PROCUREMENT MONITORING GUIDE:
A TOOL FOR CIVIL SOCIETY

TRANSPARENCY INTERNATIONAL | USA

PROCUREMENT
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ACKNOWLEDGEMENTS

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Executive Summary

Government procurement typically accounts for the largest share of public expenditures aside from government salaries and social benefits. Government procurement is generally between 15 and 30 percent of a country's gross domestic product.[1] This massive spending goes, in large part, to essential public services such as water and sanitation, education, healthcare and infrastructure. With estimates that corruption can add 10–25 percent to the cost of public procurement,[2] the potential financial and social costs are staggering.

Civil society has a prominent role to play in monitoring and observing these processes to ensure public procurement is conducted in the most efficient and transparent manner possible and to obtain best value for money. The fact that an outside, independent third party is watching and reviewing procurement actions in itself contributes to preventing corruption. Additionally, by observing procurements, civil society organizations (CSOs) can find and bring to light potential corruption.

CSOs face many challenges in carrying out procurement monitoring. There are many corrupt practices, schemes and sub-schemes including collusion, bribery, cronyism, nepotism, patronage, graft, embezzlement and extortion. Transparency of procurement and the availability of procurement information may be limited in certain countries, making it difficult to monitor. In many cases, procurement monitoring requires technical expertise. In all cases, it requires funding to support monitoring activities. Finally, there are thousands of procurements occurring at all levels of government and in all geographic regions of a country. For CSOs It is only possible to monitor a tiny fraction.

This Procurement Monitoring Guide (this Guide) part of the online Civil Society Procurement Monitoring tool has been developed to assist civil society organizations to overcome these challenges and monitor public sector procurement processes for red flags of corruption. This Guide provides an organized, step-by-step forensic lens through which civil society can recognize potential problems, requiring further inquiry. This Guide also facilitates the prevention and exposure of corrupt opportunities, serving as a guide to CSOs on how to present the results of their monitoring to the relevant government agencies and stakeholders. More information on the online Civil Society Procurement Monitoring tool and Monitoring Assistant is available in box 1.

This Guide features all the information necessary for effective procurement monitoring. It includes introductory explanations of what procurement is and why it is important from a citizen's perspective; what rights citizens have to monitor procurement processes and to secure the necessary information; how to decide what to monitor; what problems can arise in the procurement process; what techniques can be used to find red flags of corruption, collusion, and fraud in procurement; and what action (legal and advocacy) can be taken once red flags are discovered.

Sections 1 to 3 of this Guide provide information about the importance of procurement; the extent of corruption in procurement; and the most common corruption schemes. Section 4 discusses the role of civil society in monitoring. Section 5 of this Guide provides a detailed explanation on the use of red flags during the different phases of the procurement process, from planning to implementation. Section 6 provides some suggestions on different ways to apply the red flags methodology to monitoring procurement.

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[1] Transparency International, "Curbing Corruption in Public Procurement" (2006) ("TI Procurement Handbook"), available at http://www.transparency.org/publications/publications/other/procurement_handbook

[2] Ibid.

Access to information is a critical issue for CSO procurement monitoring and how to obtain access to relevant procurement information is covered in Section 7 of this Guide. Section 8 describes the different strategies and tools CSOs can use for monitoring procurement, including red flags matrices, integrity pacts, use of electronic databases, freedom of information laws, surveys of government performance, social audits, media investigations and others.

Section 9 discusses what to do when red flags are uncovered. In addition to alerting the appropriate government or judicial authorities, CSOs can also bring the matter to the attention of an Ombudsman (if it exists), stakeholders and the media and employ social media. Section 10 covers red flags that are specific to the health, education and infrastructure sectors. Finally, Section 11 deals with resources and strategies to organize and fund monitoring activities.

1. Introduction

This Guide provides a forensic lens that CSOs can apply to monitor public procurement processes for red flags of possible corruption in public procurement. Using this Guide, CSOs can carry out systematic, well-organized monitoring activities and present the results of their monitoring to various stakeholders, so that follow-up action, if warranted, can be taken. This Guide is part of the online Civil Society Procurement Monitoring tool *(see box 1)*, the main component of which is the Monitoring Assistant.

> ## Box 1 / The Civil Society Procurement Monitoring Tool
> http://monitoring.transparency-usa.org
>
> **What is it?**
> The Civil Society Procurement Monitoring (CSPM) tool is a web-based tool that is meant to support Civil Society Organizations (CSOs) or individuals who want to monitor public procurement for red flags for corruption in their respective countries.
>
> **How does it work?**
> The CSPM tool has 6 main components:
>
> 1. The Procurement Monitoring Guide – guidance on how to monitor public procurement through a forensics and red flags approach.
>
> 2. The Country-specific Procurement Monitoring Guides – Supplements the Procurement Monitoring Guide with country-level procurement monitoring information. There are currently two such guides, one for each of the pilot countries (Indonesia and Philippines).
>
> 3. The Monitoring Assistant – An interactive checklist that facilitates the detection of common red flags of corruption in public procurement, suggests actions when irregularities are found and makes reporting on monitoring findings easier. This is the main component of the CSPM tool.
>
> 4. The Links Pages – Provide links to useful resources for procurement monitoring.
>
> 5. The Learning Community – A forum where users of the CSPM tool can share procurement monitoring experiences and tips and make suggestions for improving the tool.
>
> 6. The Online Training – A case-study based training that teaches users how to use the CSPM tool to monitor procurement.
>
> **Why was it created?**
> While several CSOs successfully monitored public procurement in their respective countries for many years, there has never been a simple, user-friendly, web-based tool to support and streamline their monitoring activities. The CSPM tool was designed with the objective to fill this void.
>
> **What is the Approach?**
> The CSPM tool, and particularly the Monitoring Assistant, its main component, adopt a forensic approach to procurement monitoring, by focusing specifically on red flags of corruption that can be detected by CSOs, considering the information they normally have access to.

The Monitoring Assistant is an online tool that complements this Guide. It is a web-based, interactive list of common red flags of corruption in public procurement that allows users to identify possible red flags of corruption in the different phases of the procurement process. The Monitoring Assistant helps

users assess the possible schemes underlying certain red flags, suggests actions when irregularities are found and makes it easier for Monitors to report their findings. The red flags checklist contained in the Monitoring Assistant and in this Guide are exactly the same, the only difference being that the Monitoring Assistant is available online and allows user interaction.

When using this Guide and the Monitoring Assistant, Monitors should keep in mind certain limitations. First, national procurement regulations are so diverse that, despite best efforts, this Guide may not always be applicable in all country contexts. Furthermore, procurement regulations can be extremely complex, and CSOs that intend to monitor procurement are encouraged to familiarize themselves as much as possible with their country's procurement framework. Finally, the "red flags" methodology should be applied with caution and judgment. A red flag does not always indicate that corruption is occurring.

To ensure its relevance and usefulness, this Guide incorporates and adapts to civil society use common definitions and approaches currently used by different organizations for monitoring procurement processes. These organizations include Transparency International (TI), the Affiliated Network for Social Accountability in East Asia and the Pacific (ANSA-EAP), Procurement Watch Incorporated of the Philippines (PWI), Indonesia Procurement Watch, the World Bank (WB), the Inter-American Development Bank (IADB), the Asian Development Bank (ADB), and the Organization for Economic Cooperation and Development (OECD), among others.

The tool was designed by Transparency International-USA (TI-USA) in cooperation with CSOs in Indonesia and the Philippines, support from procurement and IT consultants, and funding from the Governance Partnership Facility, administered by the World Bank.

2. Procurement and its Importance to Society

2.1 What is Procurement?

Procurement can be broadly defined as the purchasing of goods and/or services and the contracting of works. A good procurement process is one that obtains goods, works or services in the correct quantity, of the appropriate quality, at the required time, from the best supplier, with the optimum terms, and under appropriate contractual obligations.

Procurement methods differ depending on the nature, size, cost and complexity of the goods, works or services to be acquired. Under normal circumstances, the larger the project the more complex the method tends to be. For goods and works, cost tends to be the overriding factor in determining the winner of the bid, whereas for services the quality of the technical proposal is usually the primary concern, although price also plays an important role. Annex 1 contains a description of the main methods used to conduct procurement.

2.2 Why is Procurement Important to Society?

Government procurement typically accounts for the largest share of public expenditures aside from government salaries and social benefits. Government procurement is generally between 15 and 30 percent of a country's gross domestic product (GDP).[3] In the Philippines for example, public procurement represents almost 29 percent of the 2010 budget, while in Indonesia it comprised 31 percent of the national budget in 2007.[4]

Procurement enables governments to deliver public services, such as education, health care, transportation and public safety and generate economic benefits to its citizens. Through advanced planning, accurate scheduling and demand aggregation, a government—at the central or decentralized level—can increase the overall effectiveness, efficiency and quality of the services provided to its citizens.

In many societies, public sector procurement has been identified as one of the most—if not the most—corruption-prone areas of the economy. The World Bank estimates that corruption can add 20 percent or more to the cost of public procurement.[5] TI estimates that damage from corruption represents on average 10 to 25 per cent of a contract's value.[6] Other estimates are contained in the box 2.

Corruption in public procurement affects the efficiency of public spending and effectiveness of donors' resources; it creates waste and, ultimately, affects the quality of goods and services and the opportunities they present to improve quality of life. It also harms companies that produce goods and services as it increases operational costs, reduces competitiveness and discourages foreign investment.[7] *(See Box 2)*

[3] TI Procurement Handbook at
   http://www.transparency.org/whatwedo/pub/handbook_for_curbing_corruption_in_public_procurement.
[4] Transparency International-USA, "APEC Procurement Transparency Standards in the Philippines: A Work in Progress" (2011), available at http://www.transparency-usa.org/news/documents/PhilippinesAPECProcurementStandardsFinal.pdf and "APEC Procurement Transparency Standards in Indonesia: A Work in Progress" (2011), available at http://www.transparency-usa.org/news/documents/IndonesiaAPECProcurementStandardsReportenglish.pdf.
[5] The World Bank, "The Costs of Corruption" (2004), available at http://go.worldbank.org/VAT2EY5A00.
[6] TI Procurement Handbook at 19.
[7] U4 Anti-corruption Resource Center, available at http://www.u4.no/themes/procurement/procurementintro.cfm.

When private companies pay a bribe to a public official to obtain a contract, they are likely to recover the cost of the bribe by providing lower quality goods, works or services, employing fewer workers than required, thus delaying completion of the project or by attempting to increase the cost of the project after the award through change orders.

It is the citizens who suffer the consequences and pay the costs of corruption as they are forced to tolerate low quality of public goods and services (or lack thereof). Examples are obvious to all: roads that are either poorly built and have a much lower useful lifespan than what they were supposed to have, or were never finished or built; buildings that crumble after an earthquake; hospitals that lack the minimum functionality and distribute counterfeit medicines; public works that cost many times their value, etc. General consensus exists and World Bank studies reflect that corruption has a negative impact on development, that it affects the poor disproportionately, and that it deters productive investment. On the other hand, the World Bank has also estimated that countries that seriously tackle corruption can expect, in the medium-term, up to a four-fold increase in per capita income.

3. Corruption in Procurement

3.1 Definition of Corruption

Corruption is commonly defined with expressions such as:[8]

- The abuse of public office for private gain;
- The misuse of entrusted power for private gain;
- The act of corrupting or of impairing integrity, virtue, or moral principle;
- The misuse of public office, roles or resources for private benefit.

The common denominator is the fact that entrusted authority is abused for private gain, with "private gain" interpreted widely to include gains benefiting an official's close family members, political party or any organization or institution in which that official has a financial or social interest.

Public procurement provides many opportunities for corruption. In many countries, the relatively low salaries of government officials, their high levels of discretion, and the high value of procurement provides incentives for potential suppliers to bribe or collude with government officials to rig procurement processes, or for public officials to lure or pressure suppliers to make illegal payments in exchange for procurement advantages. Oversight, enforcement of penalties, training and professionalization of procurement officials and codes of ethics and conduct for public servants are all elements that can reduce the incentives for corruption, but are not always in place. Private companies also have incentives to distort or eliminate competition to gain unfair advantages and obtain lucrative government contracts, which can lead to bribery and collusion.

3.2 Corruption Schemes

Corruption encompasses very different practices and schemes, such as collusion, bribery, extortion, cronyism, nepotism, patronage, embezzlement and extortion. The legal definitions vary widely depending on the country or jurisdiction where they take place.

Corruption schemes and practices can be organized and classified in different ways. This Guide adopts four broad categories that are also used by the International Financial Institutions (IFIs): bribery, fraud, collusion and bid rigging and coercion and extortion. Each category has been further subdivided into sub-schemes.[9]

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8   Transparency International, "Anti-Corruption Plain Language Guide" (2009), at 14, available at http://issuu.com/transparencyinternational/docs/ti_plain_language_guide?mode=window&backgroundColor=%23222222.

9   "List of Harmonized Sanctionable Practices Used by the IFIs" (2011), available at http://lnadbg4.adb.org/oai001p.nsf/Content.xsp?action=openDocument&documentId=D3E04792C4C759BD4825788E0025F9CC&SessionID=D851PA05YS. For a more detailed description of corruption and fraud schemes, see the "Anti-Corruption Training Manual" developed by the Global Infrastructure Anti-Corruption Center (IACRC), jointly with Transparency International UK or to the "Guide to Combating Corruption and Fraud in Development Projects", also published by the IACRC and available at http://guide.iacrc.org.

a. Corruption

"A corrupt practice is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party."[10]

In this definition, corruption is used as a synonym of bribe. A bribe is a gift given to influence the recipient's conduct. A bribe can take many different forms: tips, gifts, perks, favors, discounts, waived fees/tickets, free food, free trips, sweetheart deals, kickbacks/paybacks, inflated purchase price for an object or property, lucrative contract, grease money, donations, campaign contributions, participation in fund raisers, sponsorship/backing, jobs for relatives or friends, promotions, stock options or secret commissions.

In procurement, bribes can be solicited by public officials or offered by bidders. Bribery can appear at different stages in the procurement process. In the planning phase, bribes may be paid to influence the selection of a project over alternative projects, steer the geographical location of a highway, bridge or airport, or secure biased technical specifications. In the bidding phase, bribes may be paid to obtain confidential information or to accept a bid outside of the approved timeframe. During the evaluation phase, bribes may be paid to influence the evaluation and award decision in favor of a certain bidder. Finally, in the implementation/administration phase, bribes may be offered or solicited to obtain or grant approval for unfinished works, substandard goods and change orders, or to lower supervision levels. Table 1 provides examples of corruption/bribery schemes commonly found during the procurement cycle.

Table 1 - Common Corruption/Bribery Schemes

Bribery Schemes	Description
Kickbacks	A kickback is paid by the contractor to the public official in exchange for the award of the contract. It is often quantified as a percentage of the value of the contract that a contractor "kicks back" after the award.
Manipulation of BEC Selection Process	The official is bribed to select individuals for the bid evaluation committee who do not have the technical expertise needed or who are not impartial in their decision-making.
Approval of change orders or incomplete work	An official is bribed to certify that contract terms are met and to ignore inadequate performance or accepts false supporting documentation in order to authorize payment for work that has not been completed or has only partially been completed. An official is bribed to authorize a change order that is not adequately justified.

b. Fraud

"A fraudulent practice is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation."[11]

Fraud can occur at different stages and in many different forms in public procurement. Some examples include (i) contractors who submit false statements or forged documentation in order to improve their bids or meet the terms of reference, (ii) falsely claim to meet contract specifications or (iii) support payment requests with inflated invoices. Common false statements and fraudulent documentation include false experience certificates, false statements regarding a contractor's financial condition or previous experience, and inflated statements of annual sales or account balances. Table 2 provides examples of common types of fraudulent schemes in each of the phases of the procurement process.

Table 2 - Common Fraud Schemes

Fraud Schemes	Description
Leaking of information to preferred bidder	Key information, such as clarifications and modifications to the bidding documents, are not shared with all prospective bidders in order to give an unfair advantage to the favored bidder.
Missing or Misuse of Assets	During the contract implementation phase, inventory reveals that assets are missing or improperly used by either public officials or contractors.
Deviations from Bidding Documents	There are significant differences in quality, quantity or specifications of goods, works or services between the bidding documents and the contract, which may indicate an attempt to benefit a contractor or government official.
Failure to Meet Contract Terms	Firms deliberately fail to comply with contract requirements by concealing actions, falsifying or forging supporting documentation and billing as if the contract was completed in accordance with specifications. Inspection, supervision or project personnel may be bribed in order to accept substandard goods or works.
Deficient Evaluation Process	Auditors or companies supervising infrastructure works fail to provide adequate supervision or manipulate their reports to save resources.
Unnecessary items or inappropriate line items	The goods, works, or services that are requested in the terms of reference for procurement are not consistent with the overall requirements for the project.
Product Substitution	Contractors provide inferior quality or cheaper products than those specified in the contract.
Deviation from Technical Specifications	Contractors deviate from their contractual obligations in order to increase their margin of profit.

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[10] IDB, "Prohibited Practices at the IDB Group" (2012), available at http://www.iadb.org/en/topics/transparency/integrity-at-the-idb-group/prohibited-practices-at-the-idb,2704.html.

[11] Ibid.

c. Collusion and Bid Rigging

"A collusive practice is an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party."[12]

In procurement, collusion schemes are commonly defined as agreements between two or more entities to inhibit competition by deceiving or depriving others of their rights in order to secure an unfair advantage. To remain in operation, a collusive scheme depends on its ability to eliminate competition, generate high profits for participants, and avoid detection and sanctions. Collusion schemes range from simple and ad-hoc arrangements among local bidders to well-organized cartels, often involving high-ranking politicians or public officials. There are different kinds of collusion.

Collusion between Procurement Officials and Contractors

Contractors can collude with procurement officials, so that the official will improperly award a contract without competition or provide a favored contractor with inside information that is not made available to other bidders. Or a public official may agree to split purchases in order to avoid competitive bidding thresholds.

Collusion among Contractors (Bid Rigging)

Bidders may also collude with one another in order to restrict competition. They can provide complementary bids, also known as "protective" or "shadow" bids, which are intended merely to give the appearance of open competition but are not aimed at winning the contract. In this type of collusion, also known as "bid rigging" or "collusive bidding", cooperating bidders agree to submit higher priced or deliberately defective bids to ensure the selection of the designated winner at inflated prices. The winner then might pay a percentage of its profits to the losing bidders, hire them as subcontractors, or allow them to win other contracts, also at inflated prices. Collusive bidders often submit complementary bids from shell companies, subsidiaries or affiliates to give the appearance of competition.

Bid rigging schemes can also involve public officials, who may facilitate the success of the scheme from the inside, ignoring clear red flags of collusion among bidders or providing the bidders with confidential information necessary to make the scheme more plausible, for example information on reference prices. Insiders may even operate as a cartel enforcement mechanism, for instance disqualifying firms that do not participate in the cartel.

Examples of bid-rigging include:

- ***Price fixing*** refers to an agreement among competitors to raise, fix or otherwise maintain prices at which goods and services are sold in a specific market.
- ***Market division*** occurs when competitors agree to divide markets among themselves (e.g., by geographical area or client segment) thereby restricting competition.
- ***Bid rotation*** refers to an agreement among bidders to take turns in winning contracts. All conspirators submit bids but take turns being the lowest bidder.
- ***Bid suppression*** occurs when one or more competitors who would otherwise be expected to win, or who have previously bid, agree to refrain from bidding or withdraw a previously submitted bid so that the designated bidder may obtain the contact.

- ***Complementary bidding*** also known as "cover" or "courtesy" bidding, occurs when some competitors agree to submit bids that are too high to be accepted or contain special terms that will not be acceptable to the buyer. These bids are designed to give the appearance of genuine competitive bidding to conceal inflated prices.
- ***Subcontracting*** arrangements are often part of the bid-rigging scheme. Competitors who agree not to bid or to submit a losing bid receive subcontracts or supply contracts from the successful low bidder.[13]

Table 3 provides examples of improper official action that can result from collusion between officials and suppliers. Table 4 provides examples of bid-rigging between potential suppliers.

Table 3 - Common Collusion Schemes

Collusion Schemes	Description
Contract splitting	A procurement official deliberately splits a large contract into several smaller ones or items that are generally procured together into separate ones, so as to allow for sole source procurement instead of competitive bidding.
Poor Response to Requests for Clarification	A procurement official provides inadequate responses to requests for clarifications or complaints from bidders, so as to favor one or more bidders over others.
Questionable Evaluation	The BEC designs and applies unusual or unreasonable evaluation criteria in order to favor a certain bidder.
Winning Bid is Poorly Justified	The winning bid is not justified in terms of price, quantity, quality, qualifications etc.
Lowest Bidder not Selected	The lowest priced bidder is declared unresponsive without adequate justification or arbitrarily, in order to select a different bidder.
Delays	Procurement officials delay contract award, negotiations or implementation/administration without justification.
Multiple Contract Change Orders	Procurement officials use contract amendments and/or change orders to substantially change key features of the contract, such as the overall cost, the delivery dates or the goods specifications.
Inadequate Controls	Procurement officials fail to carry out proper asset, accounting or inventory controls.
Exclusion of Qualified Bidders	Procurement officials facilitate the selection of a favored bidder by improperly excluding other, more qualified bidders.
Vague Specifications	Specifications are drafted with unduly vague, broad or incomplete language, to allow unqualified bidders to compete or justify improper sole source award.
Tailored Specifications	Specifications are drafted in a way that favors a particular bidder.
Short Bidding Timeframe	Procurement officials set a short timeframe between the advertisement and the bid submission deadline in order to favor a particular bidder who had privileged access to relevant information.
Restriction of Circulation	Procurement officials deliberately limit the circulation of the procurement notice in order to reduce competition and exclude qualified bidders.
Inadequate Information	Procurement officials provide incomplete information to certain bidders in order to favor a bidder who has privileged access to relevant information.
Biased Evaluation Criteria	Procurement officials design biased evaluation and qualification criteria in order to steer the contract to a favored bidder.
Tampering	Procurement officials alter bids after they have received them, fail to secure them, destroy them or fail to bring them to the opening ceremony, in order to limit competition and steer the contract towards a favored bidder.

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[12] Ibid.

[13] For additional information on bid rigging schemes see http://guide.iacrc.org/potential-scheme-collusive-bidding

Table 4 - Common Bid-Rigging Schemes

Bid Rigging Schemes	Description
Subcontracting	Participants in a collusive scheme are subcontracted by the winning bidder as a reward for submitting complementary bids or refraining from bidding.
Bid Rotation	Contractors agree to take turns in winning contracts; all conspirators submit bids but take turns submitting the lowest bid.
Few Bids	The procuring agency receives fewer bids than normal or fewer bids than expected compared to other similar procurement process. This may indicate a collusive scheme among bidders.
Market division	Competitors agree to divide markets among themselves (e.g., by geographical area or client segment) thereby restricting competition and increasing costs.
Complementary bidding	Some contractors agree to submit bids that are too high to be accepted or fail to comply with the specifications and will thus be disqualified. These bids are designed to give the appearance of genuine competitive bidding process, when in reality the winning bidder has already been determined.
Bid Suppression	One or more bidders agree to refrain from bidding or withdraw their bid so that the agreed-upon bidder may win the contract.

Coercion and Extortion

Coercion or extortion is the "impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party".[14]

In procurement, extortion can happen when corrupt government officials demand something of value (whether cash or otherwise) in return for the award of a contract or as compensation for allowing a contractor to provide sub-quality goods or services, boost its profits improperly or inflate its expenses while implementing a contract. An example of extortion is when a procurement official tries to withhold payment from a contractor who has adequately executed a contract or physically threatens a representative of the company in order to be paid a percentage of the contract. Another example is when one or more bidders use violence or threat of violence to keep competitors from bidding on a certain contract. Table 5 illustrates common coercive practices appearing in public procurement.

Table 5 - Common Coercion Schemes

Coercion Schemes	Example
Coercion	Bidders threaten, intimidate or apply undue pressure on other bidders to force them to withdraw their bids.
Extortion	Procurement official seeks a kickback to approve a payment or change order or certify contract completion.

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[14] See footnote 9.

4. Civil Society Procurement Monitoring

4.1 The Role of Monitors

Monitors are tasked with identifying irregularities in the procurement process and making sure those irregularities, when found, are independently investigated and reported to the relevant authorities. In cases where authorities responsible for overseeing procurement processes do not fulfill their obligations, or worse, are part of a corruption scheme, CSOs can use the information they generate to mobilize citizens and demand greater accountability from their government.

Civil Society pressure, sometimes coupled with an effective media campaign, can encourage authorities —even those with little political will—to sanction corrupt actors, whether in the government or the private sector. In cases where the media is not available or a free press does not exist, reports by CSOs can be disseminated through social media or neighborhood communities affected by the problems.

While Monitors are not auditors and do not have enforcement powers, they play an important role in increasing transparency in the procurement process. Civil society efforts can contribute to:

- Deterring corruption by the mere fact that Monitors are present and are observing the process;
- Generating trust among government officials who are committed to "sound" procurement and the efficient delivery of public services;
- Publicizing corrupt acts and generating social pressure against corruption in procurement;
- Identifying corrupt actors and preventing them from having access to procurement processes in the future;
- Encouraging citizens to be more engaged in the decision-making processes that have an impact on their local community;
- Advancing citizens' understanding of how government and public procurement work;
- Providing the public with the opportunity to influence and participate in development programs and projects;
- Bridging the gap between the government, civil society and the private sector.

Monitoring can take two forms. First is observation of the results of a procurement to determine whether it has delivered what was promised. For example, CSOs can observe whether the right number and type of text books have been provided or a school was built where it was supposed to be. A more advanced form goes a step further, tracking the procurement process—from planning to implementation—and assessing whether any red flags appear and how implementation compares with contract provisions, including the quality of the goods and/or services procured.[15]

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[15] For more information on different types of procurement monitoring, see Francesco De Simone and Shruti Shah, "Civil Society Procurement Monitoring: Challenges and Opportunities" in Transparencia Mexicana, "A New Role for Citizens in Public Procurement" (July 2012, available at http://corruptionresearchnetwork.org/marketplace/resources/C-M%20SERIES%20-%20 A%20new%20Role%20for%20Citizens%20in%20Public%20Procurement.pdf/.

4.2 Monitoring Procedures

When monitoring procurement, CSOs should establish clear procedures and parameters to ensure that their time and resources are maximized and their observations and reports are reliable. CSOs should:

- Establish objective criteria for the selection of the procurements to observe;
- Establish transparent methods for reimbursement of travel expenses and per diem to Monitors;
- Establish a system for the disclosure and management of conflicts of interests;
- Establish a code of ethics for Monitors;
- Ensure that Monitors either have or can access the appropriate technical and professional expertise when needed; and
- Establish clear internal procedures for reporting irregularities.

In special cases, it may be advisable for Monitors to sign an agreement or memorandum of understanding with the government unit or entity they are seeking to monitor as this will ensure that both parties are aware of their respective roles and responsibilities, as well as the scope of the work to be carried out.

The participation of CSOs in procurement monitoring may not be welcome or accepted in some countries. In these cases, strong advocacy may be necessary to put pressure on governments and public officials to allow citizen observation and monitoring.

4.3 What to Monitor

Civil Society cannot monitor all procurements in a particular country or sector. Depending on the size of the country and economy, there can be hundreds of procurements occurring at different government levels at the same time. Consequently, for CSOs to be effective, the timing, processes and areas to monitor should be carefully selected, considering, among other factors: i) the phases of procurement where corruption is most likely to occur; ii) the volume and magnitude of the procurement (concentrating on high value contracts); iii) the complexity of the process; iv) the sector vulnerability to corruption; v) the sectors where most government resources are spent; vi) the availability of information; and vii) the technical expertise of the Monitors. This section of this Guide formulates some suggestions regarding the various factors that CSOs should consider in choosing what to monitor.

a. Procurement phases most vulnerable to corruption

One way to direct monitoring efforts is to look at the phases of a procurement in which corruption is more likely to occur. Based on studies by the IADB and WB, the bulk of corruption occurs in the bid submission and implementation/administration phases. During the bidding phase, both studies found evidence of collusion among bidders, submission of fraudulent bids intended to circumvent the competitive bidding process and bribery or kickbacks to influence the award of the contract. In the implementation/administration phase, there were weaknesses related to: 1) contract management, particularly fraudulent implementation such as contractors misrepresenting the quality and quantity of the goods, works, and services completed or delivered; and 2) financial management, notably embezzlement of funds (through submission of fictitious invoices) and the diversion of project funds or assets.[16]

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[16] Thornburgh et al. "Report Concerning the Anti-Corruption Framework of The Inter-American Development Bank." (2008), available at https://docs.google.com/viewer?a=v&q=cache:3h-C9THCgTQJ:www.iadb.org/document.cfm?id%3D1824265+&hl =en&gl=us&srcid=ADGEEShFqrfjIJhkE1LFhqwPuyAbIQBCZwyRIyHWkJI9TXU5J-j0B_QQ7Fzjfy7mNdSWIgUzM9_62h CZhx9kdAILSbDeZh_MQA9efbefYt7xKBUQ1iwX2ZbFrkP_XxPsz4mioEtzdx2L&sig=AHIEtbR0BqBZnZFNXveq343VYZjnWrTu OQ&pli=1

CSOs need to consider these findings in their home context since the processes and phases more vulnerable to corruption may differ across countries. Additionally, they may also change over time, as increased transparency and civil society monitoring may eliminate the most obvious opportunities for corruption and cause corrupt actors to find new ones. By using the Monitoring Assistant, CSOs can aggregate data and gather statistics on where corruption occurs more frequently in their country and adjust their areas of focus for monitoring activities.

b. Volume and Magnitude of Procurement

Civil Society can also use the volume and magnitude of procurement as a guide to decide what procurement activities to monitor. For example, Monitors can decide to focus on procurements that represent low-volume but high-value, such as construction of roads and bridges and other major works in the transportation, water and electricity sectors, which are not frequent but require a substantial investment. Alternatively, CSOs can concentrate their monitoring efforts on procurements that are high-volume and low-value, for example projects that require numerous, sometimes repetitive, procurement actions, such as the purchase of the same low value goods (office supplies, spare parts) across different departments of the country. While these procurements have little value, their volume can add up to substantial expenditures and in some cases the goods to be procured can have a substantial impact on people's lives (school furniture, school books and fertilizers).

c. Complexity of the Process

The complexity of the procurement process is another important parameter for CSOs to consider when selecting procurements to monitor. Complex procurements are difficult to monitor and more likely to involve corruption because of the technical nature of the bidding documents and implementation of the project, as well as the extended timeframe required for implementation. Typical examples of these projects include large infrastructure works such as new roads, bridges, dams, airports, hospitals, etc.

When assessing whether to monitor these projects, CSOs should evaluate their strengths and weaknesses, technical capacity, long-term availability of Monitors and funds availability, as well as level of access to information. Access to technical expertise, such as pro-bono work from professional associations (engineers, architects) or partnerships with universities can facilitate monitoring of complex projects. Internationally, some monitoring schemes devised by CSOs have helped reduce some of these problems, for example by including sector experts in monitoring activities (see Box 4 on the Social Witness program in Mexico) or by training Monitors on technical issue specific to certain kinds of procurement (See Box 3 on Bantay Lansangan in the Philippines).

d. Sector Vulnerability

CSOs can also decide to focus their monitoring activities on those sectors that are traditionally more vulnerable to corruption. Traditionally, the health, infrastructure and education sectors are particularly vulnerable to corruption, as they receive large shares of government funds. In certain countries there may be a prevalence of and vulnerability to corruption in certain sectors, because of historic factors linked to market structure, politics and others. CSOs may decide to aim their procurement monitoring activities at sectors that have a history of high profile cases of corruption, lack of transparency and collusion, or are considered to be dominated by certain politicians or influential families.

At the sector level, the corruption encountered can be petty in nature and scale, and unrelated to procurement. In the education and health sectors, for example, it is common to find school teachers and health care providers soliciting extras for services, seeking small favors, or using public facilities and materials for their own personal gain. Monitoring and reporting on this type of corruption can play a valuable role in improving citizens' lives.

Box 4 / Mexico's Social Witnesses Program

The Social Witness Program started in 2000, as an initiative of Transparency International-Mexico (TI-Mexico). It was initially a voluntary program that grew out of various integrity pacts that TI-Mexico had developed and executed with support from "social witnesses", professionals such as architects and engineers who were trained to monitor public procurement. In 2004 the *Secretaría de la Función Pública* (Ministry of Public Administration) started requiring the participation of social witnesses in public procurements over a certain size. In 2009, the Mexican Congress strengthened and consolidated the program by passing a Presidential decree that wrote the program into law.

As a result, a social witness must be present at all procurements (i) valued over the equivalent of five million days of minimum wage in the Federal District, (ii) when the impact of the project is slated to be significant, or (iii) when the *Secretaría de la Función Pública* requests it. By mid-2010 the Mexican government had 39 registered social witnesses, who had participated in 67 different procurements valued at US$8.87 billion.

The Mexican Government maintains a register of social witnesses, who are selected based on previous experience and technical expertise. Social witnesses are responsible for ensuring the procurement process unfolds transparently and efficiently. They are required to publish an online monitoring report that contains their assessment of the transparency of the procurement as well as specific recommendations. In addition, social witnesses are required to alert the authorities if they detect any irregularities in the procurement process. The program is publicly funded and the Mexican public procurement law states that funding for Social Witnesses should be proportionate to the importance and value of the relevant procurement (LAASSP Art. 66). The amounts paid to the social witnesses cover their expenses and an hourly wage. The rate is determined by the *Secretaría de la Función Pública* on a case-by-case basis.

While no comprehensive political economy studies of the program have been conducted, preliminary research shows that the addition of Social Witnesses has a positive impact on procurement. One analysis by the *Comision Federal de Electricidad* (Federal Electricity Commission) found that the recommendations of social witnesses have led to significant improvements in the effectiveness of procurement, including a 50% increase in the number of suppliers that submitted bids, the extension of the time limit for the presentation of bids and significant savings for the *Comision Federal de Electricidad* (up to USD 26 million in one specific procurement). These findings are reinforced by anecdotal evidence showing that the social witness program has generally contributed to reducing the cost of public procurement procedures while increasing the number of participating bidders and the level of transparency and accountability in public procurement.

Sources:

"Acuerdo Lineamientos Testigos Sociales," Article 25 (2004), available at http://www.funcionpublica.gob.mx/unaopspf/comunes/testigo.htm.

Instituo Mexicano De Contadores Públicos, "Los Testigos Sociales Contribuyen a La Transparencia En La Administración Pública." (29 June 2006), available at http://imcp.org.mx/spip.php?article131.

"Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público Art. 66,." available at http://www.diputados.gob.mx.

Organization for Economic Co-operation and Development, "Integrity in Public Procurement: Good Practice from A to Z" (2007), available at http://www.oecd.org/dataoecd/43/36/38588964.pdf

Stansbury, Neill. "Corruption in Practice." Anti Corruption League: Resources (29 June 2012), available at http://www.anticorruptionleague.org/resources/resources.php.

Transparency International-USA, APEC Procurement Transparency Standards in Mexico (2011), available at http://www.transparency-usa.org/news/documents/MEXICOAPECProcurementStandardsReport-english.pdf

e. Other Factors

Other factors for CSOs to consider when selecting what procurement processes to monitor, should include:

- Their available skill set and technical expertise – For example in the Philippines, two different CSOs have developed a focus on and expertise in education and road construction, thus focusing only on procurements within their area of expertise (see boxes 3 and 6).

- Time and staff constraints – Certain phases and types of procurement monitoring, such as verifying the delivery of goods (school furniture, books, medicines), are staff-intensive and require the involvement of numerous individuals over a long period of time. Some CSOs may be able to tap networks of volunteers (boy-scouts, retired public officials, students), particularly if the monitoring at stake does not require a great deal of technical expertise (see box 7 on Bantay Eskwela). However, organizations that are unable to tap such resources and have a limited availability of staff, should consider focusing their monitoring activities on projects or phases that require fewer man-hours, such as participating in bid openings or reviewing procurement and award notices.

- Priorities for local communities – Some contracts, such as construction of schools or delivery of fertilizer, may have a small monetary value but a high impact on local communities. CSOs may decide to focus on such projects, particularly if they operate at the local level or aim at raising awareness and promoting participation in procurement monitoring in the communities where they work.

- Openness of the procuring agency – While certain CSOs prefer working with government agencies that have a history of cooperation with civil society, others may decide to concentrate their efforts on procuring agencies that are lagging behind in terms of transparency and anti-corruption, to encourage openness. The choice may depend on country-specific factors, such as the presence of reform-minded public officials, the ruling government's openness to change or safety issues.

5. Using red flags to Monitor Procurement

This Guide, as well as the Civil Society Procurement Monitoring Tool and Monitoring Assistant (see Box 1 for additional details) are largely based on the "red flags" approach. Red flags are indicators of possible corruption that can help CSOs monitor procurement processes more effectively. The following sections describe the red flags commonly found in each phase of the procurement process, along with tips on how to detect them and recommendations on what to do when each red flag is found. The on-line Monitoring Assistant incorporates these red flags, tips and recommendations and prompts CSOs to take certain actions, depending on the kind of Red Flag and the stage of the procurement.

When using this Guide and the Civil Society Procurement Monitoring Tool, CSOs should keep in mind that Red flags do not necessarily indicate corruption, but merely the possibility that corruption may be occurring. This Guide and the Monitoring Assistant and their lists of red flags should be used as supporting tools and not replace Monitors' good judgment and experience. In some instances, a red flag may be the result of an error in good faith, incompetence or extraordinary circumstances. Users should carefully consider these possibilities when monitoring a procurement process. When in doubt, inquiring about the findings of the procurement monitoring with procurement officials may help clarify the specific circumstances that led to what appears to be corruption. More information about the limitations of the red flags approach can be found in section 6 of this Guide.

To facilitate monitoring, this Guide divides the procurement process into four stages: Planning, Bidding, Evaluation and Implementation/Administration. Each stage, in turn, is further divided into sub-phases. The sections below analyze each phase in detail and provide an overview of the red flags that are commonly associated with each.

Figure 1: Stages of Procurement
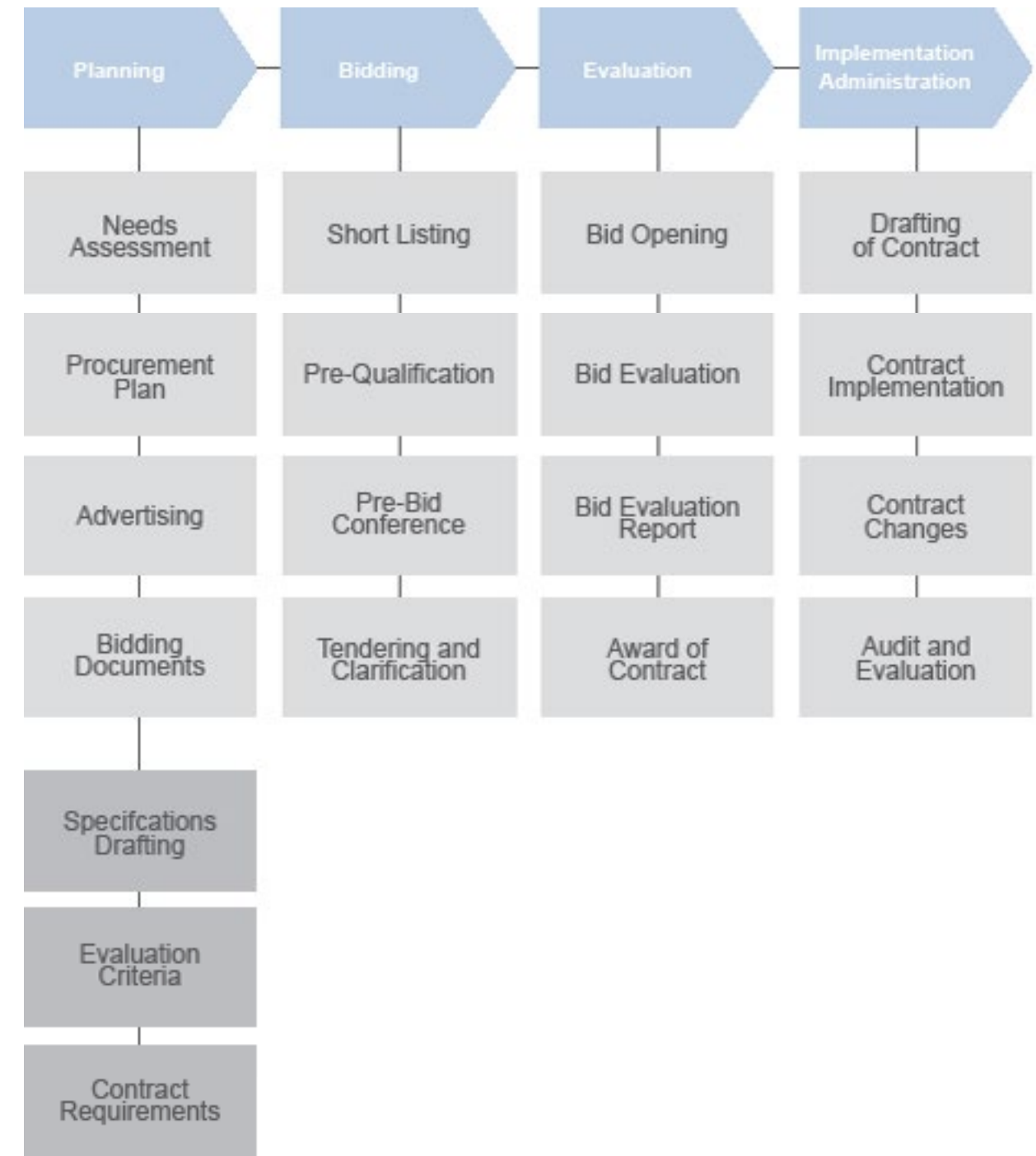
5.1 Phase 1 – Planning

a. The Procurement Plan

A procurement process starts with the determination of the procuring agency's needs followed by the development of a procurement plan which includes: i) a list of all the goods, works and services to be procured; ii) how they will be divided or combined into contract packages; iii) the procurement methods to be used (see Annex 1); and iv) the scheduling or timing of the procurement activities.

Needs Assessment

It is at this stage that requirements are identified and costs are estimated. Budget allocation determines the ability to appropriate funds to cover the total cost of a given procurement process. A procurement process should not start unless there are sufficient funds available in the budget of the procuring agency to cover its cost.

The needs assessment phase is a very important one from the point of view of civil society. At times the goods, works or services to be procured do not reflect a need of the society at large but only the interests of particular politicians or companies. If the proposed procurement plan does not meet the legitimate needs of a community, this may indicate possible corruption. Consequently, CSOs should pay attention to needs assessments phase, and particularly to budget formulation, demanding active participation from the very initial phases of a project, and giving input on the actual needs of the project(s), their timeliness and potential alternatives, as well as the means through which goods, works and services are to be procured. CSOs can participate through public hearings, information requests and reviews of proposed budgets. Box 5 describes budget transparency initiatives.

Box 5 / Budget Monitoring Initiatives

Government budgeting has traditionally been an opaque process, closed to citizens and only accessible to politicians, public officials, influential lobbyists, and businessmen. Not always publically available, budgets are often complex and lengthy documents. In most cases, civil society participation in the budget process is limited and media coverage is often lacking. Such a closed inaccessible process poses serious governance problems, as a country's budget is key to understanding government priorities, particularly when resources are scarce.

Budget monitoring initiatives are aimed at addressing these problems by granting wider access to government budgets for civil society and providing stakeholders the ability to understand both the process and the final product. Budget monitoring is increasingly regarded as vital to understanding how governments work and for promoting accountability and transparency. Recognizing the importance of budgets, some important initiatives in budget monitoring have emerged over the last decade. These initiatives are based on the assumption that greater participation and improved access to budget information empowers citizens and provides them information to hold government officials accountable.

One of the most important initiatives in this area is the International Budget Partnership (IBP), formed in 1997 and aimed at promoting civil society budget monitoring. The IBP provides technical training and assistance, measures transparency, accountability and public participation, finances civil society budget monitoring organizations, and promotes knowledge exchanges between CSOs. The final objective of all these efforts is to increase the transparency and openness of budget processes and documents, and ultimately reform how governments manage their resources. Among the IBP's main products is the Open Budget Index, a bi-annual survey that ranks countries around the world based on the openness of their budgets.

The International Aid Transparency Initiative (IATI) is another initiative that seeks to expand budget transparency in the foreign aid sector. IATI's objective is to "make aid spending easier to access and to understand." It is a voluntary initiative that involves donors, recipient countries, and CSOs. Like the IBP, IATI encourages information sharing between involved parties, and also promotes the "IATI Standard," a standardized method of accounting, recording and publishing aid information. By doing so, the IATI hopes to curb corruption, increase government accountability and reduce leakage, waste and duplication in the allocation of donors' and governments' funds.

International Aid Transparency Initiative. "About IATI," available at http://www.aidtransparency.net/about

The International Budget Partnership. "Who We Are," available at http://internationalbudget.org/who-we-are/ and Open Budget Index: http://internationalbudget.org/what-we-do/open-budget-survey/

Robinson, Mark. "Budget Analysis and Policy Advocacy: The Rule of Non-governmental Public Action," Institute of Development Studies (2006), available at http://www.ids.ac.uk/files/Wp279.pdf

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Procurement Plan

Once the general needs for the project have been defined, the procuring agency should prepare a detailed procurement plan. A procurement plan is a list of items to be procured and a road map to satisfy needs previously identified. For each item, the procurement plan normally indicates the timelines, pricing estimates, and procurement method. Therefore, a procurement plan should be consistent with the approved budget for a certain project and, at a higher level, with the budget for the procuring agency, and the entire government. Significant inconsistencies among these documents can represent red flags, and should encourage greater scrutiny. At this stage, CSOs should evaluate procurement plans, by comparing them with the agency's and government's approved budget and investment plans, which in many countries are publicly available.

A procurement plan should also detail the way in which procurements will be grouped (or packaged) in order to ensure economy and efficiency in the purchase and delivery of the right goods and services at the right time. The purpose of grouping procurements of similar goods and services together in a contract package is to attract as many qualified bidders as possible in order to obtain the best price and quality. The capacity and ability of local companies to supply goods, works and services and the potential interest of foreign bidders to participate in a project are some of the factors that should help procurement officials determine the most suitable procurement methods and eventually contract packaging. In certain cases, packaging can be manipulated, for example by breaking down one large contract into multiple smaller contracts without appropriate justification, in order to favor local over international firms or allow the use of sole source procurement.

Access to Information about Procurement Plans

Not every country makes procurement plans publicly available. But this is beginning to change. Electronic government procurement (e-GP) systems are beginning to become operational worldwide and many governments have agreed to increase transparency in their procurement procedures. If CSOs are not able to obtain procurement plans electronically or through requests to the relevant government agencies, there are alternatives. For projects funded by the IFIs, CSOs can try to obtain them through these institutions. In cases where the plan itself is not available but there is IFI financing of the project, CSOs can at least consult the Monthly Operational Summaries that most IFIs produce providing information on the operations they finance.

The fact that a procurement plan is not made available and cannot be obtained by Civil Society may itself be a red flag of potential corruption, particularly if the procuring agency is legally mandated to make them public. This is based on the assumption that if information is denied it may be because procurement officials are trying to hide something.

Phase 1: Preparation - Essential Documents		
Document	**Where can it normally be found?**	**Alternatives in case it is not publicly available**
Procurement Plan	On the website of the procuring agency and/or the procurement authority and/or e-procurement website.	In the event procurement plans are not publicly available: • If the project is funded by an IFI, submit an official request to the IFI. • If procurement plans are covered under the country's access to information law, file a complaint or request with the relevant authority.

What to look for

CSOs should analyze procurement plans to determine whether:

• the items to be procured are consistent with the needs originally identified;

• unnecessary items are being included in the list of items to be procured;

• the grouping (packaging) is correct (goods, works and services properly identified, grouped and/or separated by category);

• the timing of the process is reasonable (in terms of the proposed delivery times vis-à-vis the needs identified) and;

• the procurement methods are appropriate and in accordance with the local laws and procedures and needs of the project.

Risks and schemes

• Procurement plans that do not seem to match identified needs;

• Unnecessary/overvalued items appear to be included among items to be procured (for example, items that are not required to complete the project, excessive number of vehicles, training abroad for government officials);

• Contract packaging or splitting appears to favor specific suppliers or allows for sole source procurement;

• The timing of the delivery of goods is not consistent with project needs;

• The procurement methods do not match project requirements and items to be procured.

Phase 1: Planning	
Needs Assessment	
Red Flags	**What Can Be Done**
1. Did the procuring agency fail to give civil society a meaningful opportunity to participate in the needs assessment phase? **Tips:** • Demands for involvement from civil society are ignored • The project is kept confidential and it is suddenly announced • Lack of transparency during the needs definition process • The project is modified at the last minute	• Request public hearings or citizen advisory board meetings to discuss the needs for the project, possible alternatives and undue influence of groups or individuals • Request integrity pacts between the procuring agency and interested parties

2. Is the proposed procurement tailored to the interests of an individual, company or organization? **Tips:** • The project is unnecessary • An infrastructure project is planned in an area of the country although its impact would be greater in a different area • A road or highway is designed so as to pass near the house or hometown of a politician who had influence over the process • Suspicious connections or conflicts of interest exist between certain companies and individuals involved in the needs assessment process	• Request public hearings or citizen advisory board meetings to discuss the needs for the project, possible alternatives and undue influence of groups or individuals • Appeal to the procuring agency or the National Procurement Office as appropriate • Also consider appealing to the Ombudsman and/or the Anti-Corruption Agency • Request integrity pacts between government department and interested parties • Consider partnering with the media to shed light on the issue
3. **Infrastructure Sector Specific** - Could repairs or updates have been made instead of procuring new infrastructure? **Tips:** • Duplication of projects; unnecessary projects	• Request public hearings or citizen advisory board meetings to discuss the needs for the project, possible alternatives and undue influence of groups or individuals • Appeal to the procuring agency or the National Procurement Office as appropriate • Request integrity pacts between the procuring agency and interested parties • Consider partnering with the media to shed light on the issue
4. Is the proposed project unnecessary, excessive or extravagant in nature? **Tips:** • The procurement needs are too general, vague or lack specific details on the location • Lack of transparency during the needs definition process • The project does not respond to any community needs • Large infrastructure projects in isolated areas	• Appeal to the procuring agency or the National Procurement Office as appropriate • Request integrity pacts between the procuring agency and interested parties • Consider partnering with the media to shed light on the issue

Procurement Plan	
5. Did the procuring agency fail to make publicly available the procurement plan for this project?	• Request publication from procuring agency or National Procurement Office as appropriate • Analyze details in budget proposals and verify requirements for procurement plan publication • Appeal to the Access to Information authority
6. Does the procurement plan fail to identify clearly the goods, works or services to be procured? **Tips:** • Items vaguely defined or not defined at all • Items broadly classified into categories • Items left to be defined later on in the procurement process	• Seek clarification/amendment of the plan from the procuring agency or National Procurement Office as appropriate • Reach out to industry associations and verify whether the item description complies with standards and benchmarks
7. Are the items to be procured inconsistent with the needs originally identified?	• Seek clarification/amendment of the plan from the procuring agency or National Procurement Office
8. Is there any indication of abuse of sole sourcing or direct contracting (when competitive methods are required)? **Tips:** • Violating amounts and thresholds contemplated in the procurement law for sole sourcing • Excessive number of sole-sourced contracts • Lack of appropriate justification for sole-sourced contracts or abuse of "emergency" reasons	• Request revision of the plan from procuring agency • Request a review by the National Procurement Office • Consider partnering with the media to shed light on the issue
9. Was the procurement unnecessarily split into multiple smaller procurements? **Tips:** • Numerous small contracts for the same good when one contract would be more efficient • Contracts appear to be split to circumvent procurement thresholds • Splitting for futile reasons	• Request revision of the plan from procuring agency • Appeal to National Procurement Office • Consider partnering with the media to shed light on the issue

10. Does the procurement method selected by the procuring agency violate the procurement law? **Tips:** • The procurement method adopted has less stringent requirements than the one that would apply under the procurement law • There is a deliberate attempt to exclude international firms and/or favor local firms • The procurement method is changed at the last minute	• Request revision of the plan from procuring agency • Appeal to National Procurement Office and/or Ombudsman or the Anti-Corruption Agency • Consider partnering with the media to shed light on the issue
11. Are bidder registration requirements unnecessary or too stringent? **Tips:** • To participate in the project or procurement process, firms are required to register in online systems that are complicated, burdensome, unusual or do not work correctly • Firms have to register in person and the registration form is only available in certain offices in isolated areas, in unknown locations, or only in the capital (if the project is decentralized) • The deadlines for registration are too short, fall during holidays or weekends or are in the past	• Seek clarification/amendment of the procurement plan from the procuring agency • Appeal to National Procurement Office • Coordinate with industry associations or chambers of commerce and verify requirements

b. Advertising

Timely, appropriate notification of procurement opportunities for goods, works and consulting services is essential for economic and efficient project execution, and is the basis for eliciting maximum competition with fair opportunities for all eligible potential bidders. Advertisements can be manipulated by corrupt officials, for example by limiting the circulation of the procurement notices or skipping this step entirely.

In most countries, procurement laws require that procurement actions and opportunities be advertised in the official gazette and in at least one widely circulated newspaper, as well as a central or entity specific website. The purpose of advertising is to invite the maximum number of interested participants possible, to ensure competition and obtain the lowest possible prices.

For CSOs, the content of the ad should be a first indicator of the capacity and will of the procuring agency to conduct the procurement efficiently and with transparency. If advertisements are not published in the legally required places, deadlines for registration and/or submission of bids are too short or cumbersome registration requirements are included, this could hamper the transparency and openness of the procurement process and indicate other problems, such as with bidding documents and evaluation criteria, which will be explored further in this Guide.

Preparation - Essential Phase 1 Documents		
Document	**Where can it normally be found?**	**Alternatives in case it is not publicly available**
Advertisement	• In the country's Official Gazette in electronic or paper format • In local or national newspapers • On official government or agency-specific web sites • On the country's e-procurement website	Advertisement by definition should be publicly available. Failure to publish the advertisement constitutes a significant red flag.

What to look for

• At a minimum, advertisements should include:
• the name of the project and the title of the contract;
• whether there is a need to pre-qualify as a bidder;
• the entity in charge of conducting the procurement;
• a list of the items to be procured;
• contact information for obtaining bidding documents;
• cost of the bidding documents;
• place and deadline for bid delivery;
• required bid security amount and form;
• the place, date and time of bid opening;

• the minimum qualifications that bidders must meet.

Risks and schemes

• Inadequate or incomplete information that prevents potential bidders from requesting clarifications or submitting bids in the right place or by a certain deadline.

• Vague descriptions of the goods, works, or services required so that bidders cannot determine their interest in the procurement.

• Descriptions of the goods, works, or services required that are too narrow and may be aimed at excluding qualified bidders.

• No advertising or restricted circulation of information by posting ads in local rather than national newspapers.

• Short notice period between the advertisement and the bid submission deadline.

Advertising	
Red Flags	**What Can Be Done**
12. Did the procuring agency fail to guarantee a reasonable timeframe between advertising and bid submission? **Tips:** • Publicity for very short periods of time (Normally minimum 30 days for consulting, 45 days for complicated goods and 90 days for large works) • Imminent deadlines (period between advertisement and bid submission deadline is very short) • Publicity during holidays • Publicity for timeframes that do not comply with the procurement law or other applicable regulations	• Request that the procurement be started afresh or request an extension by the procuring agency or the National Procurement Office as appropriate • Advocate for a reasonable timeframe for bid submission through concerned stakeholders such as professional associations, chambers of commerce, media
13. Is essential information in the bid advertisement omitted or incomplete? **Tips**: • No information on where to submit the bid • No information on deadlines • No information on how to request clarification • Insufficient information on the subject of the bid • The format of the bid announcement does not comply with applicable procurement laws and regulations	• Request the procuring agency to release the essential information in a timely manner or request that the procurement be started afresh • Appeal to National Procurement Office • Advocate for release of the required information through concerned stakeholders such as professional associations, chambers of commerce, media
14. Was there limited circulation of the bid advertisement? **Tips:** • Circulation is more limited than mandated by applicable procurement laws and regulations • Publicized in local rather than national newspapers • Absent from the Official Gazette • Absent from government or entity-specific web sites	• Request the procuring agency to publicize the advertisement appropriately or request that the procurement be started afresh • Appeal to the National Procurement Office • Advocate for wide circulation of the advertisement through concerned stakeholders such as professional associations, chambers of commerce, media

c. Bidding Documents

Bidding documents are an essential element of the procurement process as they represent the means by which the procuring agency communicates to bidders all relevant details of a procurement opportunity and instructs them as to the requirements to participate in the process. Consequently, bidding documents must be clear and precise, free of ambiguities and straight forward so that there are no misunderstandings as to what is being procured, under what circumstances and in what period of time.

Bidding documents should clearly define the quantity and quality of the goods and/or services to be supplied or the scope of works required, as well as the conditions of contract governing the procurement. In addition, bidding documents must specify the rights and obligations of the procuring agency and the contractor and the evaluation criteria that will be used to select the winning bid.

While the complexity and level of detail of bidding documents will vary according to the nature and size of the proposed procurement action, the bidding document generally includes:

- A description of the procuring agency and the source of funding, with an indication of the goods, works or services to be procured;
- Instructions to Bidders, providing information on the bidding document, procedure and timing of the bidding;
- The Bid Data Sheet, specifying the parameters for the bid being conducted, including eligibility requirements, procedure for clarification, language, currencies, bid submission procedures, closing date, notification of award and procedures for signing of contract;
- Evaluation and Qualification Criteria;
- The General Conditions of Contract;
- Special Conditions of Contract, if any, that may apply for the particular procurement;
- Schedule of Supply, which specifies the quantities, delivery locations and dates for the items required by the procuring agency;
- The Technical Specifications and drawings, which detail the characteristics of the technologies and technical services required;
- The Bidding Forms.

Access to Bidding Documents

Depending on the characteristics of the project, bidding documents are normally sold for a modest sum of money or made available to interested parties free of charge. In many cases, bidding documents are readily available for all to consult and can be downloaded through central or entity-specific web pages.

Difficulties in obtaining access to these documents by civil society can represent one of the first red flags of corruption in a procurement. In some countries, CSOs can access bidding documents by simply registering on the Government e-procurement website as suppliers or through other official channels. In other instances, CSOs may have to find alternative ways to obtain Bidding Documents, for instances by developing partnerships with specific government agencies or chambers of commerce.

Preparation - Essential Phase 1 Documents		
Document	**Where can it normally be found?**	**Alternatives in case it is not publicly available**
Bidding Documents (including the Technical Specifications, Terms of Reference, Evaluation Criteria and Contract Requirements)	Through government and procuring agency's web sites or by registering on the government e-procurement website	In the event Bidding Documents are not publicly available, CSOs can • Request them from industry or trade associations or chambers of commerce • Request them from bidders participating in the process; • If bidding documents are covered under the country's access to information law, file a complaint or request with the relevant authority

What to look for

When reviewing bidding documents, the drafting of the Terms of Reference and Technical Specifications, the Evaluation Criteria and the Contract Requirements are the three critical areas that CSOs should scrutinize carefully, as they will determine the outcome of any procurement process.

d. Terms of Reference and Technical Specifications, Evaluation Criteria and Contract Requirements

Terms of Reference and Technical Specifications[17]

Both the Terms of Reference and Technical Specifications should be drafted in a precise and clear manner, free of bias and generic enough for companies to compete. When a specific requirement is mentioned, the words "or equivalent" should be added. For example, if the Technical Specifications require a 4x4 Toyota Land Cruiser, the words "or equivalent" should be included, to allow manufacturers such as Nissan, Mitsubishi and others to compete. On the other hand, unduly vague or broad Technical Specifications can allow a bidder with inside knowledge of the actual needs of the procuring agency to easily win the bid or justify fraudulent change orders after the contract is awarded.

Preparation of the Terms of Reference and Technical Specifications should involve individuals with relevant technical expertise, to ensure that these key documents are not too vague or biased, whether intentionally or not, towards a particular brand or supplier. Whenever the nature of the procurement is complex or unique, it is a best practice to involve all potential suppliers in the preparation of the Technical Specifications. This practice contributes to increasing transparency and ensuring that the specifications are unbiased and grant bidders the possibility to incorporate new technologies. As a rule, CSOs are not consulted by the procuring agency in the design of the specifications, although there may be exceptions in certain countries (see the Argentine case study in Box 8).

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[17] Terms of Reference and Technical Specifications differ in that the Terms of Reference usually define the broader scope and purpose of the project or procurement (e.g., construction of a 4-lane bridge from point a to point b, to facilitate regional trade), while the Technical Specifications provide greater technical details regarding the specifics of the goods, works or services required (e.g., the bridge will have to be at least X meters high and have a capacity of Y cars per hour, and resist lateral wind of Z intensity).

Technical specifications should be descriptive and, at a minimum, should provide clear information on requirements such as:

- standards of materials and workmanship required;
- factory tests required (type and number);
- work required to achieve completion;
- start-up activities to be performed by the Contractor; and
- guarantees required and liquidated damages to be applied in the event that such guarantees are not met.

Evaluation Criteria

This section of the bidding document specifies the criteria that will be used to evaluate the bids or proposals. Such criteria should be unbiased and should reward the best offer. When procuring goods and works, evaluation criteria should be based mostly on cost—provided the technical specifications are met. Evaluation criteria for goods and works which rely on elements other than price may be a red flag as they could form the basis for selection that is not consistent with procurement laws. Procurement of services is more complex, as the evaluation criteria often rely significantly also on the quality of the proposal (see Appendix 1 on procurement methods). If the evaluation criteria include unreasonable deadlines for the delivery of equipment, they will probably exclude international suppliers who need more time than local suppliers to supply the goods or services being procured.

Contract Requirements

Standard bidding documents normally differentiate between General and Special Conditions of Contract. General Conditions of Contract (GCC) are general in nature and apply to all procurement actions, whereas Special Conditions of Contract (SCC) are specific to each procurement. For example, when medical equipment is being purchased, there might be specific provisions relating to testing or safety which would not be needed for the purchase of textbooks. If there is a conflict between the provisions of the GCC and those of the SCC, the provisions of the SCC prevail.

Taken together, the draft contract included in the bidding documents should contain provisions on: i) the rights and obligations of both parties; ii) the procedures for contract performance; iii) the terms and currencies of payment; iv) dispute settlement procedures; and v) applicable law. It should also include clauses that establish protection against various risks and allocate them between the parties, such as i) performance bond; ii) retention of payments by the procuring agency; iii) insurance; iv) inspection and tests; v) warranties; vi) protection against third party infringement suits; vii) indemnification for personal or property damage; and viii) force majeure.

A third set of contract provisions relate to permitted variations and remedies for failure to perform. Variations relate to unforeseen or planned changes during the life of the contract, such as i) quantity changes; ii) adverse physical conditions; iii) price adjustments; and iv) changes in delivery requirements. Remedies deal with the failure to perform by one of the parties, resulting in a breach of the contract. They include provisions on i) forfeiture of performance bond; ii) procedure for damages and penalties for delays; iii) procedure for suspension and termination; iv) nonpayment or v) failure to provide required approvals and information.

Risks and schemes

- Rigged or tailored Technical Specifications drafted in a way that favors a particular company;
- Very narrow specifications that can be used to exclude qualified bidders or justify improper sole source awards;
- Unduly vague or broad specifications that allow unqualified bidders to compete or justify fraudulent change orders after the contract is awarded;
- Using brand names without stating "*or equivalent*";
- Leakage of information by project officials to favor one of the bidders.

Bidding Documents	
Red Flags	**What Can Be Done**
15. Do you have access to the bid documents? (If No, system skips questions below and phase ends. If Yes, user is prompted to answer questions a-j)	• Appeal to the procuring agency along with industry associations
a. Are the bid documents expensive or difficult to acquire? **Tips:** • Bidding documents sold at inflated prices • Bidding documents sold at locations hard to reach or in offices always closed to the public • Bidding documents sold online on websites that do not work or are under maintenance • Suppliers cannot purchase bid documents with the excuse that bid documents are no longer available	• Advocate for more transparent and standardized ways to sell or distribute bidding documents
b. Are the bid documents unnecessarily complex? **Tips:** • The bidding documents contain requirements that are unusually complicated • The complexity of the bidding documents appears to favor one or more bidders	• Appeal to the procuring agency or National Procurement Office to request simplification or clarification • Work with industry or trade associations to isolate the main issues and propose improvements
c. Is the description of the goods, works, or services to be procured overly vague or narrow? **Tips:** • There are complaints from potential bidders that the goods, services or works are too vaguely or narrowly described; potential bidders drop out	• Seek clarification or justification of suspicious items with procuring agency or appeal to the • National Procurement Office, along with industry associations

d. Are any of the goods, works or services in the bid documents unnecessary for the completion of the project? Are they excessive or extravagant in nature? **Tips:** • Excessive or unnecessary number of goods such as computers, printers or cars or rental of apartments	• Seek justification of suspicious items with procuring agency or appeal to the National Procurement Office as appropriate, along with industry associations for reconsideration of goods, services necessary for the project • Consider appeal to Ombudsman, and or the Anti-Corruption Agency to investigate • Consider partnering with the media to shed light on the issue
e. Are any of the key clauses in the bid documents inconsistent with the Standard Bidding Documents?	• Appeal to the procuring agency or National Procurement Office as appropriate, along with industry associations, to resolve inconsistencies
f. Is the budget for the procurement, if available, inconsistent with the works, goods or services to be procured?	• Use internet/data as source for price comparison (Examples: international reference prices of medicines or construction materials) • Request a review by the procuring agency or the • National Procurement Office as appropriate

TOR and Technical Specification	
g. Are the Terms of Reference and/or Technical Specifications unnecessarily complex, too vague, narrow or tailored to a specific bidder? **Tips:** • Specs stipulate the use of a brand name without stating "or equivalent" (potentially excluding qualified bidders) • Specs provide unnecessarily specific technical details that clearly identify one particular brand • Specs are copied and pasted from the official description of a certain good (available in a leaflet or instructions or online)	• Request revision of Specs and TOR by the procuring agency • For large-value and high-risk contracts, request that the procuring agency get the Specs and TOR reviewed by an independent expert • Work with industry and professional associations to review the Specs/TORs and compare with industry standards and benchmarks
h. Does the bid bond or security, if required, exceed the limits set in the procurement law and regulations? **Tips:** • Size of bid bond does not match industry standards or international best practices	• Request review by the procuring agency or National Procurement Office as appropriate, along with industry associations and chambers of commerce • Advocate for the National Procurement Office to release standard guidelines for bid bonds size

Evaluation Criteria	
i. **Education sector specific** - In the case of procurement of textbooks, do the Terms of Reference fail to grant the government the right to republish them? **Tips:** • Watch for cases in which the publisher is allowed to maintain copyrights and reprinting rights	• Request review by the procuring agency or National Procurement Office as appropriate, along with industry associations and chambers of commerce
j. Are the evaluation criteria missing, vague, unusual, unreasonable or biased? **Tips:** • The evaluation criteria are designed so as to give much more importance to one aspect of the bid over the others, in a way that would result in favoring one bidder, for example requiring a specific kind of experience or number of previous jobs	• Request revision of the evaluation criteria by the procuring agency or the National Procurement Office as appropriate • Work with industry and professional associations to review the evaluation criteria and compare with industry standards and benchmarks • Advocate with the National Procurement Office in favor of standard guidelines for designing evaluation criteria

5.2 Phase 2 – Bidding Process

After finalizing the planning stage and the bidding documents, the bidding process starts. In this second phase of the procurement the short-listing of consultants and pre-qualification of bidders occurs; pre-bid conferences are held in some cases; bids are submitted and publicly opened.

Short listing/Pre-qualification

Short-listing of bidders applies to consultancy contracts while pre-qualification is common for large civil works projects and also for some special goods and complex services, such as creation and installation of information technology systems. Short-listing/pre-qualification is aimed at ensuring that only consultants, contractors and suppliers who have the required experience and technical and financial resources bid for a contract.

The requirement to pre-qualify and the relevant documents are normally advertised in similar terms as those described in the planning stage of the procurement. The prequalification documents include a series of questions on the firm's ability to comply with the requirements of the project (experience, financial resources, personnel, equipment) and to allow the procuring agency to make an objective decision as to the bidder's capabilities.

Pre-bid conference and bid clarification process

The purpose of a pre-bid conference, usually accompanied by site visits in large works projects, is to allow potential bidders to clarify ambiguities, ask questions and request clarifications. It is also a last chance to make modifications to the terms and conditions of the bidding documents, usually based on suggestions and comments from potential bidders.

Pre-bid meetings can be open to all interested parties or restricted to companies that purchased the bidding documents. Typically all participants are required to register to enable the procuring agency to distribute minutes of the pre-bid meeting. These proceedings are not normally open to the public so it would be difficult for CSOs to participate and monitor them, unless there is an explicit consent on behalf of the procuring agency. To our knowledge, the only country which, by law, allows civil society participation in pre-bid conferences is the Philippines. Should CSOs be allowed to participate, one key element to observe is whether the information resulting from pre-bid conference/site visit is shared with all potential bidders in a timely fashion, thus avoiding favoring bidders who participated in the visit over those who did not.

Once the bidding process has started, potential bidders may seek clarification concerning the technical specifications, contract formalities or other issues pertaining to the bid. The failure to issue clarifications in a timely and public fashion can indicate unbalanced or rigged bidding. In such cases, often as a result of corruption, project officials provide useful bidding information to a favored bidder while deliberately withholding it from other bidders. In other cases, the clarifications may be issued publicly at the very last minute, preventing all but a favored bidder who receives advance notice, from processing the information and amending their bids accordingly.

Bid submission

The bid submission procedures, the date, place and time for receipt of bids and all other features of the process are specified in the Bid Data Sheet. These are formal proceedings and the procuring agency should normally organize a detailed process for receipt, storage and custody of the bids/proposals. This process is not normally open to the public and CSOs may not be able to monitor this process.

Bid opening

At this stage all bids received in time are opened by the procuring agency. In many countries, for very large and important procurements, the bid opening is a public ceremony to which Civil Society should have access. For smaller procurements and in some countries, participation may be restricted to those who have purchased the bidding documents and are registered participants. During the bid opening a preliminary examination of the bids should take place. Except for decisions about rejecting bids received after the closing time—(which most laws mandate for late bids), other decisions about whether a bid is compliant with bid document requirements would not normally be made during the bid opening.

Access

Under the procurement framework of most countries, the processes described above are not open to the public, except for bid openings. But there are some sources of information.

Bidding Process - Essential Monitoring Documents		
Document	**Where can it normally be found?**	**Alternatives in case it is not publicly available**
List of short-listed or pre-qualified firms	On the website of the procuring agency or e-procurement website	If the list of short-listed firms is not publicly available, CSOs can • If the project is funded or co-funded by an IFI, submit an official request to the IFI • Request it from industry associations or chambers of commerce • Conduct a survey among bidders participating in the process
List of participants at bid opening	Available during bid opening ceremony	If bid opening is not open to the public, CSOs can: • Request the list from industry associations, professional associations or chambers of commerce • Ask participating bidders
The registry of complaints brought up during the opening session	Available during bid opening ceremony	In the event the registry of complaints is not publicly available, CSO can • Request it from the procuring agency • Request it from bidders participating in the process.

What to look for

Short-listing/Pre-qualification: If short-listing/prequalification documents are available, review:

• The evaluation criteria to ensure they are generic enough for companies to participate on a level playing field;

• Review the list of prequalified companies to identify companies that do not appear to have the resources, expertise and experience required to carry out the assignment.

Pre-bid conference: If access has been provided, review the answers to questions raised and clarifications requested, to ensure a level playing field among participants.

Clarifications: Determine whether clarifications have been delivered to all participants at the same time and in a timely manner

Bid submission: There is no role for CSOs during this stage.

Bid opening: The Monitors participating in the opening ceremony should hold a formal process and should be overseeing and reporting on the proceedings to ensure, that:

- The outer envelope of the bid is sealed before opening it;
- The bid form is completed and signed;
- The expiration date and amount of the bid security (if required) conform to the requirements of the bid documents;
- If there are alternative bids, these are duly acknowledged and noted in the records;
- The total and itemized bid prices are read aloud.

CSOs should monitor the items above and also take note of the participants and prices read aloud (overall and for individual items or lots), as this information will be needed as a benchmark when monitoring the award of contract.

Risks and schemes

- Excluding qualified bidders by providing inadequate or erroneous information for the preparation of bids;
- Manipulation of the short-listing and pre-qualification process to exclude qualified competitive bidders;
- During the bid submission process, late bids are accepted, bids are tampered with or valid bids are excluded;
- During bid opening, prices are manipulated to favor a particular bidder.

During the bidding phase, collusion and bid rigging are typical problems. While not easy to detect, CSOs can anticipate some of these schemes by comparing prices being offered with historical data on procurement. For example, if bidding is taking place for the construction of rural schools, CSOs could obtain reference prices for previous construction projects and also make a list of the companies that have participated in previous bids to verify if there are significant differences in prices between similar types of projects, or patterns in which prices fluctuate depending on the province, or area of construction. Typically, local companies should be expected to have lower prices because of location, cost of mobilization and other considerations. When this is not the case, CSOs can compare their prices with prices in other locations to determine patterns and request that those evaluating proposals bear in mind and seek clarification as to the reasons for the differences in prices. The same method applies to the provision of goods or services. Over time, CSOs can build databases of prices (or use existing ones) to make monitoring more effective (See Box 6 on the Differential Expenditure and Efficiency Measurement tool, developed by PWI).

Phase 2: Bidding Process	
Short Listing and Prequalification	
Red Flags	**What Can Be Done**
1. Are any of the short-listed firms unqualified? **Tips:** • Some of the shortlisted companies have no experience in the specific sector • The short-list does not include companies that traditionally bid on similar contracts • The short-list includes companies that were recently created or are unknown	• Review short-listed firms along with professional associations, industry associations and chambers of commerce • Request that the procuring agency prepare a new short list, or even cancel the process if none of the shortlisted firms appear qualified

2. Do any of the short-listed or pre-qualified firms appear to be fictitious or "shell" companies? **Tips**: • Complaints from other bidders that a competitor is unknown in the industry or a fictitious company • The bidder does not appear on the Internet, is not listed in telephone or business directories, or is located at a private residence • Complaints that a project or government official owns or is otherwise linked to a supplier or contractor • A contractor or supplier provides a wide variety of disparate goods and services at high prices	• Report findings to the procuring agency or the National Procurement Office, as appropriate, for their further review • Also consider appealing to the Ombudsman and/or the Anti-Corruption Agency to further investigate

Pre-Bid Conference	
3. Is the pre-bid conference scheduled too close to the bid submission date?	• Along with industry associations, request that the procuring agency provide an extension or that appropriate deadlines be observed (a minimum of between 15 and 30 days, depending on the complexity of the procurement) • Appeal to the National Procurement Office, if appropriate • Advocate in favor of the establishment of guidelines for how deadlines should be determined
4. Have the Technical Specifications been changed after the pre-bid conference, without an extension of the timeframe for the submission of bids?	• Along with industry associations, appeal to the procuring agency for deadline extensions • Appeal to National Procurement Office if appropriate
5. Did the procuring agency fail to properly address questions or issues raised during the pre-bid conference? **Tips:** • Replies to inquiries are vague or do not address the substance of the question • Replies are not in writing • Replies are only provided to certain bidders	• Request explanations from the procuring agency • Appeal to the National Procurement Office if the procuring agency does not properly address questions

Bid Submission	
6. s there a high number of complaints from bidders? **Tips:** • Watch for complaints or rumors that the contract "has already been awarded"	• Along with industry associations, appeal to the procuring agency or National Procurement Office, as appropriate, and request process and documents be reevaluated and/or redrafted • Request that an Integrity Pact be considered for the procurement • Consider appealing to the Ombudsman and/or the Anti-Corruption Agency • Consider partnering with the media to shed light on the issue

7. Did all bidders except one drop out voluntarily during the bidding process?	• Bring to the attention of the procuring agency or the National Procurement Office as appropriate, and request starting the process afresh • Request that an Integrity Pact be considered for the procurement • Consider appealing to the Ombudsman and/or the Anti-Corruption Agency • Consider partnering with the media to shed light on the issue
8. Are bidders unduly influencing the bidding process? **Tips:** • Frequent contacts among one of the bidders and officials of the procuring agency • Watch for complaints or rumors that the contract "has already been awarded" • Some bidders appear to have access to confidential information	• Research possible conflicts of interest between favored bidder(s) and public officials • Bring any conflicts to the attention of the procuring agency and the National Procurement Office • Request that an Integrity Pact be considered for the procurement • Consider appealing to the Ombudsman and/or the Anti-Corruption Agency • Consider partnering with the media to shed light on the issue
9. Are there substantial delays between bid submission and opening? Tips: • As a general rule, no more than two days should pass between the deadline for submission of bids and the bid opening ceremony.	• Request explanation from the procuring agency; involve industry associations and chambers of commerce • If the explanation provided by the procuring agency is unsatisfactory, appeal to the National Procurement Office and consider requesting the cancellation of the process • Consider appealing to the Ombudsman and/or the Anti-Corruption Agency
10. Did the procuring agency fail to address complaints from bidders?	• Request an explanation from the procuring agency; involve industry associations and chambers of commerce • Bring complaints to the attention of the National Procurement Office and/or Ombudsman or Anti-Corruption Agency • Consider partnering with the media to shed light on the issue
11. Did any companies complain that they were not allowed to submit their bids?	• Request an explanation from the procuring agency; involve industry associations and chambers of commerce • Bring to attention of the National Procurement Office or Ombudsman and/or the Anti-Corruption Agency • Consider partnering with the media to shed light on the issue

Bid Opening	
12. Did the procuring agency fail to open the bids in public and at the time and place specified? **Tips:** • Ensure that the opening of bids takes place on the date, time, and place that was advertised • If the date, time, or place were changed, bidders and monitors should have been notified in a timely manner	• Request an explanation from the procuring agency; demand publicity along with industry associations and chambers of commerce • Appeal to the National Procurement Office or Ombudsman and/or the Anti-Corruption Agency. • Consider partnering with the media to shed light on the issue
13. Are there complaints of missing bids or bids not brought to and opened during the opening ceremony? **Tips:** • Ensure that bids are opened one at a time	• Request an explanation from the procuring agency; demand greater transparency along with industry associations and chambers of commerce • Appeal to the National Procurement Office or Ombudsman and/or the Anti-Corruption Agency • Consider partnering with the media to shed light on the issue
14. Did the procuring agency receive substantially fewer bids than expected? **Tips:** • More than half of the companies that purchased the bidding documents did not bid • Well-known, qualified companies that purchased the bidding documents did not bid	• Contact companies that did not bid to understand their reasons for not participating • If collusion is suspected, bring it to the attention of the procuring agency or the National Procurement Office and if appropriate, request that the process be started afresh • Also consider appealing to the Ombudsman and/or the Anti-Corruption Agency • Consider partnering with the media to shed light on the issue

5.3 Phase 3 – Evaluation

This is perhaps the most important stage of the procurement process and normally the one least open to public or CSO monitoring. It entails the creation of the Bid Evaluation Committee (BEC), the actual evaluation process, the drafting of the Bid Evaluation Report (BER) with the recommendation for award of contract, and the actual contract award and signature. According to the World Bank, *"Regardless of how well the other steps in the procurement process are conducted, if bids are not evaluated correctly and fairly, the process has failed."*[18]

Under most legal frameworks, this process is confidential. Only in a very few jurisdictions, such as the Philippines and Nigeria, CSOs are allowed (or requested) to participate in BEC as observers. Usually the contract award recommendation is made public only after it has already been approved. In some cases, the results are only known after the contract has been awarded and signed. This makes monitoring extremely difficult for CSOs since cancelling a contract is very difficult, even if problems are found.

Bid Evaluation Committee

In order to examine and evaluate bids, the procuring agency normally appoints a Bid Evaluation Committee (BEC) composed of at least three qualified members who have the necessary technical competence in the sector and are also familiar with the procurement itself (preferably including at least one individual who participated in the preparation of the bidding documents). In the case of large works and construction projects, at least one independent consulting engineer usually participates either as a BEC member or as an advisor. The BEC is responsible for the evaluation and comparison of the bids received and for the preparation of the Bid Evaluation Report.

In discharging its responsibilities, the BEC will:
- Conduct a preliminary examination of all bids;
- Make a determination of the responsiveness of the bids;
- Correct arithmetic errors, if any, in accordance with the stipulations of the bidding documents;
- Convert, for evaluation purposes, all offers to a common currency;
- Quantify omissions and deviations, if any;
- Apply the evaluation criteria to all bids;
- Elaborate a grid to compare the bids ;
- Prepare an evaluation report with a contract award recommendation.

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[18]   World Bank, "Bank-Financed Procurement Manual" (2003), at 133, available at http://siteresources.worldbank.org/PROCUREMENT/Resources/pm7-3-01.pdf.

Bid Evaluation Report

The Bid Evaluation Report is normally presented by the BEC to the person or persons in the procuring agency who are charged with approving contracts. The report should explain in detail the process implemented for the evaluation of the bids including issues such as:

- Key dates and steps in the bidding process;
- Bid prices, corrections, discounts and currency conversions;
- Additions, adjustments and price deviations;
- Technical evaluations, if any;
- Names of bidders rejected, if any, and reasons for rejection;
- The proposed contract award.

The contract award recommendation should be in accordance with the evaluation criteria listed in the bidding documents and should normally be to the bidder that has presented what is called the "lowest evaluated and substantially responsive bid." This may or may not be the bidder with the lowest price bid, since the contract should be awarded to the bidder whose bid has been evaluated and found to offer the lowest cost, while meeting all the terms and conditions stipulated in the bid documents. In the case of consulting services, the award would be to the best technical proposal or to the best combination of technical and financial proposal, depending on the type of procurement (see Annex 1 on procurement methods).

Award and contract signature

Once the Bid Evaluation Report has been approved by the competent authority, the procuring agency should notify the awardee in the manner and within the timeframe specified in the bidding documents. The notification should include a contract form, and notification of the amount of the performance bond, if required.

The procuring agency should also request the awardee to return the signed contract together with the required performance bond within the timeframe specified in the bidding documents. If the successful bidder fails to return the signed contract or provide the required performance bond, the procuring agency may proceed to offer the contract to the second lowest evaluated bidder. Finally, the procuring agency should notify unsuccessful bidders of the outcome of the contract award as soon as possible after receiving the signed contract and the performance bond and proceed to publish the award notice, if so required by relevant procurement laws and regulations.

Access

Under normal circumstances, CSOs will not have access to information concerning the composition of the BEC, the evaluation process and the award recommendations (see boxes 3, 6 and 7 for some case studies). Monitoring may only be possible once the contract has been awarded, and signed. In some countries, the law prescribes a pre-award process in which all bidders are notified of the procuring agency's intention to award the contract, with a few days' moratorium between notification and contract signature to allow unsuccessful bidders to comment or complain. In these cases, CSOs may have a better chance to monitor the contract award process.

Evaluation - Essential Monitoring Documents		
Document	**Where can it normally be found?**	**Alternatives in case it is not publicly available**
Bid-Evaluation Report	Not available to the public in most cases	CSOs can: • Develop relationships and agreements with certain procuring agencies to obtain access to evaluation reports • If there are other red flags present or if there is a suspicion of corruption in the procurement process, request the procurement or audit institutions to make the report publicly available • In the long term, advocate in favor of the publication of evaluation reports
Contract Award Recommendations	Not available to the public in most cases	CSOs can: • Develop relationships and agreements with certain procuring agencies to obtain access to award recommendations • If there are other red flags present or if there is a suspicion of corruption in the procurement process, appeal to procuring agency or National Procurement Office to make award recommendations publicly available • In the long term, advocate in favor of the publication of award recommendations

What to look for

If CSOs were able to monitor the bid opening and take note of the participants and the prices they offered, they should now compare that information with the bid evaluation report, the name of the awardee and the amount of the final contract, to ensure consistency. In addition, if the conditions of contract are known, CSOs can compare them with the original bidding documents to ensure that the contract signed complies with and responds to the actual needs of the project, as indicated in the Technical Specifications or Terms of Reference. Since CSO involvement is minimal at the bid evaluation stage, CSOs should apply additional levels of scrutiny at bid opening and after the award decision is made public to detect potential corruption schemes.

Risks and schemes

The risk of corruption can be especially high during the evaluation phase of a contracting process, particularly since there is usually little transparency during this phase. The BEC may be made up of officials who have conflicts of interest or are not technically qualified to select the best offer; the bid evaluation report may be based on criteria not contained in the bidding documents or may be biased in favor of a certain bidder.

Phase 3: Evaluation

Bid Evaluation Committee

Red Flags	What Can Be Done
1. Does any member of the evaluation committee or any procurement officer have or appear to have a conflict of interest? **Tips:** • Frequent contacts between procurement officers/ BEC members and one of the bidders • There are rumors that BEC members are linked to one of the bidders	• Research conflict of interest (look into bidders' shareholders, family ties to members of the BEC) • If conflict of interest is found or strongly suspected, appeal to procuring agency for changes in the bid evaluation committee • If there is no action, appeal to National Procurement Office and/or Ombudsman or the Anti-Corruption Agency to investigate • Advocate for disclosure of financial interests by public procurement officials
2. Does any member of the evaluation committee or any procurement officer lack the technical skills necessary for the performance of his duties? **Tips:** • Committee members are political appointees with no technical background • Committee members lack the necessary technical and professional certifications	• Along with professional associations, reach out to the procuring agency and request changes to the BEC, or appeal to the National Procurement Office as appropriate

Bid Evaluation Report

Red Flags	What Can Be Done
3. Do the evaluation criteria used for the contract award differ from those in the bidding documents?	• Request explanations and compliance with the evaluation criteria in the bidding documents from the procuring agency • Appeal to the National Procurement Office and request cancellation of contract award, if it is based on biased criteria • Increase the scrutiny of the implementation of the contract

4. Does the Bid evaluation report inadequately apply the evaluation criteria? Did any bidder unduly influence the evaluation process?
 	
Tips:
• If available, review prices of winning and losing bidders for corruption or collusion indicators such as:
   • Prices that are too close to the estimated budget
   • Prices of different bidders that differ by exact percentages (the losing bids are exactly x% more than the winning bid)
• Evaluation criteria are applied unevenly to favor certain bidders
• Certain bidders were disqualified without proper justification
	• Request explanations and compliance with evaluation criteria from the procuring agency
	• Appeal to the National Procurement Office and/or Ombudsman or Anti- Corruption Agency and request cancellation of contract award, if it is based on biased criteria
	• Consider partnering with the media to shed light on the issue

Contract Award

5. 5. Are there unreasonable delays between opening of bids and award announcement or contract signature?	• Request explanations for the delay from the procuring agency • Appeal to the National Procurement Office, if appropriate, to investigate the reason for the delay
6. 6. Did the procuring agency fail to publicly announce the contract award?	• Request an explanation from the procuring agency and request public notification of the award • Appeal to the National Procurement Office and/or Ombudsman or Anti-Corruption Agency • Increase scrutiny of the contract implementation process
7. Do the evaluation criteria applied in the award decision differ from those contained in the Terms of Reference?	• Request an explanation and a new evaluation process by the procuring agency; remain vigilant during the re-evaluation • Appeal to the National Procurement Office if appropriate

8. Is the winning bid price much higher than the cost estimates or industry averages for similar works, goods or services?
 	
Tips:
• Watch for bids with prices that are significantly above the cost estimate or an exact percentage above the cost estimate
• If you have access to prices of losing bids, also watch for indicators of collusion such as:
   • Bid prices of different companies that are mathematically correlated (exact percentages apart)
   • Bids with round numbers, unusual sequences of numbers or many mathematical errors, indicating "courtesy" bids
   • Bid prices that are closely clustered together
	• Investigate prices through online databases (see the "Links" section of the tool), or consult with sector experts and compare market prices with price of contract awarded; request an explanation from the procuring agency
	• Work with industry, professional associations or chambers of commerce and appeal to the National Procurement Office and/or Ombudsman and/or Anti-Corruption Agency
	• Consider partnering with the media to shed light on the issue

9. Are the same bidders repeatedly winning contracts in the same sector or region or with the same procuring agency? **Tips:** • The same bidder repeatedly winning contracts in a certain region or sector • The same bidder repeatedly winning bids issued by a certain procuring agency	• Analyze published lists of contract awards and if patterns are identified, reach out to procuring agency or National Procurement Office • Consider bringing patterns to the attention of Ombudsman and or Anti-Corruption Agency • Consider partnering with the media to shed light on the issue

10. Is there a pattern of rotation of winning bidders? **Tips:** • The same bidders repeatedly winning contracts in a certain region or sector • The same bidders repeatedly winning bids issued by a certain procuring agency • Losing bidders are subcontracted • Award prices are much higher than cost estimates or industry average	• Analyze published lists of contract awards and if patterns are identified, reach out to procuring agency or National Procurement Office • Consider bringing patterns to the attention of Ombudsman and/or the Anti-Corruption Agency • Consider partnering with the media to shed light on the issue
11. Has the procuring agency awarded numerous contracts without a competitive process?	• Request an explanation from the procuring agency • or the National Procurement Office as appropriate • Consider appealing to the Ombudsman and/or the Anti-Corruption Agency • Increase scrutiny of the contract implementation process • Advocate for stricter regulation of non-competitive and emergency measures • Advocate for involvement of civil society in monitoring non-competitive or emergency procurement processes • Consider partnering with the media to shed light on the issue
12. Was the lowest bid unfairly disqualified at contract award?	• Request an explanation from the procuring agency; reach out to the disqualified bidder to discuss • If disqualification appears unjustified, appeal to National Procurement Office
13. Was the contract signed without public notice or notification to losing bidders?	• Request an explanation from the procuring agency; request increased transparency • Bring to the attention of National Procurement Office • Increase scrutiny of the contract implementation process
14. Has any bidder protested the results of the procurement process?	• Check with the procuring agency or the National Procurement Office, as appropriate, how many protests were raised, how many were resolved or are still outstanding and what was the nature of protests
15. Did the procuring agency fail to address protests against the award decision?	• Check with procuring agency or the National Procurement Office, as appropriate, how many protests were raised, how many were resolved or are still outstanding and what was the nature of protests • Consider appealing to the Ombudsman and/or the Anti-Corruption Agency

5.4 Phase 4 – Implementation/Administration

The implementation/administration phase includes preparation of the contract, contract implementation, contract changes, and audit and evaluation of contract performance. Adequate contract performance can be defined as a performance that delivers all the goods, works and/or services contracted in a substantially responsive manner, in time and within budget. In order for this to happen, the procuring agency must draft and sign a contract that is clear and precise, covers all the essentials and leaves no room for ambiguity. In addition, the procuring agency must set up supervisory, control and dispute resolution mechanisms that permit timely monitoring and intervention. Finally, there must be adequate auditing and evaluation of contract implementation. CSOs can be valuable allies of government agencies in these efforts.

Final contract

As mentioned previously, bidding documents contain general and specific conditions of contract that become the contract between the procuring agency and the winning bidder. Generally, there should not be deviations between the draft contract contained in the bidding documents and the final contract.

Contract implementation

There are many reasons that may explain why a contract was not implemented properly or on time. The contractor's failure can be due to lack of technical capacity or poor workmanship, resulting in quality problems, as well as poor supervision by the procuring agency. Failure can also be due to lack of capacity in the procuring agency or poor decision-making. However, this phase of the procurement process has been identified as very vulnerable to corruption and there is ample opportunity for corrupt practices (see section 3.2).

Contract changes

Once a contract has been awarded and signed, there should be no substantial changes to the terms agreed upon. However, contract changes are not uncommon: in certain cases, they may indicate corruption; in other cases, they may be fully justified. The difference between bona fide contract changes and those due to corruption can be hard to detect. For instance, time extension requests, which are usually due to delays in the implementation of the contract caused by either the procuring agency or the contractor, can be caused by external factors but may also be linked to fraudulent schemes, such as the contractor's inability or failure to perform the works or deliver the goods or services in the required timeframe within the approved budget. Similarly, price adjustments may be caused by unforeseen increases in the cost of raw materials and other external inputs, but may also be the result of a corrupt scheme, whereby a company submits a low bid to win the contract ("low-balling") having already bribed a procurement official to later obtain a price adjustment. Similar problems apply to contract changes affecting technical specifications and the scope of the contract.

Audit

A procurement audit should not be confused with a financial audit. Procurement audits are related to the procurement process rather than to the financials of the project (which have their own audit procedures). Procurement audits focus on the entire procurement process, including the:

- Invitations to bid;
- Contents of the bidding documents;
- Public bid opening records;
- Bid evaluation reports;
- Final contracts and other documents as appropriate.

The purpose of the procurement audit is to check if the agreed procedures, including evaluation criteria, were correctly followed; whether the documents are consistent with the laws and regulations that govern the procurement; whether the contract was awarded in accordance with the stated evaluation criteria; and whether the goods, works or services delivered conform to the requirements in terms of quantity, quality, timing and all other particulars of the contract. After conducting the audit, a findings and conclusions report should be prepared by the auditors, with recommendations to the procuring agency as to the necessary actions to be introduced to correct any problems that are found, or referral to the competent authorities if corrupt practices are detected. These reports are a very important resource for CSOs to review, if available.

Project Evaluation

Project evaluation is the periodic assessment of the relevance, performance and impact of the project as a whole and in relation to the objectives set out in the procurement plan. Reviewing whether implementation is in accordance with the agreed schedule and whether the procured goods, works or services are reaching the intended beneficiaries is an essential element of good procurement management. Monitoring and evaluation provide continuous feedback on the implementation/ administration phase, helps identify actual or potential problems as early as possible, and facilitates timely adjustments to the project in general and procurement processes specifically.

CSOs can play an important role in this process. When monitoring the implementation of complex infrastructure projects, CSOs can seek expert advice from professional and industry associations, which may provide pro-bono advice, or from architecture or engineering students, who in some countries may be required, as part of their curricula, to provide support to procurement Monitors. CSOs may want to consider signing agreements with both professional associations and universities to obtain this kind of support.

Other contracts, for instance the delivery of school furniture, medicines or textbooks, do not require technical expertise but do take significant amounts of time to count the goods or ensure that they meet specifications. In these cases, CSOs should engage local community groups, students, teachers' associations, trade unions, boy-scouts or other organized non-profit groups in monitoring (See Box 7). This kind of monitoring also contributes to raising awareness of corruption issues in local communities and among the beneficiaries of the project being monitored.

Access

In some countries, information on contracts awarded is made available to the public through the procuring agency's website or central e-procurement website. In this case, CSOs can use the clauses of the contract, its purpose, value, contents and delivery schedules as the basis for monitoring the implementation/administration of the contract.

If information on contract changes or change orders is also published, CSOs should also be able to monitor these changes and assess if they appear justified or not, taking the necessary steps to intervene as suggested in the red flags table below.

In many cases, procurement audit and evaluation reports are not public, unless the law of the country explicitly provides for publication. CSOs can consider alternatives such as reaching agreements with the procuring agency or the auditing body. In cases of financial audits, CSOs can seek support from the country's supreme audit institution, associations of auditing firms or individual accounting firms.

Implementation/Administration - Essential Monitoring Documents		
Document	**Where can it normally be found?**	**Alternatives in case it is not publicly available**
Contract	Not available to the public in most cases	CSOs can: • Request it from the procuring agency • Obtain it from the firm that was awarded the contract • In the long term, advocate in favor of contract publication
Change Orders	Not available to the public in most cases	CSOs can: • Request them from the procuring agency or the National Procurement Office • In the long term, advocate in favor of their publication
Implementation/ Administration Reports	Not available to the public in most cases	CSOs can: • Request them from the procuring agency, particularly in case of local projects • Produce their own implementation reports based on monitoring activities and make them public • In the long term, advocate in favor of their publication
Audit reports	In some cases, available either online or in paper format at the supreme audit institution. Normally not available if issued by the internal audit office	If not available, CSOs can: • In the long term, develop agreements with the audit institution to get access to the audit reports or advocate for publication of these reports

What to look for

Final contract: Contracts that deviate from the proposed contract contained in the bidding documents.

Contract implementation and Evaluation Report: Complaints from stakeholders about poor quality of delivered goods, works or services; shortage of products; product failures; delays or inappropriate use of deliverables, failure to deliver items due under the contract.

Contract changes: Multiple or unjustified contract changes or change orders as the project progresses.

Audit: No independent audit (either performance or financial) is incorporated into contractual arrangements or performed by the procuring agency.

Risks and schemes

- Contract terms that are significantly different from those specified in the bidding documents may indicate corruption or collusion between the contractor and the procurement officials.
- Failure to comply with contract requirements by supplying defective materials or substandard work; product substitution with lesser quality items; deviation from Technical Specifications; failure to deliver goods and services or to complete civil works.
- Abuse of contract changes, amendments and change orders.

Phase 4: Implementation/Administration	
Draft Contract	
Red Flags	**What Can Be Done**
1. Does the quality, quantity or specification of goods or services in the contract deviate from the bidding documents? **Tips:** • Compare the bidding documents and the contract and look for changes in the TOR, Specs, key personnel, quality and quantities of goods, works and services • Increase scrutiny if there were long delays between bidding, contract award and signing	• Request an explanation from the procuring agency • Work with professional associations, industry organizations and chambers of commerce and, if warranted, bring the inconsistencies to the attention of the National Procurement Office • Consider bringing any inconsistencies to the attention of the Ombudsman and/or Anti-Corruption Agency • Consider partnering with the media to shed light on the issue
2. Do the contract provisions differ from those contained in the bidding documents without justification? **Tips:** • Look particularly for changes in key clauses on audit rights, remedies, damages, etc.	• Request an explanation from the procuring agency • Work with professional associations, industry organizations and chambers of commerce and, if warranted, bring to the attention of the National Procurement Office

3. Are price schedules in the contract different from those in the winning bid?	• Request an explanation from the procuring agency • Work with professional associations, industry organizations and chambers of commerce and, if warranted, bring to the attention of the National Procurement Office • Consider bringing to the attention of the Ombudsman and/or Anti-Corruption Agency
Contract implementation	
4. Have there been unreasonable delays in the start of works or delivery of the goods or services procured?	• Request an explanation from the procuring agency • Bring the delays to the attention of the National Procurement Office or Ombudsman and/or Anti-Corruption Agency • Consider partnering with the media to shed light on the issue
5. Are there long delays in contract implementation? **Tips:** • Look for delays in the delivery of goods or materials procured	• Request an explanation from the procuring agency • Bring the delay to the attention of the National Procurement Office or Ombudsman and/or the Anti-Corruption Agency • Consider partnering with the media to shed light on the issue
6. Did the contractor fail to deliver the quantities of goods or services specified in the contract? **Tips:** • Complaints from users about incorrect quantities of goods/services or works • Site inspection suggests that the quantities of goods delivered are incorrect	• Identify and document irregularities • Reach out to the procuring agency and request remedies to the complaints • Engage the National Procurement Office and request independent technical audits for high risk projects • If there is no action, bring to the attention of the Ombudsman and/or the Anti-Corruption Agency • Engage local community and ensure they check on and remain vigilant of quality/quantity of goods/services being delivered • Consider partnering with the media to shed light on the issue
7. Did the contractor deliver goods, services or works that are substandard, of inferior quality or fail to meet the Technical Specifications? **Tips:** • Complaints from users about poor quality of goods/services or works • Site inspection suggests that work performed is not in accordance with technical specifications or is substandard	• Identify and document irregularities • Reach out to the procuring agency and request remedies to the complaints • Engage the National Procurement Office and request independent technical audits • If there is no action, bring to the attention of the Ombudsman and/or Anticorruption Agency • Engage local community and ensure they check on and remain vigilant about quality/quantity of goods/services being delivered • Consider partnering with the media to shed light on the issue

8. Were you able to perform a site inspection or do you know the results of a site inspection? ---- (If yes, sub-questions a-d appear. If No, system continues to question 12).	• Request access to site inspection or report
a. Are the goods or services procured not being used; or are they being used for purposes inconsistent with the procurement plan? **Tips:** • Look for irregularities in the use of vehicles, computers and other electronic equipment • The work site looks abandoned or there are no ongoing activities on a regular work day	• Identify and document irregularities • Reach out to the procuring agency and request remedies to the complaints • Engage the National Procurement Office and request independent technical audits for high risk projects • If there is no action, bring to the attention of the Ombudsman and/or the Anti-Corruption Agency • Engage local community and ensure they continue monitoring the quality/quantity of goods/services being delivered • Consider partnering with the media to shed light on the issue
b. Is actual project completion inconsistent with what is reported in the completion certificates? Is a supposedly operational project not fully operational?	• Identify and document discrepancies between certificates and actual works • Engage the National Procurement Office and request independent technical audits for high risk projects • Bring to the attention of the Ombudsman and/or Anti-Corruption Agency • Consider partnering with the media to shed light on the issue
9. Did the contractor fail to fully deliver the agreed goods/services or complete the contracted works?	• Identify and document failures or incomplete works • Appeal to the Ombudsman and/or the Anti-Corruption Agency • Consider partnering with the media to shed light on the issue

Site Inspection	
10. **Infrastructure sector specific**: Did the site inspection reveal that substandard work was concealed in the project progress report?	• Identify and document irregularities and discrepancies between certificates and actual works • Engage the National Procurement Office and request independent technical audits for high risk projects • Bring to the attention of the Ombudsman • Consider partnering with the media to shed light on the issue
11. **Infrastructure sector specific**: Did the procuring agency fail to complete an adequate inspection of the completed infrastructure?	• Identify and document irregularities • Engage the National Procurement Office and request independent technical audits • Bring to the attention of the Ombudsman or Anti-Corruption Agency • Consider partnering with the media to shed light on the issue

Accounting/Audit	
12. 12. Are there any significant contract changes, after the award, resulting in excessive cost increases or substantial project modification?	• Monitor contract changes involving price and/or scope of work • Request transparency of change orders and their justification • Request that the procuring agency communicate significant change orders in writing to Civil Society and other stakeholders • Bring to the attention of the Ombudsman and/or the Anti-Corruption Agency • Advocate for clear limits and procedures regulating change orders • Consider partnering with the media to shed light on the issue
13. If an Integrity Pact was signed, did any of the signatories fail to implement its provisions?	• Request that Civil Society monitor integrity pact implementation
14. Are there conflicts of interest in the monitoring and evaluation process?	• Make concerns known and appeal to procuring agency and National Procurement Office
15. Did the auditors and/or monitoring and evaluation officers fail to adequately perform their duties?	• Make concerns known and appeal to procuring agency or National Procurement Office
16. Are cost overruns inadequately explained or justified?	• Request that the audit results be transmitted to the Ombudsman and/or the Anti-Corruption Agency • Consider partnering with the media to shed light on the issue
17. Did the audit reveal fraudulent accounting and/or cost misallocation?	• Request that the audit results be transmitted to Ombudsman and/or the Anti-Corruption Agency • Consider partnering with the media to shed light on the issue
18. Did the procuring agency or contractor produce documents/financials for the audit with unreasonable delays?	• Request that the documents be produced
19. Did the final audit highlight any issues with the project? **Tips:** • The final audit reveals that the goods, works or services delivered by the contractor do not conform to the procurement plan • The final audit finds that the project was unsuccessful or failed to fully achieve its objectives	• Review the procurement process; determine stakeholder level of satisfaction with project • Draw lessons learned for future contracts

6. Evaluating Red Flags

While red flags are a powerful anti-corruption tool, the presence of a red flag by itself does not prove corruption. Therefore, in reviewing procurements, CSOs need to carefully evaluate the red flags they encounter.

Some red flags may have adequate justifications or may be due to mistakes made in good faith. For example, excessive delays in different phases of the procurement process are commonly recognized as red flags, as they may signal some kind of corrupt schemes. However, justifiable delays are common, particularly in complex projects, and the reasons may include lack of interested bidders, natural disasters or poorly drafted bidding documents. Similarly, it is common for errors to appear in official procurement documents regarding dates, monetary amounts or other numeric values. This is particularly true for processes managed by small procuring agencies, with low capacity and limited levels of supervision

Measuring the Level of Risk

Certain red flags can reflect higher levels of risk. For example, while there may be several valid reasons why a procurement is delayed, if all bids for a certain procurement were sent from the same fax number, that would indicate- a strong risk of bid rigging. There are not many possible explanations other than an agreement among firms. The online Monitoring Assistant attempts to capture these nuances by marking certain questions with a red flag. As CSO's gain experience in monitoring procurement, they are encouraged to consider designing customized weighting systems for red flags, based on their specific country or sector contexts.

Another way to evaluate red flags is to define a "value" against which to measure performance (usually referred to as a "reference value"). For example, if the law requires that bids be opened one day after submission, then "one" is the value. A bid opening occurring 14 days after the required time significantly exceeds the designated value and may raise a red flag. Other examples include: 1) the number of bidders; 2) the number of days allowed for submission of bids (the general rule is to provide between 30 and 45 days to bid on goods or services contracts, and between 60 and 90 days for large infrastructure contracts); 3) the amount of a change order where the normal maximum is 30%; 4) the amount of the performance bond that is required, which usually should not exceed 5% of the budget amount or tender price; and 5) the validity period of the performance bonds, which should normally take the form of an irrevocable standby letter of credit valid for 90 days longer than the time-limit for final construction, supply or installation prescribed in the contract.[19]

When monitoring procurement, CSOs can use these values to assess the level of gravity of a certain red flag. Significant deviations can increase corruption risks. In some countries, the procurement law provides useful reference values for certain procurement actions, such as timeframes, performance bonds, size and number of change orders.

As with any other approach, using reference values is not always applicable or effective. CSOs should be aware that reference values may not be useful in complex procurement processes or exceptional external circumstances.

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[19] World Bank, "Note for Drafting Public Procurement Regulations"(2002), available at http://ppp.worldbank.org/public-private-partnership/sites/ppp.worldbank.org/files/documents/Drafting%20public%20procurement%20regulations%20ENG(bentchikou).pdf

Starting with Complaints

A valuable way to determine whether a procurement has irregularities or exhibits red flags is to look at complaints and cross-reference them with the red flags. CSOs should look for patterns of red flags that are likely to indicate corruption. This approach can also be used to select which procurements to monitor.

Many institutions, including the investigative and anti-corruption offices of many countries and most IFIs, rely on tips and complaints from bidders, procurement officers, or other stakeholders to identify which procurements to investigate. Once one or more complaints have been received, the relevant procurement can be analyzed in detail, often with the help of a list of red flags. CSOs should pay attention to the content of the allegations. For instance, if the complainant alleges that there is a collusion scheme in a procurement process, the monitor may want to review whether red flags of collusion are present.

CSOs can establish close working relationships with companies, industry and professional associations, and chambers of commerce to receive complaints. Alternatively, they can establish tip-lines, either via phone or email, where allegations can be submitted directly, confidentially and/or anonymously. Once they have identified the procurement the complaint refers to, a CSO can apply the red flags list, and look for patterns that indicate irregularities.

CSOs can also increase scrutiny of those processes in which there is a high number of official complaints. Bidders and other stakeholders normally have multiple opportunities to submit complaints throughout the procurement process: in the bidding phase, at bid opening, at contract award or in the implementation/administration phase. These complaints should normally be recorded in official procurement documents. If they have access to these official complaints, CSOs can use them as starting points for monitoring. For example, if in a procurement there are multiple complaints from bidders to the procuring agency that the technical specifications are biased, CSOs can adjust their focus and look for patterns and other red flags of corruption in that area.

It may not be possible to follow this approach as official complaints are not always available to the public.

Looking for Patterns

If CSOs do not have any access to complaints from bidders or other stakeholders, they can assess the gravity of a red flag by looking for other red flags that indicate the same corruption scheme. If, for example, a red flag indicating kickbacks is found, CSOs can pay special attention to other red flags of the same scheme, in the same phase or in the following ones, to either validate or reject it. This provides context to appropriately evaluate the gravity of a red flag and helps to gradually rule out the possibility of mistakes in good faith or red flags that can be justified. Multiple red flags of the same scheme in one procurement process are a strong indicator that corruption is occurring.

The Monitoring Assistant was designed to facilitate this evaluation technique. Each red flag has a link to the schemes most frequently associated with it.

7. Access to Information and Political Will

7.1 Access to Information

Access to public information is a citizen's right, but in many countries this right is severely restricted. Information about public procurement should be made public, for it involves the use of public resources. Unfortunately, the lack of transparency about public procurement poses the greatest obstacle to citizens who want to monitor procurement activities. Making information available to the public is a sign of the government's level of political will to conduct procurement activities transparently, and allow for civil society participation in these activities.

Worldwide, access to government information varies widely.[20] As of January 2012, at least 90 countries had access to information (or freedom of information) laws establishing the right and procedures for the public to request and receive government-held information. In some countries, access to information include procurement-related information, while in other countries procurement laws dictate which documents of the procurement cycle should be made available to the public and which ones should remain confidential or accessible only to bidders.

Even when an access to information law exists or when a procurement law provides for access to certain documents, this is not a sufficient guarantee that information will be available. Some access to information laws lack enforcement mechanisms, and in some cases government agencies may lack the will, resources or training to make relevant information available in a timely manner.

CSOs have developed several strategies to deal with lack of access to information.

- Make a formal request for information following the procedures set forth in the law, in cases where an access to information law exists;
- Attend public hearings and inquire about specific procurement activities;
- Generate information themselves, for example by:
- taking photographs of existing defective construction projects and using the information to generate public pressure;
- using score cards to survey the public's perception and level of satisfaction with public services;
- inspect the quality of goods delivered to a particular school or hospital and use the information to document any irregularities identified
- Use international sources of data to assess the integrity of the procurement process, for example, international reference prices of medicines or construction materials;
- Sign memoranda of understanding with specific government agencies willing to make their information publicly available;
- Organize and exert pressure on government authorities for the release of information, partnering with the media if necessary and involve the international community when appropriate.

- When procurement is financed by an IFI, CSOs can leverage internal rules that require IFIs to make information on their activities available to the public.[21] CSOs should be able to request information on all projects under preparation and under implementation in their particular countries.

7.2 Political will

The existence of strong political will to increase transparency and fight corruption is an important consideration in determining where to focus monitoring efforts, whether at the central, agency or local level. The quantity, quality and timeliness of information being made available to society at large are clear indications of political will. Politicians and public officials can also prove their will to reduce corruption and increase transparency by passing laws permitting CSO monitoring; holding public consultation on projects; making the budget process more open and participatory; allowing active monitoring by a truly independent ombudsman or a central procurement agency; using integrity pacts; allocating resources to anti-corruption efforts; professionalizing procurement officials; and openly inviting CSOs to participate in public procurement.

Box 7 / Bantay Eskuwela and Check My School: Monitoring Schools in the Philippines

The Department of Education (DepEd) has the second largest budget among government agencies in the Philippines, and in recent years, with support from DepEd, local CSOs have devoted significant efforts and resources to monitoring the use of these funds through two main initiatives.

Bantay Eskuwela

DepEd spends roughly Php one billion (USD $ 24 million) annually on the procurement of school furniture, and it was estimated that in 2008 Php 33.8 million of delivered furniture was substandard. Bantay Eskuwela, or School Watch, was created in 2009 to improve efficiency and value for the money spent by the DepEd on school furniture through monitoring by community volunteers and other stakeholders. The program is both simple and comprehensive. Volunteers monitor the quality and quantity of school furniture (chairs with attached writing boards) and are present during all stages of the procurement process.

Bantay Eskuwela initially received AUD$ 400,000 funding from the Australian Agency for International Development (AusAID) for its first 18 months of operations. During that time, the program recruited 661 community volunteers and operated in 39 schools across six regions. Subsequently, AusAID provided an additional AUD$260,000 for monitoring of school construction in 68 schools. The infrastructure monitoring component involved an additional 340 volunteers.

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[20] Right2Info, "Access to Information Laws: Overview and Statutory Goals" available at http://right2info.org/access-to-information-laws

[21] As an example, see the World Banks's Access to Information Policy and the IADB's Procurement Portal.

Bantay Eskuwela was implemented by Procurement Watch Incorporated (PWI), which hosted the training in different regions. Volunteers came mainly from Parent-Teacher Associations, religious, anti-corruption and youth scouting groups. While some volunteers are trained to monitor bids and contract awards, the majority focus on inspecting chairs. Using tape measures, stamps and specifications guides, volunteers note rough surfaces, cracked wood and protruding nails. Chairs meeting specifications are stamped with a Bantay Eskuwela seal. The Volunteers perform their quality and quantity analysis during pre-delivery (at the manufacturing plant) and post-delivery (at the school site). Once the batch of armchairs has been examined at the factory, defective chairs are removed from the lot and the manufacturer has to bear the cost of repairs and replacements. After successful review, the Bantay Eskuwela seal is affixed, signaling that the chair passed the initial quality inspection. Once the shipments arrive at the school, volunteers recheck all the armchairs for quantity and quality.

Anecdotal evidence as well as reports from school principals and PTAs suggests Bantay Eskuwela has been successful in reducing the price DepEd pays for school furniture and improving the quality and timeliness of school furniture deliveries. After the first round of Bantay Eskuwela monitoring in 2009, one of DepED's regional departments lowered the cost estimate price of chairs from Php800 to Php500 a piece.

Check My School

CheckMySchool is another Filipino initiative aimed at monitoring schools, although its main focus is not on procurement. The initiative is aimed at dealing with the challenges of monitoring 44,000 schools spread over 7,000 different islands from DepEd, a large, highly centralized agency.

CheckMySchool's main feature is a website created in 2011 through collaboration between the Affiliated Network for Social Accountability-East Asia Pacific (ANSA-EAP) and DepEd. The website combines community mobilization and digital technology to improve public education services in the Philippines, and provides a platform for stakeholders to send feedback. Checkmyschool's website features individual pages for each school, feedback boxes with integrated Google GPS for school mapping, cellular phone messaging to allow users to send and receive feedback from areas without access to internet, and social media linkages. The information collected helps DepEd track and address problems. Teacher absenteeism, poor quality of textbooks and dilapidated buildings are just some of the issues that have been reported through the system so far.

Technology allows CheckMySchool to penetrate remote areas of the country, to leverage existing programs, like Bantay Eskuwela, and to expand the scope of monitoring beyond procurement. However, lack of electricity in certain areas and low internet penetration rates (25% in the Philippines) are two of the main challenges encountered by CheckMySchool. For the initiative to be more effective, ANSA-EAP created a network of information intermediaries or "infomediaries", tasked with helping the community gain access, understand, and effectively use the technology.

The program, which enjoys the support of Open Society Institute, has been broadly praised for its innovative approach. The CheckMySchool website currently maps over 44,000 schools, and involves 42 infomediaries and more than 1,500 volunteers. There are currently plans to expand the program to other countries.

Sources

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If politicians and public officials show little or no political will, strong advocacy is a necessity and most likely a pre-condition to be able to monitor procurement actions. Leadership changes in government agencies, corruption scandals that attract public attention or strong political and civil society opposition to corruption can all provide windows of opportunity for advocacy and CSOs' intervention. In situations where political will is lacking, CSOs should find alternative entry points to build support for their initiatives, such as identifying respected and committed local leaders with strong anticorruption credentials to act as allies or building coalitions of reform-minded actors interested reducing corruption.

8. Additional Monitoring Tools

In addition to the red flag approach, there are numerous other resources and tools that can support CSOs in monitoring procurement, including integrity pacts, electronic databases, reference websites, surveys of government performance, social audits, media investigations and others. A brief description of some of these tools follows below.

8.1 Integrity Pacts

Developed by TI during the 1990s, the integrity pact is a tool aimed at preventing corruption in public procurement. The pact is essentially an agreement between a government or government department and all bidders for a contract. Under an integrity pact, the parties agree to refrain from paying, offering, demanding or accepting bribes; colluding with competitors to obtain the contract; or engaging in illicit practices while executing the contract.

An integrity pact also requires bidders to disclose all commissions and expenses paid by them to anyone in connection with the contract. It describes the sanctions that shall apply if the agreement is violated, such as loss or denial of the contract, forfeiture of the performance bond, debarment and criminal or disciplinary action against government employees.

One of the key features of integrity pacts is the establishment of an independent monitoring system, often an independent expert, to ensure that the procurement process is free of corruption and transparent and compliant with the provisions of the integrity pact. Independent monitors oversee the contracting process and the execution of the works; recommend possible preventive measures; respond to concerns or complaints; and inform the public about the transparency and integrity of the process. CSOs are often selected as independent Monitors or as part of an independent monitoring team.

Certain countries now require integrity pacts with independent monitors as a condition for certain types of procurement; other countries have adopted the integrity pact as an agreement between government and the bidders but not provided for independent monitors. More information on integrity pacts can be found on TI's website at the following link.

Box 8 / Public Procurement Monitoring of a Waste Management Contract in Argentina

In 1999, the new mayor of Morón, Argentina, made a commitment to fight corruption. This promise was of particular relevance to Morón's citizens, as the previous mayor had been convicted of corruption and removed from office.

The first priority for the new mayor was to oversee the procurement of a new waste management contract worth US $32 million, the municipality's largest one-time financial commitment. The award and implementation of the previous waste management contract had been marred by corruption. To carry out his pledge, the new mayor asked *Poder Ciudadano*, the Argentine chapter of Transparency International, to implement a program aimed at improving the level of transparency in the contracting process.

Based on its experience implementing integrity pacts, *Poder Ciudadano* first launched a public hearing to obtain input on the establishment of new rules for municipal bidding. The public hearing also invited citizens, business leaders and experts to express concerns and provide suggestions about the terms of the municipal waste disposal contract. *Poder Ciudadano* also launched a robust media campaign: the public hearing was announced on radio, television and several national and local newspapers 30 days prior to the event, to maximize support and participation. Independent experts were also invited to review and comment on the terms of reference for the contract. Ten days after the hearing the request for proposals was published online and four companies submitted bids.

During the bidding stage, *Poder Ciudadano* encouraged all interested parties, including the four bidders, to sign an integrity pact. The integrity pact was based on a model extensively used by *Transparencia por Colombia*, and included commitments to avoid all forms of bribery, guarantee full transparency of all relevant documents, report all violations and disclose the main criteria of the evaluation process leading to the award of the contract. The mayor signed the integrity pact and also established significant sanctions against its violators. *Poder Ciudadano* monitored the implementation of the integrity pact, the bid evaluation, the award decision and the implementation of the contract.

As a result of this process, the municipality of Morón managed to reduce the cost of the contract by 35% compared to the previous one. The company that was awarded the contract provided a better service for a lower price, compared to past contractors. Because of the level of transparency ensured by the integrity pact, losing bidders were able to learn from the winning bidder and understand how to submit better proposals in the future. The media attention led other municipalities to approach *Poder Ciudadano* about similar initiatives and allowed the mayor of Morón to rise to national political prominence.

Sources

Anja Meschkat, "TI Corruption Fighters Toolkit: Civil Society Experiences and Emerging Strategies-Trashing Corruption-Morón, Argentina" (2001) at 101. available at http://www.anti-corr.ru/archive/toolkit.pdf

Holloway, Richard, "NGO Corruption Fighter's Resource Book- How NGOs Can Use Monitoring and Advocacy to Fight Corruption." (2006), at 257, available at http://www.dochas.ie/Pages/Resources/documents/Holloway_Corruption.pdf

8.2 Electronic Government Procurement, e-GP

E-GP is one of the most promising tools for increasing transparency of government procurement and reducing opportunities for corruption. Most countries worldwide have already introduced some form of e-GP, which range from basic information systems to more sophisticated transactional systems. CSOs should master the use of these systems to take advantage of the information available and put it to the best possible use to reduce opportunities for corruption in procurement.

The use of electronic systems is a key component of all attempts to reform and modernize procurement systems and can be very effective in increasing efficiency and transparency.[22] Even at early stages of development, e-GP systems can significantly improve transparency, serving as means to disclose and distribute key information on the legislation, policies and procedures, procurement plans and notices, bidding documents, minutes of bid openings, contract award results and prices. By providing accessible information on the procurement system in general, e-GP also contributes to increasing participation and competition in bidding processes.

An effective e-GP system can help automate procurement procedures, thus preventing purchasing agencies or bidders from deviating from the legally mandated procurement process. This reduces opportunities for corrupt practices. Similarly, when a procurement is conducted online and in real-time, corruption opportunities are diminished. Procurement data is collected and stored directly into the electronic system, thus avoiding the need for personal contact between procuring agencies and bidders, reducing risks of manipulation, and improving the availability and completeness of public procurement audit trails.

From the point of view of Civil Society, taking advantage of e-procurement systems is essential for monitoring procurement processes. When available, e-procurement systems should be the first resource for CSOs to research and gather key documents necessary for monitoring procurement, such as procurement plans and notices. Historical price data stored in these systems can also be used as a benchmark to detect over-pricing and other anomalies. E-procurement websites often also provide lists of debarred firms and individuals, as well as hotlines, complaints systems and other procedures for reporting irregularities. Finally e-procurement systems can help CSOs stay up to speed on the latest developments in national law and regulations regarding public procurement, and in some cases may provide training or other similar resources.

In some countries, CSOs can register in the E-procurement system as Government suppliers, thus gaining access to a wealth of information on procurements that may not be available to non-suppliers. In other countries, the e-procurement system may contemplate different kinds of registration for CSOs who act as observers. In countries whether the e-procurement does not allow for CSO registration, interested organizations should advocate in favor of a broader access to the platform.

8.3 Social Audits

As part of their monitoring efforts, CSOs can work directly with the private and public sector and use social audits as a means of ensuring private and public sector commitment to high ethical standards, including in public procurement. A private sector social audit looks at factors such as a company's record of charitable giving, volunteer activity, code of ethics, anti-corruption efforts, transparency, work environment and worker pay and benefits, to evaluate what kind of social, environmental and community impact a company is having in the locations where it operates. A public sector social audit looks at similar factors, but focuses on government agencies.[23]

Traditionally, social audits are voluntary, since companies and government agencies can choose whether to perform them or not and whether to release the results publicly or only use them internally. Civil Society can advocate in favor of social audits by underscoring the importance, for both public and private entities of committing to national and local development, transparency and anti-corruption. From a procurement monitoring perspective, CSOs can use the information collected during social audits to promote best practices, highlight common weaknesses and identify areas that are more vulnerable to corruption, so as to direct their monitoring activities.

8.4 Online Databases

Online databases are a very important monitoring tool for CSOs. These databases store a wealth of information on procurement worldwide including contract award information, price references, lists of vendors and suppliers, debarred or blacklisted firms and individuals, and much more information that, when properly used, will assist CSOs in monitoring procurements. For example, CSOs can use online databases to compare prices of contracts awarded in their countries with prices worldwide, allowing them to draw immediate conclusions as to the fairness and efficiency of the procurement process in their countries. A list of available online database that are useful resources for procurement Monitors is available at the Links page of the Monitoring Assistant.

8.5 Participatory Monitoring Tools

CSOs can utilize participatory monitoring—using citizen feedback of government performance—to generate key information for procurement monitoring.

a. Country Procurement Assessment Reports

Country procurement assessment reports are reports produced by the IFIs together with national governments. These reports are analytical tools designed to diagnose the health of the procurement framework in a country and, in the process, generate dialogue with the government and encourage reform. The main purpose of Country Procurement Assessment Reports is to establish the need for and guide the development of an action plan to improve a country procurement system. The primary objectives are to:

- provide a comprehensive analysis of the country's public sector procurement system, including the existing legal framework and its implementation, procurement officials' capacity, organizational structure and responsibilities, and control and oversight capabilities;

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[22] The World Bank, "Electronic Government Procurement Strategy" (2003, available at http://www.google.com/url?sa=t&rct=j&q= &esrc=s&source=web&cd=1&ved=0CHUQFjAA&url=http%3A%2F%2Fsiteresources.worldbank.org%2FINTPROCUREMENT %2FResources%2FeGPStrategyfortheWBword.doc&ei=TrkiUJHmJqrr0gGq4IBo&usg=AFQjCNFJW2vnGtFegOHzn6jVMPgd3s zbKA&sig2=nTk9V7xcrvYBDQ02Te-B8Q

[23] For more information see the Social Audit Toolkit and Guide, available at http://unpan1.un.org/intradoc/groups/public/ documents/cgg/unpan023752.pdf and http://www.pogar.org/publications/ac/books/practicalguide-socialaudit-e.pdf

- undertake a general assessment of the institutional, organizational and fiduciary risks associated with the procurement process, including risks related to corruption, collusion and fraud;
- develop an action plan for institutional reform;
- assess the competitiveness and performance of the local private sector.

 CPARs are key resources for CSOs as they can help identify weaknesses in the procurement cycle, and thus areas where monitoring efforts should be concentrated, and can be used as starting points to advocate for reform. CPARs are public documents and can be found on the World Bank website.

b. The Role of Advocacy

Advocacy is "a series of actions designed to persuade and influence those who hold governmental, political, or economic power so that they will adopt and implement public policies in ways that benefit those with less political power and fewer economic resources."[24]

As they monitor procurements, CSOs should constantly think of ways in which their monitoring can result in advocacy. A good starting point would be a campaign to formalize CSOs' legal status as procurement monitors. As noted above, very few countries provide a clear mandate for CSO participation in procurements. While this should not stop CSOs from monitoring, CSOs may want to consider advocating for clear provisions in law or regulation allowing them to participate in procurements as Monitors. This would grant them a more sustainable and institutionalized role, legal protection and more access to relevant information. Legislation from countries such as Mexico and the Philippines provide examples that can be used in advocacy.

During the monitoring process, CSOs will encounter weaknesses in the procurement or critical points in which they lack sufficient information to monitor. In both instances, CSOs should consider actions to persuade the government, the procuring agency or the national procurement office to change relevant policies to remedy the identified deficiencies. For example, since information in the early stages of a procurement is so important to monitoring, CSOs can implement campaigns to seek greater access to information, such as timely publication of technical specifications. Alternatively, they can design a more comprehensive campaign, seeking enactment of an access to information law or for changes to the procurement law or regulations to facilitate increased access to information.[25]

In making a determination of what strategy to follow, CSOs should consider specific country factors, such as openness of the government to change, presence of anti-corruption champions in certain government agencies or length of the legislative process. Requests can be largely based on examples from other countries or on general reference documents such as the UNCITRAL Model Procurement Law or the OAS Model Law on Access to Information.

Donors also constitute an important target for advocacy campaigns since they tend to be more open and responsive to requests from civil society. Advocacy can be directed to improving the way information is made available and can be searched, or focus on the establishment of trust funds for financing procurement monitoring by CSOs and technical training for civil society Monitors.

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[24] The Advocacy Institute, www.advocacyinstitute.org.
[25] As an example, the Philippines' Procurement Watch Incorporated started off as an organization advocating in favor of a new procurement law, and switched its focus to procurement monitoring after its campaign was successful and a new procurement law was enacted.

9. What to do when Corruption is Found

When indicators of corruption in public procurement are found, civil society has different mechanisms at its disposal to deal with them. Initially, CSO may want to follow the legal framework for lodging a complaint, which normally, though with considerable country variations, includes escalating interventions by the procuring agency, the national procurement authority, the office of the ombudsman and/or national anti-corruption authority. The higher bodies normally intervene when the lower ones have failed to act. Going through institutional channels has significant advantages, particularly if the country's institutions are efficient and transparent: it can help shield CSOs from criticism and risk of retaliation; guarantees due process for involved companies and individuals; can provide lessons learned for reform.

Of course, going through a country's complaints system may not always be an option. Complaints systems can be ineffective; there can be lack of transparency or leakage of information, which can put in danger the safety of the CSO that submitted the complaint; and in some cases public officials charged with handling the complaint may be unwilling to take action or even be part of the corrupt scheme. In these cases, CSOs may resort to alternative tools to expose potential corruption, including working with the media or donors (when applicable), requesting public hearings, creating citizen advisory boards, or conducting advocacy.

Regardless of the path they choose, when submitting reports of red flags in public procurement, CSOs should gather as much information as possible to support their allegations. This reduces the risk of unsubstantiated reports and facilitates follow up and investigative work by competent authorities. Solid practices and standards in information gathering and reporting can help CSOs build a reputation as a reliable and credible partner for government institutions and reduce the risk of facing legal action for defamation.

9.1 The Procuring Agency and the National Procurement Office

As noted above, when possible, the first step when irregularities are found is to submit a complaint through the procuring agency. Normally, government agencies establish procedures for submitting complaints throughout the procurement process. Depending on the cases, procedures may require that a complaint be submitted either directly to the procurement officer in charge of managing the procurement or through an individual or office not directly involved in the procurement, such as the procurement office of the agency (if it exists) or the head of the procuring agency in the procuring agency.

Submitting a complaint through the procuring agency has the significant advantage that it reaches directly the officials that have direct knowledge of the procurement process and the immediate authority to act, thus eliminating intermediate steps and the risk of leakage of information when the complaint has to be forwarded from one entity to another. Of course, this choice also implies some risks and may not be applicable in certain circumstances, particularly when the complaint is related to possible corruption. The first and most obvious objection is that the official in charge of managing the procurement process may be part of the corrupt scheme, and thus refuse to act, cover up the complaint, leak or manipulate the information provided, or retaliate against the complainant. Additionally, procurement officers may not be equipped to handle or investigate corruption cases. Finally, some procuring agencies may only accept complaints from bidders and thus reject input received from CSOs or other outside observers.

The next logical step for the submission of a complaint is the national procurement office authority. Most countries have a national procurement office authority that oversees all procurements nationwide, issue regulations and guidelines, train procurement officers, and in certain cases receive and process complaints that cannot be solved by the procuring agency.

National procurement offices can be key allies for CSOs, particularly if managed by reform-minded public officials who are open to civil society participation in public procurement. They can be a primary source of information on procurement rules and regulations, on disqualified contractors,[26] and on market prices for key goods. National procurement offices also usually receive complains from bidders for issues related to specific procurements and/or allegations of corruption from any interested stakeholders.

Compared to the procuring agency, submitting a complaint to the national procurement office can help CSOs obtain a more unbiased handling of the complaint by public officials who may be better trained and knowledgeable than those who are assigned to the procuring agencies. National procurement offices may also have resources dedicated especially to handling corruption complaints, such as tip-lines or teams of investigators.

On the other hand, national procurement offices are also required to handle larger volumes of allegations and protests, and may be unable to address all inquiries received, or only do so with considerable delays. Finally, national procurement offices may themselves be vulnerable to corruption.

9.2 Anti-corruption Agencies and Ombudsman Offices

When the procuring agency or the national procurement office have failed to adequately address a complaint or request for clarification, the matter can be brought to the attention of the anti-corruption office or the office of the Ombudsman, if one or both exist in the country. This step may also be advisable if the Monitor has reason to believe that the procuring agency or procurement office would handle the allegation in a way that could jeopardize his or her personal safety, if there is substantial risk of corruption, or if applicable rules and regulations prescribe that red flags reports be submitted directly to one of these offices.

Depending on the country, there may be little or significant difference in terms of functions and roles between an Ombudsman Office and an Anti-Corruption Agency. Some countries may neither entity; others may have only one. In general, Ombudsman offices tend to have a broader mandate, related not only to corruption, but also to other irregularities and violations that involve public officials or functions, while anti-corruption agencies have a narrower focus.

In many countries the Ombudsman has the right to investigate complaints by the public about decisions made by public sector agencies, including procurement decisions. In some countries, the Ombudsman's responsibilities include the power to investigate cases of poor use of resources by public agencies, generally in response to public complaints. When irregularities are found, the Ombudsman can make recommendations to an entity under scrutiny about ways of rectifying and improving its practices and procedures.

Anti-corruption agencies, on the other hand, have usually a narrower mandate limited to corruption issues, although corruption itself may be defined differently depending on the country. There are different types of anti-corruption agencies:[27] some have solely investigative power, and once the investigation has been completed are required to refer their findings to the judiciary for prosecution, while others have both investigative and prosecutorial powers. Some have an even broader mandate, which may include regulatory powers and preventive activities.

For CSOs that have encountered possible red flags of corruption, Ombudsman and anti-corruption offices represent very important assets. In many countries (with some considerable exceptions), these offices are granted significant independence, are less vulnerable to political pressures, and thus more likely to follow-up on complaints and conduct an unbiased investigation. They often have dedicated tip lines and more secure procedures to handle complaints and safeguard the confidentiality of the information and the identity of whistleblowers. They also have teams of investigators, auditors, forensic accountants and other specialists who have technical expertise and are more likely to unveil corruption or other irregularities. On the other hand, because these offices normally have broader mandates that are not limited to corruption in public procurement, they also face a significant number of allegations, many of which are likely to come with little information and turn out to be unsubstantiated. It is therefore essential for CSOs submitting red flags report to these institutions to provide as much information as possible of the suspected corruption, so that the allegation can be adequately prioritized and more easily investigated.

9.3 Media

The role of the media is crucial in promoting good governance and transparency and in controlling corruption in procurement. The media not only helps raise public awareness about corruption, its causes, consequences and possible remedies, but also investigates and reports incidences of corruption. It is not uncommon that media reports on corrupt practices by government officials trigger a series of actions such as investigations, terminations or resignations. In many countries, the media act as watchdogs and are vital to anti-corruption and transparency, including in public procurement.

The media can be a powerful ally to Civil Society in the fight against corruption, not only in shedding light on corrupt practices within the procurement process but also in reinforcing Civil Society demands for reform and in disseminating results of monitoring to a broader public. The media can act as a force against public procurement corruption in ways that are both tangible and intangible. Tangible results include instances in which a news story or series of articles results in an official investigation into corrupt procurement practices, the scrapping of a law or policy that lacks transparency or facilitates corruption, or the impeachment or forced resignation of a corrupt government official. Intangible effects include raising awareness and educating the public on corruption issues and acting as a deterrent against corruption for companies and individuals who want to avoid negative publicity.

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26 See for example the debarment lists of Indonesia or Mexico.

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27 For an overview, see Johnson, Hechler, De Sousa, Mathiesen, "How to Monitor and Evaluate Anti-Corruption Agencies: Guidelines for Agencies, Donors, and Evaluators" (2011), available at http://www.u4.no/publications/how-to-monitor-and-evaluate-anti-corruption-agencies-guidelines-for-agencies-donors-and-evaluators-2. The Anti-Corruption Authorities portal also offers useful resources to learn more about these institutions; http://www.acauthorities.org/aca.

CSOs should be cautious in their relationship with the media. Before seeking press coverage, CSOs should consider whether the media is state-owned or state-influenced, or lacking independence. CSOs should also consider the professionalism and ethics standards of the press to make sure the information they provide is treated with confidentiality, if so requested, and not manipulated. Finally, CSOs should consider whether relationships with the media can hamper their credibility or undermine constructive engagement with government agencies and contractors.

Social Media

Social Media have changed the way organizations, including CSOs, communities and individuals communicate with one another and share information. As such, they can also be an important resource for reporting procurement monitoring findings. Social media are available to the public at little or no cost.

Social media such as Facebook and Twitter can provide CSOs with a platform to improve access to information for citizens and facilitate information sharing and social mobilization. CSOs can also use social networks to review information on corrupt individuals, officials or contractors and gather basic background information to support monitoring. In addition, online social networks can be monitored to detect possible inappropriate relationships or family ties typical in corrupt procurement schemes. CSOs may also be able to use online fora and social media outlets to promote ethical behavior by encouraging users and anti-corruption bloggers to report cases of corruption. Finally, CSO can publish information (and images) about reported corruption in procurement and reach a large audience in order to deter procurement officials from engaging in corruption. Recent initiatives such as ipaidabribe.com in India and checkmyschool in the Philippines (see box 7) have been extremely successful in leveraging social media platforms to expose and deter corruption.

It is important to note that, though social media can be very useful to CSOs in reporting corruption in procurement, using these tools requires skill and care to avoid misinterpretation, dissemination of unverified allegations and violations of privacy.[28]

9.4 Donors

The word "donor" describes a broad array of institutions worldwide that provide funding in the form of grants or loans for development projects. The Donor community includes the United Nations agencies, the IFIs such as the World Bank and the regional development banks, bilateral aid agencies such as the U.S. Agency for International Development or the Australian Agency for International Development and private foundations such as the Open Society and Gates Foundation.

Most of these institutions include among their development goals and targets the strengthening of institutions, the promotion of good governance and rule of law, and the improvement of efficiency, accountability and transparency in government. Most donors have recognized that a strong vibrant civil society can significantly contribute to these efforts. Consequently, CSOs should consider seeking the support and cooperation of donors in their efforts, including financial support when financial resources for monitoring are needed.

As noted in section 7.1 donors can be useful sources of information for procurement monitoring. Additionally, most of them also provide channels for submitting complaints and inquiries related to procurement and allegations of corruption in the procurements they fund. Most donors, including the IFIs and the United Nations, have specialized anti-corruption offices that focus on processing allegations and investigating and preventing corruption, as well as lists of firms and individuals that have been debarred for violating anti-corruption rules. Additional information on the anti-corruption mechanisms put in place by the IFIs is available in Box 9.

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[28] For further reference, see "Increasing Transparency & Fighting Corruption through Empowering People & Communities", SPIDER ICT 4D Series 2010, available at http://www.spidercenter.org/sites/default/files/Increasing%20transparency%20and%20fighting%20corruption%20through%20ICT.pdf

10. Sector Specific Red Flags

While there are many commonalities across sectors in terms of how corruption manifests itself, there are also numerous differences from sector to sector. This section focuses on corruption in health, education and infrastructure, as these sectors receive a substantial amount of government resources in most countries, are highly vulnerable to corruption, and have a significant impact on the life of citizens.

10.1 Health

While corruption and fraud in the health sector can take many different forms,[29] ranging from absenteeism to petty bribery in hospitals, this section focuses on procurement corruption. Procurement in the health sector has traditionally been extremely vulnerable to corruption for several reasons:

- Drugs and medical equipment are highly complex and technical, which reduces the level of transparency, and, from a civil society perspective, makes monitoring harder. Because of this complexity, standard procurement procedures may not always be applicable, and it is relatively easy to design technical specifications that are tailored to a certain provider and limit competition.
- Health sector procurement often involves numerous actors, including suppliers, medical institutions, agencies in charge of approving and certifying drugs, doctors associations and health insurers. This complex network of actors can generate incentives and conflicts of interest that encourage corruption.
- The pricing structure of drugs is often not very transparent. Suppliers can use different prices for the same pharmaceutical products for different dosages, clients or countries. This can make it harder for governments to procure at competitive prices.
- Many health-related projects, such as immunization programs or construction of hospitals, are implemented at the local level, and thus face significant challenges, including lack of specific training of local procurement officials and weak supervision.
- Medicines are often procured under emergency procedures in response to natural disasters or epidemics. Emergency procurement procedures, such as single-sourcing, usually have lower transparency requirements and are more vulnerable to abuses.
- The health sector is characterized by asymmetry of information. Technical information held by pharmaceutical and medical equipment producers is often confidential or highly complex, and thus not fully understood by governments and procurement officials. This can lead to significant inefficiencies and vulnerability to corruption, particularly during the needs assessment phase.

Risks and schemes

Some typical corrupt practices include:

- Officials and experts from national health agencies may receive bribes from pharmaceutical companies to influence decisions on the procurement of certain drugs.
- The procuring agencies buy branded drugs when generics are available at a lower price. This conduct may be the consequence of conflicts of interest, revolving doors between government officials and the private sector.

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[29] As a reference see: Transparency International, "Global Corruption Report - Corruption and Health", 2006, available at http://www.transparency.org/research/gcr/gcr_health; Di Tella, Savedoff, "Diagnosis of Corruption" (2001); The World Bank, "Detailed Implementation Review – India Health Sector" , (2007), available at http://siteresources.worldbank.org/EXTDOII/Resources/WB250_Web_Vol2_012408.pdf

- Irregularities in the delivery of the goods procured, such as expired drugs or medical equipment that does not function, does not meet specification or is delivered without appropriate training or instructions to medical staff.
- Construction of hospitals with sub-standard materials.

Table 6 - Red Flags of Corruption in the Health Sector

Phase	Red Flags	Recommendations for Civil Society
Purchase of medical equipment and supplies, including drugs	• Purchase of brand drugs when generics are available at a lower price • Purchase of drugs or medical equipment from unknown suppliers. • Unethical drug promotion • Suppliers fail to deliver the goods procured or deliver sub-standard or expired goods and are not held accountable • Lavish trips, receptions or dinners for government and health officials sponsored by pharmaceutical companies	• Promote use of essential drugs lists • Promote codes of ethics for drug marketing • Promote the use of better market intelligence and e-procurement systems • Promote use of external health technical experts and auditors for high value contracts
Certification and regulation of drugs and medical equipment	• Unusually fast approval periods for drug registration, drug quality inspection, or certification of good manufacturing practices • Failure to release the results of inspections of health-related goods or works. • Failure to certify or approve a world-recognized drug or manufacturer	• Promote the use of independent inspectors and the release of health inspection findings and reports to the public • Promote the use of international procurement services

10.2 Education Sector

There are various forms of procurement in the education sector: (i) management services (the government engages a private organization to manage a single school or an entire district, and to take care of financial management, staff management, and long-term planning); (ii) support services (non-instructional activities such as maintenance, student transport, and school meals); (iii) professional services (teacher training, curriculum design, textbook publishing and delivery, and quality certification); (iv) operational services (contracting of private organizations in education service delivery, maintenance of school facilities, and others); (v) education services (governments fund individual student enrollment in private schools through scholarships, vouchers, or subsidies); (vi) construction of school buildings; (vii) acquisition of equipment, such as furniture and textbooks.

Some special characteristics of the education sector increase corruption risks:[30]
- Some services may require long-term contracts (such as management and operation of school facilities), and may therefore present greater challenges for monitoring and assessing the quality of the services provided.
- Textbook industries have a tendency to be oligo- or monopolistic, which creates strong incentives for bribery and collusion among bidders.
- There may be conflicts of interest between authors and teachers in textbook selection committees.
- Schools are usually present even in the most remote locations, which poses serious challenges for monitoring and supervising the provision of goods (furniture, textbooks), works (school construction) and services (school management, teaching services).

Textbook procurement poses significant challenges. The procuring agency needs to develop adequate technical specifications for the book itself and decide whether to separate manuscript development from textbook printing. As noted, competition in the textbook market is usually limited, with one or few publishers usually monopolizing the market and a limited potential for foreign companies to participate in the bidding. Additionally, the government often has to bear the cost of acquiring copyrights for the textbooks. Delivery can also be a problem—the procurement might be conducted by the national government but delivery occurs locally, which poses supervision and quality problems.

[30] Heyneman, Stephen. "Education and Corruption," International Journal of Development, vol 24, No. 6 (2004), available at http://www.vanderbilt.edu/peabody/heyneman/PUBLICATIONS/Education%20%26%20Corruption.pdf

10.3 Infrastructure[31]

In this Guide, "infrastructure"[32] refers to physical infrastructure networks or installations, such as water supplies, drainage, roads, bridges, and buildings, such as schools and hospitals. The complexity of the contractual structure, the diversity of specialized skills required, the size and uniqueness of projects, the lack of transparency in the industry, and the extent of government involvement all contribute to an environment in which corruption can be difficult to prevent and detect.

Key Characteristics of the Infrastructure Sector[33]

- **Complexity of contractual structure.** – Infrastructure projects often have complex structures and involve a large number of actors linked to each other by contracts (for example between the main contractor and one or more sub-contractors) or reporting requirements (for example between the company that executes the works and the one that is hired to supervise the project). All these links may increase the opportunities for corruption.
- **Diversity of skills and integrity standards.** – Infrastructure projects often involve several different professions, architects and engineers, plumbers and welders and specialists in roofing or cooling systems. This diversity can also create additional challenges for those who have to supervise the project.
- **Diversity of project phases.** – Infrastructure projects are also normally carried out in different phases, from financing and planning to execution, which can be further subdivided in multiple phases, and operation. This complexity poses additional challenges for supervisors, particularly in the transition from one phase to the other, when a team of specialists or a contractor hands over the works to another.
- **Large volume and size of projects.** – Infrastructure projects can be very large and expensive, which makes it is easier to hide bribes, for example through fraudulent invoicing.
- **Uniqueness of projects.** – Infrastructure projects are often unique. Building techniques, cost of labor and materials, and other factors vary widely depending on project-specific factors. Cost estimates are therefore often difficult, if not impossible to calculate and compare, and it can be extremely challenging for procuring agencies to detect inflated prices, which can be used to hide bribes.
- **Concealed work.** – Infrastructure works are often constructed in layers, with each component being concealed by another. For example, beams may be concealed by plaster and electrical materials by casings. Consequently, it is often difficult to assess the quality of work and materials, and the procuring agency has to rely on the professionalism and integrity of the individuals performing and certifying the work. There are incentives and opportunities to pay bribes to obtain approval for low quality or missing work. It is usually very expensive and time consuming to uncover and investigate these issues.
- **Lack of transparency.** – Although recent initiatives such as CoST and the Open Contracting Initiative (see Box 10) are attempting to change the status quo, transparency in the infrastructure sector has traditionally been weak. There are usually few or no requirements to make public key aspects of large infrastructure projects, such as sources of funding and the role of and connection between the main actors involved in implementing the project. The lack of transparency makes it more difficult to detect fraud, corruption or collusion.

- **Government involvement.** – Traditionally, governments have exerted a high degree of control over infrastructure project. Combined with other factors described above, such as the complexity of the industry and the large amounts of money involved, if the level of discretion and power wielded by public officials is high. This may create incentives for the commission of projects that are not in the public interest or that are designed uniquely as means to hide bribes.

Box 10 / CoST and the Open Contracting Initiative

The Construction Sector Transparency Initiative

The Construction Sector Transparency Initiative (CoST) is a multi-stakeholder initiative which seeks to help participating countries improve the value of the money they spend on infrastructure projects.

CoST is supported by the UK's Department for International Development (DFID) and the World Bank. It was launched in 2008 with the pilots beginning in 2012. Its two year pilot includes seven countries: Ethiopia, Malawi, Philippines, Tanzania, United Kingdom, Vietnam and Zambia. CoST seeks to improve the accountability of construction companies and procuring agencies, by requiring the disclosure of relevant project information that enables stakeholders to reach informed judgments about the cost and quality of projects. One of CoST's main objectives is making information on complex infrastructure contracts available in a user-friendly format that is fully comprehensible to all stakeholders. To do so, CoST has provided a standardized template to ensure that project costs, summaries, specifications and completion reports are accessible and easily understood and by comparing and measuring progress and costs across international infrastructure projects.

Open Contracting Initiative

The Open Contracting Initiative, recently launched by the World Bank Institute, seeks to pool and connect contract transparency initiatives from around the world, based on the belief that more transparent contracting will result in reduced corruption and improved service delivery. The initiative aims at creating a forum to share experiences and best practices on "open contracting", defined as the laws, norms and methodologies that are aimed at increasing transparency in public contracting. The Open Contracting initiative relies on and draws from experiences across different sectors, such as CoST, the Extractive Industries Transparency Initiative and Medicines Transparency Alliance.

Sources

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Jarvis M., Hunja R.,(2012) *Open Contracting: Enhancing the Transparency and Monitoring of Public Contracts*: *Concept Note*

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[31] Kenny, Charles, "Measuring and Reducing the Impact of Corruption in Infrastructure." World Bank Policy Research Working Paper (2006), available at http://econ.worldbank.org/external/default/main?pagePK=64165259&theSitePK=477894&piPK=64165421&menuPK=64166093&entityID=000016406_20061214120802

[32] Leary et al., "The Role of Transparency International in Fighting Corruption in Infrastructure." Annual Bank Conference on Development (2006), available at http://siteresources.worldbank.org/INTDECABCTOK2006/Resources/OLeary.pdf

[33] The main source for this section is: http://www.giaccentre.org/why_corruption_occurs.php

11. Resources and Strategies

11.1 Funding Monitoring Activities

Procurement monitoring requires both human capital and financial resources, which may be scarce in many countries. Funding is needed to hire qualified and technical staff to monitor complex projects, to cover transportation expenses, provide small stipends to Monitors and, most importantly, develop and carry out sustained and long term training programs. Even when Monitors are volunteers, funding to reimburse volunteers for their transportation, food and lodging expenses is needed. For Monitors to be more effective and extend their reach to remote areas, resources need to be made available to Civil Society in a systematic and sustained manner.

Funds for procurement monitoring activities can come from three main sources: the government, the private sector and donors. However, funding from these sources is often discretionary and earmarked for specific areas, thus creating sustainability problems and leaving little room for CSOs establish their own priorities and conduct strategic planning. An important exception is the "Social Witness" program in Mexico (see box 4), which, for procurement above a certain threshold requires non-discretionary public funding for monitoring, by including the cost as part of the procurement itself. It is also important to note that for some CSOs, funding from the government or private sector can potentially create a conflict of interest. But there are ways to receive such funding which can minimize the potential conflict of interest. In addition to funding from project expenditures as with Mexico's Social Witness, another option for monitoring activities is funding provided by a consortium private sector companies, for example through a trade association.

Another mechanism could be a trust fund with contributions from the government, the private sector, and the donor community with resources comingled so that none of the sources of funds could claim ownership of the fund or control its allocation. Resources could come as donations or from a small percentage of the cost of bidding documents.

11.2 Training of Monitors

Training is an essential for CSOs to be able to improve the quality and reach of their procurement monitoring activities.[34] The experience of CSOs such as Procurement Watch Incorporated, which conducts periodic training activities in different areas of the Philippines (see box 3), and Indonesia Procurement Watch, which has created a comprehensive Procurement Monitoring Toolkit to train volunteers,[35] illustrate the importance of training activities. CSOs should consider establishing comprehensive training programs for their procurement monitoring volunteers, focusing on general aspects of procurement, monitoring techniques and frequent red flags. The Civil Society Procurement Monitoring Tool includes an online training module that can be used directly for training or as a reference to tailor to country-specific contexts.

When designing training programs, CSOs should combine information sessions and active group participation, in order to ensure sharing of experiences among participants. Case studies should be used to illustrate the most common issues in all the different phases of procurement and all major sectors. Training materials and trainers should not provide ready-made solutions. Trainers should provide the required analytical framework and know-how stemming from concrete experiences, thus enabling participants to develop, apply and implement their own monitoring techniques, concepts and tools adapted to the monitoring situations they may encounter. Finally, Training methods and contents should be analyzed periodically to ensure they are updated and improved constantly.

11.3 Cooperation and coordination among CSOs

CSOs cannot monitor all procurement processes nation and sector-wide. However, in countries where multiple CSOs are engaged in procurement monitoring, coordination of efforts and tasks can go a long way in increasing the effectiveness of monitoring activities. CSOs should consider initiatives to facilitate coordination, information sharing, and the selection of procurement monitoring priorities. One suggestion may be to consider establishing one common, online database that would connect available Monitors with procurement processes that, because of risk factors or value, require independent monitoring by CSOs.

This database could also collect information that is essential for procurement monitoring, such as budgets, lists of participants, contract awardees, prices paid for the items being procured, dates, information on complaints and formal protests, and other relevant data. As the database get populated, a clearer picture of the procurement process will eventually appear, with reference prices on commodities, services, construction, and all aspects of public procurement. This information would, in turn, allow Monitors to compare a) proposed budgets with historical data on the items being procured, thus determining if budgets appear inflated or excessive; b) proposed or actual lists of participants (or shortlisted firms when there is prequalification) with historical information on participants or patterns of participation by firms to determine potential bid rigging and/or collusion among firms; and c) reference prices of works, goods and/or services with actual prices paid in the past for similar items or services, thus determining potential overpricing or corruption and other relevant factors.

In addition to the above, a CSO procurement monitoring database could allow CSOs to establish a list of private sector companies that normally respond to bid invitations, requests for proposals and other procurement actions, win contracts and are effective, efficient and transparent in their work. By populating the database with information on positive (and negative) evaluations and success stories, CSOs can establish a list of private sector companies that could be open to signing integrity pacts and generally work with Monitors in making sure the procurement process is efficient and transparent.

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[34] The website of ANSA-EAP provides useful resources for training at http://www.ansa-eap.net/resources/social-accountability-tools/procurement-monitoring-tools-compendium and http://www.ansa-eap.net/learning-in-action/manual-for-trainers-on-social-accountability

[35] For more information see USAID, RTI International, "Local Governance Support Program – Final Report." (December 30, 2009), at 278, available at http://pdf.usaid.gov/pdf_docs/PDACP359.pdf and the "Indonesia Procurement Monitoring Guide," available at http://monitoring.transparency-usa.org/resource-guides/indonesia-resource-guide

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Acronyms

ADB	Asian Development Bank
ANSA-EAP	Affiliated Network for Social Accountability in East Asia and the Pacific
AusAID	Australian Agency for International Development
BEC	Bid Evaluation Committee
BER	Bid Evaluation Report
CRC	Citizen Report Cards
CSC	Community Score Cards
CSO	Civil Society Organizations
CSPM	Civil Society Procurement Monitors
e-GP	Electronic Government Procurement
GDP	Gross Domestic Product
GPF	Governance Partnership Facility
Guide	Generic Resource Guide
IADB	Inter-American Development Bank
IFI	International Financial Institutions
IPW	Indonesia Procurement Watch
MDG	Millennium Development Goals
NCB	National Competitive Bidding
NGO	Non-Governmental Organization
OECD	Organization for Economic Cooperation and Development
PWI	Procurement Watch Inc. of the Philippines
SAI	Supreme Audit Institutions
SCC	Special Conditions of Contract
TOR	Terms of Reference
TI	Transparency International
UNCITRAL	United Nations Commission on International Trade Law
USAID	United States Agency for International Development
WB	World Bank
WBI	World Bank Institute

Annex 1 – Procurement Methods

1. Procurement Methods[36]

Procurement methods vary depending on the nature, size and complexity of the project and whether the procuring agency is seeking to acquire goods, works or services. Under normal circumstances, the larger the project the more complex the procurement method tends to be. For goods and works, cost tends to be the overriding factor in determining the winner of the bid, whereas for consulting services the quality of the services and the technical proposal will be the primary concern, although price also plays an important role.

1.1 Goods and Works and Related Services

a. International Competitive Bidding (ICB)

For large/complex works projects or for the acquisition of large quantities of complex goods, International Competitive Bidding (ICB) tends to be the preferred method of procurement. ICB is the most formal and detailed of the procurement methods and its purpose is to give all eligible and qualified prospective bidders adequate and timely notification of the requirements, and equal access and a fair opportunity to compete for the contract.

ICB requires publicity as well as formal bidding documents which are fair, non-restrictive, clear and comprehensive, with an appropriate description of technical specifications, standards, evaluation criteria, and conditions of contract. Normally, ICB is conducted in a universally used language; conditions are such that promote international participation; and all internationally recognized standards and parameters are used.

b. Limited International Bidding (LIB)

LIB is essentially ICB by direct invitation, without open advertisement, and is an option generally where there are a limited number of possible suppliers or where contract values are small or other special circumstances may justify departure from ICB. Under LIB, bids should be solicited from a list of potential suppliers broad enough to ensure competitive prices, including all known suppliers if their number is small. Advertising, prequalification and other mechanisms used for ICB are not normally utilized when goods and services are procured under LIB procedures.

c. National Competitive Bidding (NCB)

NCB is mostly used when the nature or scope of the goods or works being procured are smaller in both size and value, the goods or works are available locally at prices below the international market or can be supplied by national companies, and when the advantages of ICB are clearly outweighed by the administrative or financial burden involved.

NCB generally incorporates the basic principles of ICB, including "timely notification through advertising in local newspapers, adequate competition, clarity of procedures, fair treatment for all bidders and award to the lowest evaluated bidder in accordance with the criteria set out in the bidding documents."[37] Essentially, the main difference between ICB and NCB is that NCB allows for the use of national advertising and local language. In many countries, contracts below a certain threshold are reserved for national firms and international firms are not allowed to participate.

d. International and National Shopping

Shopping is a method for procuring readily available off-the-shelf goods or standard commodities in small quantities or value and, in some cases, small, simple works. In order to ensure competitive prices, the procuring entity usually requests written quotations from at least three local or foreign contractors, often more, without issuing formal bidding documents.[38]

e. Direct Contracting

Direct contracting without competition (also known as sole-sourcing) is normally used in a limited number of circumstances when it would not be feasible to apply a competitive bidding procedure. Generally, the procuring agency must justify the use of direct contracting in writing. The situations in which direct contracting is usually allowed include:

- Only one responsible source and no other supplies or services will satisfy agency requirements.
- Unusual and compelling urgency, such as natural disaster or other emergency.
- National security.

Contractors or suppliers hired by direct contracting must be capable of performing the works or supplying the goods on time, meeting specifications and fulfilling the special requirements of the sole source contract.[39]

1.2 Consulting services

a. Quality and Cost Based Selection (QCBS)

QCBS is a procurement method based on the quality of the proposals and the cost of the proposed services. Since cost is a factor of selection, this method is suitable when the scope of work of the assignment can be precisely defined and the Terms of Reference are well specified and clear. Estimates of staff time and other costs should also be reasonably simple to estimate precisely. QCBS is most suitable "for assignments such as feasibility studies and designs where the nature of the investment is clear and well defined, known technical solutions are being considered and the evaluation of the impacts from the project are not uncertain or too difficult to estimate."[40]

QCBS is not normally used for complex or specialized assignments in which the scope of work is not precisely defined and staff months are difficult to estimate. Since price is a factor of selection under QCBS, when this method is used, competitors will tend to propose more conventional approaches and tested methodologies to keep the cost of services low, rather than proposing the most effective or innovative way to carry out the assignment.

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37 Ibid, p. 109

38 Ibid, p. 110

39 Ibid, p. 110

40 Leipold et al. "The World Bank e-Procurement For The Selection of Consultants: Challenges and Lessons Learned." (2004), Journal of Public Procurement, Volume 4, Issue 3, p. 321. available at http://www.ippa.ws/IPPC1/JOPP4_3/SympAr1_Klemow.pdf

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36 This description is largely taken from World Bank, "Bank Financed Procurement Manual", 2001 (as amended), p. 82 and following, available at http://siteresources.worldbank.org/PROCUREMENT/Resources/pm7-3-01.pdf.

b. Quality Based Selection (QBS)

QBS is based on an evaluation of the quality of the proposals and not on cost. Once proposals have been ranked, the best technical proposal is selected. Then, the consultant that submitted that proposal is invited to negotiate a financial proposal and subsequently the contract. QBS is appropriate when the downstream impact of the project is so large that the quality of the services becomes the overriding factor for the success of the project. It is also appropriate when the scope of work and terms of reference for the project are difficult to define because of the novelty or complexity of the assignment, or the need to select among innovative solutions.

QBS is the preferred method when the assignment can be carried out in substantially different ways such that the costs of proposals are not easily comparable and the introduction of cost as a selection criteria would make competition unfair. It is a highly recommended method for complex multidisciplinary investment studies; strategic studies in new fields of policy and reforms; the development of master plans, complex prefeasibility and feasibility studies, and design of complex projects.

c. Selection Under a Fixed Budget (SFB)

SFB requires disclosing the available budget to invited consultants in the Request for Proposals and selecting the consultant with the highest-ranked technical proposal within the budget. Consultants have to develop their proposal taking into consideration a budget ceiling.[41] In these circumstances the budget must be compatible with the terms of reference so as to ensure that consultants will be able to perform the tasks within the budget. SBF is appropriate only when the "budget is fixed and cannot be exceeded and/or when the terms of reference are precisely defined and the time and staff-month effort required from the consultants can be assessed with precision."[42]

d. Least Cost Selection (LCS)

Under LCS a minimum qualifying mark for quality is established and indicated in the RFP. For example, a bidder must have a minimum of 75 points in the technical evaluation, out of a maximum of 100 points. Shortlisted consultants have to submit their proposals in two envelopes. The technical proposals are opened first and evaluated. Proposals that score below the qualifying threshold rejected, while the financial envelopes of the rest are publicly opened. The consultant with the lowest price is selected.[43]

LCS is appropriate for small assignments of a standard or routine nature where well-established practices and standards exist and from which a specific and well-defined outcome is expected, which can be executed at different prices. These assignments may include standard accounting audits, engineering designs and/or supervision of simple projects, repetitive operations and maintenance work and routine inspections, and simple surveys.

e. Selection Based on Consultant's Qualifications (SBCQ)

SBCQ applies to very small assignments for which the cost of a full-fledged selection process would not be justified. Under SBCQ the terms of reference are first prepared, then requests for Expressions of Interest (EOI) and qualification information on the consultants' experience and competence relevant to the assignment are sought. From the EOI a shortlist is established and the firm with the best

qualifications and references is selected. This firm is asked to submit a single proposal that contains the financial and technical aspects of the project. If the technical proposal is deemed acceptable, the firm is invited to negotiate the contract.[44]

The SBCQ method aims at reducing the cost and time needed to hire a consultant. This approach does not, however, disregard quality, since some very small assignments are very important such as highly specialized advisory services with a limited scope and duration or assignments that, although small, require consultants with the best possible qualifications. SBCQ may be considered for assignments such as brief evaluation studies at critical decision points of projects (review of alternative solutions with large downstream effects); executive assessment of strategic plans; high level, short-term, legal expertise; and participation in project review expert panels.

f. Single Source Selection (SSS)

Under SSS a specific consultant is requested to prepare technical and financial proposals, which are then negotiated. Since there is no competition, this method is normally used in exceptional cases and made on the basis of strong and convincing justifications where it offers clear advantages over competition. This may be because the assignment represents a natural or direct continuation of a previous one awarded competitively, and the performance of the incumbent consultant has been satisfactory; or a quick selection of the consultant is essential, for instance, in emergency operations such as natural disasters and financial crisis; or the contract is very small in value; or only one consulting organization has the qualifications or experience of exceptional worth to carry out the assignment.

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41 "Consulting Services Manual: A Comprehensive Guide to Selection of Consultants." (2001), World Bank, p. 47. available at http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2002/01/18/000094946_02010804013045/Rendered/INDEX/multi0page.txt
42 Ibid
43 "Consulting Services Manual 2006." (2006), World Bank, p. 43. available at http://siteresources.worldbank.org/INTPROCUREMENT/Resources/2006ConsultantManual.pdf

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44 Ibid