sup> - a web-based, government-wide application that provides relevant information on a contractor's past performance to the procuring agencies for making source selection decisions<sup>51</sup>.

Germany's Federal Procurement Agency has set up an electronic workflow that helps centralize all information related to public procurements. It provides a record of the different stages of the procurement process. Employees are assisted by an electronic workflow. All files are stored in a document management system. The accurate records help provide audit trail of procurement decisions. In addition, supervisors may access any document at any time<sup>52</sup>. The department for quality management randomly examines documents in the system, while the internal audit reviews transactions of the previous year. These inspections are not only used to prevent corruption, but also to ensure economy in public procurement<sup>53</sup>.

<sup>39</sup>Jensen, M. C., & Meckling, W. H. (1976). "Theory of the Firm: Managerial Behavior, Agency Costs and Ownership Structure." *Journal of Financial Economics*, 3: 303-360.

<sup>40</sup>Ohad Soudry, A Principal Agent Analysis of Accountability in Public Procurement

<sup>41</sup>Ex ante controls include laws, rules and regulations governing the conduct of procurement officials as well as well-defined code of ethics by media.

<sup>42</sup>Ex post controls include procurement reviews by the regulatory authority, external audits by the auditors or social controls.

<sup>43</sup>OECD, Mapping out Good Practices for Integrity in Public Procurements, 2006.

<sup>44</sup>The information included in those reports have a preventive effect as it draws the attention of procuring entities to the scale, type and weight of deviations found and enable them to avoid occurrence of similar errors.

<sup>45</sup>[www.acquisition.gov](http://www.acquisition.gov)

<sup>46</sup>see <http://www.ccr.gov>

<sup>47</sup>Both current and potential suppliers and contractors are required to register with CCR to be eligible for participation in federal procurements. Once they are registered, their data will be shared with other federal electronic business systems that promote the paperless communication and co-operation between systems.

<sup>48</sup>see <http://www.epls.gov>

<sup>49</sup>The EPLS is updated to reflect government-wide administrative and statutory exclusions, and also includes suspected terrorists and individuals barred from entering the United States. The user is able to search, view, and download current and archived exclusions.

<sup>50</sup><http://www.ppirs.gov>

<sup>51</sup>The PPIRS consists of several sub-systems and databases e.g. Contractor Performance System, Past Performance Data Base, and Construction Contractor Appraisal Support System etc. Other acquisition systems available on "Acquisition Central" include Federal Procurement Data System (FPDS), Electronic Sub Contracting Reporting System (eSCRS) etc.

<sup>52</sup>In case of suspicion the contact person of prevention for corruption may also have access to documents for inspection. This access is not visible for the official concerned.

<sup>53</sup>OECD, Integrity in Public Procurement, Good Practice from A to Z, 2007

**Good Practice Guidance by PPRA:** Several countries such as Ireland, Austria, France, Italy, Denmark envisage a consultative/ guidance role for their procurement oversight bodies in the application of public procurement regulations<sup>54</sup>. The Government Contract Committee in Ireland advises on procurement issues of general concern to the State procurement agencies. It also disseminates good practice guidance material<sup>55</sup>.

**Grievance Redressal Mechanism:** External review of procurement complaints has gained wider recognition in view of it being perceived as unbiased and independent of the procuring agency. OECD (2000)<sup>56</sup> concludes that powers to handle complaints and review procurement decisions should be given to an independent body comprising members having professional knowledge. The body should have powers to demand corrective action. Based on the study of the dutch office of Procurement Ombudsman, M.J. Gruppen concludes that the institution of Procurement Ombudsman is an effective channel for addressing mal-administration in Public Procurements<sup>57</sup>.

**E-Procurement:** Literature on e-procurement<sup>58</sup> discusses several benefits of e-procurement. According to Engstrom et al., the key advantages of e-procurement include cost efficiency, time savings, easier ordering, reduction in paperwork, standardized and transparent processes, better compliance with laws and easier access to information<sup>59</sup>. Similarly, Paul Schapper observes that "E-procurement can also be a means of standardizing and monitoring processes, thereby facilitating control and reduction of discretion through benchmarking. Decisions become comparable and histories profiled, thereby allowing for internal control, audit, and exception reporting"<sup>60</sup>.

**Public Private Partnerships:** PPPs have globally emerged as an innovative way of managing risks and enhancing efficiency and value for money in public procurement. G.W.E.B Van Harpen while discussing the advantages and disadvantages of PPPs, describes value for money as the most important advantage of PPPs. Money drivers include risk transfer, output based specification, increased competition, long term nature of contracts, cost efficiency and quicker delivery of projects<sup>61</sup>. Darrin Grimsey and Mervyn Lewis (2007) have argued that PPPs are a way of introducing very different incentives into the procurement process. At a practical level, discipline is injected by the participation of private capital that is genuinely 'at risk' and that is not artificially low and divorced from project risk<sup>62</sup>.

**Study of Country Procurement Regimes:** During the course of preparation of this document procurement laws and regulations of several countries were studied. The study revealed following striking features:

- (a) Similarly, New Zealand, Korea and Sweden prescribe Publication of contract award notice when non-competitive methods are used. Ireland, Australia and New Zealand also make it mandatory to disclose the justification for using alternative methods.
- (b) Chile, Mexico and Poland require publicizing of procurement plans by the procuring agencies. Australia, Finland and New Zealand also require Project-specific procurement plans for specific purchases of goods and services that are considered high value, strategic or complex.
- (c) In Mauritius, Montenegro and Philippines, the Procurement Board may propose action in case of contravention of Rules. In Kenya and Tanzania, PPRA may order investigation in case it suspects a breach of rules. Kenya, Mauritius, Tanzania, Montenegro, Serbia, Rwanda, Philippines prescribe penalties for procurement offences.

<sup>54</sup>European Union- Authority for the Supervision of Public Contracts, *The Comparative Survey of the National Public Procurement Systems across the PPN*, 2010

<sup>55</sup>[www.per.gov.ie](http://www.per.gov.ie)

<sup>56</sup>OECD (2000); *Public Procurement Review Procedures*, Sigma Papers, No. 30, OECD Publishing. <http://dx.doi.org/10.1787/5kml60w0qbfv-en>

<sup>57</sup>Martine J. Gruppen; *The Procurement Ombudsman: An effective National Procurement mechanism?*

<sup>58</sup>W. D. Presutti, Jr., "Supply management and e-procurement: creating value added in the supply chain," *Industrial Marketing Management*, no. 32, pp. 219-226, 2003.

<sup>59</sup>A. Engström, E. Salehi-Sangari, and A Wallström, *Implementation of Public E Procurement in Swedish Government entities*

(<http://www.europeseaanbestedingen.eu/europeseaanbestedingen/download/common/implementatie-e-procurement-in-zweedse-overheid.pdf>)

<sup>60</sup>Paul Schapper; *The impact of e-procurement on corruption: The potential of e-procurement for curbing corruption risks (Fighting Bribery in Public Procurement in Asia and Pacific, ADB/OECD- Proceedings of 7th regional seminar on making international anti-corruption standards operational)*; 5-7 Nov. 2007

<sup>61</sup>G.W.E.B Van Harpen, *Public Private Partnerships, The Advantages and Dis Advantages Examined*, AVV Transport Centre, Dutch Ministry of Transport

<sup>62</sup>Darrin Grimsey and Mervyn Lewis ; *Public Private Partnership and Public Procurement*, Agenda, Volume 14, Number 2, 2007, pages 171-188

- (d) Bangladesh procurement rules stipulate Procurement Post Review of a sample of procurements by independent consultants hired by the CPTU<sup>63</sup>. The CPTU posts the findings and recommendations of the Procurement Post Review on its website<sup>64</sup>. Similarly, procurement laws in UK, Belgium, Finland and Ireland<sup>65</sup> provide for review of procurements that is conducted on a confidential basis<sup>66</sup>.

**Audit Observations:** A perusal of Audit Reports of Government of Sindh for the years 2008-09, 2009-10, 2010-11 and 2011-12 revealed following common audit observations regarding procurement actions:

- (a) Procurements (above threshold of Rs. one lac) without inviting open tenders.
- (b) Splitting of tenders
- (c) Non-award of contract to the lowest evaluated bidder
- (d) Unjustified appointment of consultant through single source selection
- (e) Excess execution of items of works over sanctioned estimate
- (f) Purchase of medicine beyond requirement
- (g) Expenditure beyond work order specification
- (h) Non-production of record (Tender files)
- (i) Non-recovery of Public Works advances
- (j) Payment in excess of contract amount
- (k) Non-recovery of Stamp duty, income tax, sales tax etc.
- (l) Non-crediting of unclaimed security deposits
- (m) Non-recovery of interest on mobilization advance and Unlawful payment of mobilization advance
- (n) Unjustified payments on account of price escalation
- (o) Double payment on execution of same work

The Audit officials relied heavily on PWD Manual whereas relevant provisions were available in SPP Rules 2010 and were materially different from the provisions of PWD Manual.

<sup>63</sup>Central Procurement Technical Unit

<sup>64</sup>Rules 45 and 46 of the Balochistan Public Procurement Rules

<sup>65</sup>OECD, *Integrity in Public Procurement, Good Practice from A to Z*, 2007

<sup>66</sup>Each review takes about three or four days. At the end of their investigations, the review team produces a report summarizing findings and recommendations, together with an assessment of the project's status as Red, Amber or Green "Red" status means that remedial action must be taken immediately; but not necessarily stop the project; "Amber" status indicates that the project should go forward with recommendations for actions to be carried out; "Green" status shows that the project is on target to succeed but may benefit.

- A Anvuur1 and M. Kumaraswamy, S. Male, Taking Forward Public Procurement Reforms in Ghana, CIB W107 Construction in Developing Countries International Symposium “Construction in Developing Economies: New Issues and Challenges”, January 18th – 20th; 2006 – Santiago, Chile :(Available online <http://www.academicjournals.org/jpapr>)
- A. Engström, E. Salehi-Sangari, and Å Wallström, Implementation of Public E Procurement in Swedish Government entities(<http://www.europeseaanbestedingen.eu/europeseaanbestedingen/download/common/implementatie-e-procurement-in-zweedse-overheid.pdf>)
- ADB-OECD, Anti-corruption policies in Asia and the Pacific: Thematic review on provisions and practices to curb corruption in public procurement Self-assessment report Philippines, ADB/OECD Anti-Corruption Initiative for Asia and the Pacific
- Darrin Grimsey and Mervyn Lewis ; Public Private Partnership and Public Procurement, Agenda, Volume 14, Number 2, 2007, pages 171-188
- Draft Check List for Enhancing Integrity in Public Procurement: [www.oecd.org/dataoecd/18/15/38944200.pdf](http://www.oecd.org/dataoecd/18/15/38944200.pdf)
- Enhancing Best Practices in Public Procurement, Proceedings of the 3rd International Public Procurement Conference, Amsterdam Netherlands, 28-30 August, 2008
- European Union- Authority for the Supervision of Public Contracts, The Comparative Survey of the National Public Procurement Systems across the PPN, 2010
- G.W.E.B Van Harpen, Public Private Partnerships, The Advantages and Dis Advantages Examined, AVV Transport Centre, Dutch Ministry of Transport
- Government of Balochistan, Purchase Manual
- Government of Balochistan, BPPRA Act 2009
- Government of Balochistan, West Pakistan Building and Roads Department Code
- Government of Khyber Pakhtunkhwa and Development Partners, NWFP Province, Pakistan-Procurement Systems Performance Assessment, 2007
- Government of Khyber Pakhtunkhwa, NWFP Goods, Works, Services and Consultancy Services (Amendment) Ordinance, 2002
- Government of Khyber Pakhtunkhwa, NWFP Goods, Works, Services and Consultancy Services Rules, 2008
- Government of Khyber Pakhtunkhwa, NWFP Procurement Grievance Redressal Rules, 2002
- Government of Pakistan, Constitution of Islamic Republic of Pakistan
- Government of Pakistan, NAB Ordinance, 2002



- Government of Pakistan, Pakistan Penal Code
- Government of Pakistan, PPRA Ordinance, 2002
- Government of Pakistan, PPRA Rules, 2004
- Government of Pakistan, Procurement Code
- Government of Pakistan, Public Procurement Regulations for procurement of Consultancy Services, 2010
- Government of the Punjab, Punjab PPRA Rules 2009
- Government of the Punjab, Punjab Procurement Regulatory Authority Act 2009
- Government of Sindh, Audit Report on the Accounts of Government of Sindh, Audit Year 2008-09
- Government of Sindh, Audit Report on the Accounts of Government of Sindh, Audit Year 2009-10
- Government of Sindh, Audit Report on the Accounts of Government of Sindh, Audit Year 2010-11
- Government of Sindh, Audit Report on the Accounts of Government of Sindh, Audit Year 2011-12
- Government of Sindh, and Development partners, Pakistan- Sindh Province: Baseline Procurement Performance Assessment Report
- Government of Sindh, Provincial Anti Corruption Rules 1993
- Government of Sindh, SPP RULES 2010
- Government of Sindh, SPPRA Standard Bidding Documents (RFP)
- Government of Sindh, SPPRA Standard Bidding Documents of Large Works
- Government of Sindh, SPPRA Standard Bidding Documents of Small Works
- Government of Sindh, SPPRA Standard Bidding Documents of Small Works (upto Rs. 2.5 million)
- Government of Sindh, West Pakistan Delegation of Financial Powers Rules, 1962
- Government of Sindh, SPPRA ACT 2009
- Government of Malaysia, Ministry of Finance Government Procurement Division, Malaysia's Government Procurement Regime
- Government of Bangladesh- Central Procurement Technical Unit, The Public Procurement Rules, 2008
- Government of Bangladesh, Public Procurement Act, 2006
- Government of India, General Financial Rules, 2005
- Government of Indonesia, Snapshot assessment of Indonesia's Public Procurement Systems, 2007
- Government of Kenya, The Public Procurement and Disposal (Reservation and Preferences) Regulations, 2011

- Government of Kenya, The Public Procurement and Disposal Act
- Government of Lithuania, Law on Public Procurement, 2007
- Government of Malawi, Public Procurement Act, 2003
- Government of Malawi, Public Procurement Regulations, 2004
- Government of Mauritius, Public Procurement Regulations, 2008
- Government of Mauritius, The Public Procurement Act, 2006
- Government of Montenegro, Law on Public Procurement
- Government of Nepal, The Public Procurement Act (2063), 2007
- Government of Phillipines, Government Procurement Reform Act, 2002
- Government of Rajhastan, Public Procurement Rules, 2012
- Government of Rajhastan, Rajhastan Transparency in Public Procurement Act, 2012
- Government of Rwanda, Law on Public Procurement 2006
- Government of Serbia, Public Procurement Law
- Government of Tanzania- PPRA, Assessment of the Country's Procurement System, September, 2007
- Government of Tanzania, Public Procurement Oversight Authority, Instructions for Potential Bidders
- Government of Tanzania, Public Procurement Oversight Authority, The Public Procurement Guidelines for Framework Contracting, 2010
- Government of the United Republic of Tanzania, The Public Procurement Act, 2011
- Government of UK, The impact of the Office of Government Commerce's initiative on the delivery of major IT enabled projects, Report ordered by The House of Commons, 2005.
- Hinson, C., & McCue, C. P. (2004). Planning, Scheduling & Requirement Analysis. Herndon, VA: National Institute of Governmental Purchasing, Inc.
- Jensen, M. C., & Meckling, W. H. (1976). "Theory of the Firm: Managerial Behavior, Agency Costs and Ownership Structure." Journal of Financial Economics, 3: 303-360.
- Khi V. Thai, Challenges in Public Procurement
- Maria Kristina Villanueva Pimentel , Procurement Watch, Inc.: The Role of Civil Society in Public Procurement Reforms in the Philippines ([www.unpcdc.org/.../procurement%20watch,%20inc.%20](http://www.unpcdc.org/.../procurement%20watch,%20inc.%20))
- Martine J. Gruppen; The Procurement Ombudsman: An effective National Procurement mechanism?
- OECD (2000); Public Procurement Review Procedures, Sigma Papers, No. 30, OECD Publishing. <http://dx.doi.org/10.1787/5kml60w0qbvf-en>
- OECD, Oecd-Dac JV for Procurement Country Pilot Programme Zambia Assessment of Public Procurement System



- OECD, Collusion and Corruption in Public Procurement, Round Table Conference, 2010
- OECD, Integrity in Public Procurement, Good Practice from A to Z, 2007
- OECD, Mapping out Good Practices for Integrity in Public Procurements, 2006
- OECD, Methodology for Assessment of Procurement Systems (MAPS), 2009
- Ohad Soudry, A Principal Agent Analysis of Accountability in Public Procurement
- Oriana Bandiera, Andrea Prat and Tommaso Valletti; Active and Passive Waste in Government Spending: Evidence from a Policy Experiment, 2008
- Paul Schapper; The impact of e-procurement on corruption: The potential of e-procurement for curbing corruption risks (Fighting Bribery in Public Procurement in Asia and Pacific, ADB/OECD- Proceedings of 7th regional seminar on making international anti-corruption standards operational ); 5-7 Nov. 2007
- PEC Standard Bidding Documents (Pre-qualification, Works, Consultancy Services)
- Public Procurement Reforms: Issues and Challenges: The Case of Uganda
- Robert R. Hunja, Obstacles to Public Procurement Reform in Developing Countries, The World Bank, Washington D.C.
- Shakeel Ahmed Ibne Mehmood, Public Procurement and Corruption in Bangladesh- confronting the challenges and opportunities, Journal of public administration and policy research Vol. 2(6) pp. 103-111 December 2010
- Sri Lanka National Procurement Agency , Procurement Guidelines 2006 – Goods and Works
- The impact of the Office of Government Commerce's initiative on the delivery of major IT enabled projects, Report ordered by The House of Commons, 2005.
- Transparency International Pakistan, Annual Report 2011
- Transparency International Pakistan, National Corruption Perception Survey, 2011
- Transparency International Pakistan, National Corruption Perception Survey, 2012
- Trust in Government: Ethics Measures in OECD Countries, OECD, 2000.
- UNICITRAL, Unictal Model Law on procurement of Goods, Construction and Service with Guide to Enactment, 211
- US AID, Stakeholders consultation on Public Procurement Regime in Pakistan
- W. D. Presutti, Jr., “Supply management and e-procurement: creating value added in the supply chain,” Industrial Marketing Management, no. 32, pp. 219-226, 2003.
- World Bank, Republic of Moldova Country Procurement Assessment Report, 2002
- World Bank, Bangladesh Country Procurement Assessment Report, 2002

### Websites:

- [www.ppra.org.pk](http://www.ppra.org.pk)
- [www.pprasindh.org.pk](http://www.pprasindh.org.pk)
- [www.ppra.punjab.org.pk](http://www.ppra.punjab.org.pk)
- [www.hansel.fi/en](http://www.hansel.fi/en)
- [www.per.gov.ie](http://www.per.gov.ie)
- [www.gps.cabinetoffice.gov.uk](http://www.gps.cabinetoffice.gov.uk)
- [www.pianoo.nl](http://www.pianoo.nl)
- [www.pianoo-desk.nl](http://www.pianoo-desk.nl)



