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GovRisk

The International Governance & Risk Institute

Involving Civil Society in the Detection of Illicit Procurement Activity

Transparency International's Civil Society Procurement Monitoring Tool

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Civil Society Procurement Monitoring

- Public Sector Procurement is of extreme importance to citizens because it is a key economic activity representing a high % of GDP
- Public Sector Procurement (PSP) represents one of the most corrupt-prone areas of the economy affecting the efficiency of public spending

Civil Society Procurement Monitoring

Corruption, in turn

- Affects the effectiveness of donors' resources
- Creates waste and affects the quality of services
- Diminishes the opportunities they present to improve quality of life

Civil Society Procurement Monitoring

- Civil Society has a prominent role to play in monitoring and observing these processes to ensure PSP is conducted in the most efficient and transparent manner possible and to also ensure best value for money is obtained

Civil Society Procurement Monitoring

- In 2011 Transparency International USA (TI-USA) hired Claro & Associates, Inc., a USA based consulting company, to develop a **Civil Society Procurement Monitoring Tool (CSPM)** as a practical tool to help Civil Society Organizations (CSO) identify risks along the procurement cycle, thus helping curb corruption

Civil Society Procurement Monitoring

- There are many corrupt practices, schemes and sub-schemes including:
 - Collusion
 - Bribery
 - Extortion
 - Cronyism
 - Nepotism
 - Patronage
 - Graft
 - Embezzlement
 - Extortion, and others

Civil Society Procurement Monitoring

- Of the many corrupt practices, schemes and sub-schemes, international organizations have identified several that are particularly prone to affect procurement, including:
 - Fraud
 - Collusion
 - Bribery
 - Extortion

Fraud Sub-Schemes

Examples of Fraud Sub-schemes include:

- **Inadequate Transparency**
 - Key information, such as clarifications and modifications to the bidding documents is not shared with all prospective bidders to give an unfair advantage to the favored bidder
- **Manipulation of Bid Evaluation Committee (BEC) Selection Process**
 - Unqualified individuals are appointed as members to manipulate the selection process and influence decision making in favor of bidders willing to pay bribes

Fraud Sub-Schemes

Examples of Fraud Sub-schemes include:

- **Violation of Procurement Rules**
 - Public officials violate procurement rules to favor a bidder. For instance, they may use different evaluation criteria than those issued in the bidding documents
- **Questionable Deviations from Bidding Documents**
 - Changes to quality, quantity or specifications between the contract and the bidding documents (TOR, technical specifications, key personnel, etc.), may signal fraud to benefit a contractor or government official

Fraud Sub-Schemes

Examples of Fraud Sub-schemes include:

- **Failure to Meet Contract Terms**
 - Firms deliberately fail to comply with contract requirements by concealing actions, falsifying or forging supporting documentation and billing for the works as if they were completed in accordance with specifications. Inspection, supervision or project personnel may be bribed in order to accept substandard goods or works.
- **Questionable Evaluation Process**
 - Auditors or supervising officers provide deficient supervision or manipulate their reports

CSPM tool

The tool has the following components:

- **Procurement Monitoring Guide (PMG)**
 - Provides detailed guidance on how to monitor public procurement through a forensics and red flags approach
- **Country-specific Monitoring Guides(CMG)**
 - Integrates the Procurement Resource Guide with country-level procurement monitoring information

CSPM tool

- **Monitoring Assistant (MA)**
 - An interactive checklist that facilitates the detection of common red flags of corruption in public procurement;
- **The Links Pages (LP)**
 - Provide links to additional resources for procurement monitoring;

CSPM tool

- The Learning Community (LC)
 - A forum where users of the CSPM tool can share their procurement monitoring experiences and make suggestions for improving the tool
- The Online Training (OT)
 - A case-study based training that drives users through procurement monitoring and the use of the CSPM tool

CSPM tool

- Helps users obtain necessary information, narrow down priority areas and identify common country-specific corrupt practices
- The tool allows CSO to follow each stage of the procurement process

CSPM tool

- The CSPM tool - which was adapted from and designed to be used in conjunction with the Procurement Monitoring Guide (PMG) and Monitoring Assistant (MA) - follows all the procurement phases and processes as they unfold

PSP Stages

The stages of the Procurement Process include:

- **Planning**, which includes:
 - the preparation of the procurement plan,
 - the advertising process, and
 - the preparation of the Bidding Documents
- **Bidding**, which includes:
 - the short listing of companies
 - the pre-qualification, and
 - the pre-bid conference

Phases of PSP

- **Evaluation**, which includes:
 - bid opening
 - bid evaluation
 - bid evaluation report, and
 - award of contract
- **Implementation/Administration** which includes:
 - drafting of the proposed contract
 - contract implementation/administration, and
 - contract changes
 - audit & evaluation

Monitoring Checklist

- In addition, a monitoring checklist was also developed. It allows CSO to start observing procurement from its initial stages in a more systematic way
- It can also be used to help train monitors on the risks along each phase of procurement cycle and on what to look for in each of them

Monitoring Checklist

- Phase 1 – Planning

 - Information Gathering in Lieu of Direct Observation*

 - Monitors can obtain information on projects earmarked for procurement during the year
 - Obtain info on monies allocated for these projects
 - Narrow down which projects and sectors it makes sense to monitor
 - Determine if government agencies advertise bids for these projects adequately

Monitoring Checklist

- Phase 1 – Planning

Step 1: Determine if proposed procurement supports the national development plan

- Follow and attend community meetings determining public needs
- Request/obtain a copy of the national plan
- Review proposed projects in plan to pinpoint those that lend themselves to possible corruption at outset

Monitoring Checklist

- Phase 1 – Planning

- Step 2: Assess adequacy of project and Annual Procurement Plan (APP)

- Request a copy of Project Procurement Plan
 - Use PMG and MA questions to determine adequacy of plan
 - If copy of plan not made available, Monitors could keep project as top monitoring priority

Monitoring Checklist

- Phase 1 – Planning

Step 3: Compare budget with project procurement plan for discrepancies

- Request a copy of the budget or find budget info via public records
- Identify inconsistencies in items in the budget compared with the procurement plan

Monitoring Checklist

- Phase 1 – Planning

- Step 4: Analyze budget to select projects to monitor

- Determine if expenditures fall into major or minor categories
 - Use PMG and MA questions to determine adequacy of plan, narrow down projects to monitor, reveal projects with potential for corruption
 - Pay particular attention to projects in infrastructure, health & education sectors (most prone to corruption)

Monitoring Checklist

- Phase 1 – Planning

- Step 5: Determine if bids are advertised adequately

- Determine if agencies follow requirement to advertise bids
 - Use PMG and MA questions to determine if advertisements are adequate, circulation is appropriate, within timeframes or could signal corruption in the selection of bidders

Monitoring Checklist

- Phase 1 – Planning

- Step 6: Uncover irregularities in bidding documents

- Request (or if appropriate purchase) copy of the bidding documents or obtain through IFIs
 - Use PMG and MA questions to uncover inconsistencies or questionable requirements in bidding docs
 - If not granted a copy, Monitors could keep project under close scrutiny

Monitoring Checklist

- Phase 2 – Bidding

- Information Gathering in Lieu of Direct Observation*

- Monitors can collect key info about bidders and bidding process
 - Information collected can help Monitors determine transparency of process and potential for corruption during this and subsequent phases

Monitoring Checklist

- Phase 2 – Bidding

- Step 1: Gather necessary information on bidders and bidding process

- When bidders are identified Monitors can review list and perform background research
 - Assess whether bidders are qualified, companies are real, bidders are independent, and identify inconsistencies or misrepresentations using simple due diligence methods
 - Use PMG and MA questions to assess eligibility of short-listed bidders

Monitoring Checklist

- Phase 2 – Bidding

Step 2: Determine if pre-bid conference and its outcome are appropriate

- If required and/or invited to observe, Monitors could ensure attendance by technically qualified observers
- Evaluate timing of conference, concerns that arise, and the response to concerns
- Changes to the bidding documents arising from the pre-bid conference can also be noted

Monitoring Checklist

- Phase 2 – Bidding

Step 3: Determine if bid submission is conducted in transparent manner

- Watch for complaints or for bidders dropping out, take note of unanswered complaints and watch for long delays in submission or opening
- Use simple due diligence previously performed to determine if bidders are legitimate and if they could be influencing process

Monitoring Checklist

- Phase 2 – Bidding

Step 3: Determine if bid submission is conducted in transparent manner

- Check records to determine if bids were submitted within deadline and at designated venue
- Gather supporting documents and inform Office of Ombudsman or other anti-corruption bodies if corruption is suspected

Monitoring Checklist

- Phase 2 – Bidding

- Step 4: Collect key information during bid opening

- If invited, attend ceremony, take notes, observe vigilantly, and raise pressing concerns to Bid and Awards committees
 - Suggestions:
 - Make presence known
 - Check lists of prices for irregularities, lists of participants, document names and other company data
 - Keep info in database, compare bids with budget

Monitoring Checklist

- Phase 2 – Bidding

Step 4: Collect key information during bid opening

- Use PMG and MA questions to determine level of integrity of bid opening

Step 5: Analyze bids for signs of collusion, price fixing or other corrupt practices

- Observers can request abstracts of bids, post-qualification summary reports, copies of opened proposals and minutes of bid opening

Monitoring Checklist

- Phase 3 – Evaluation

Information Gathering in Order to Prepare Procurement Observation Report

- Collect key information such as abstracts of bids as calculated and the post-qualification report
- Information can help Monitors form an opinion as to the independence of the evaluation committee members and transparency of contract award process
- Monitors could turn in a report for projects it did and did not monitor stating its findings or that it cannot guarantee the integrity of the process

Monitoring Checklist

- Phase 3 – Evaluation

Step 1: Determine if conflicts of interest exist with Evaluation Committee members that influence process

- Conduct research on committee members and use PMG and MA questions to identify conflicts of interest and assess qualification of members for procurement at hand
- Assess if choice of procurement method is fitting
- Determine if Technical Working Group made up of qualified experts to assist in process, was established, if necessary

Monitoring Checklist

- Phase 3 – Evaluation

Step 2: Determine if evaluation process was handled according to law

- Request a copy of the bid evaluation report and answer PMG and MA questions to identify inconsistent evaluation criteria or poor application of criteria
- Request to be invited to special evaluation committee meetings, document the purpose, actions taken and results, and incorporate findings in report
- Observe response to motions, to requests for reconsiderations and to concerns from bidders, and document findings

Monitoring Checklist

- Phase 3 – Evaluation

- Step 3: Assess transparency of contract award process

- Determine if winning bid is lowest calculated and responsive bid or highest rated and responsive bid
 - Make note of delays between opening, award announcement or contract signature
 - Compare selection criteria with procurement documents, including TORs and Specifications
 - Look for patterns of winning bidders or bid rotation

Monitoring Checklist

- Phase 3 – Evaluation

- Step 3: Assess transparency of contract award process

- Answer PMG and MA questions relevant to bid opening to detect irregularities or patterns, determine if there are complaints from bidders and if there are appropriate responses.
 - If it is determined that the Evaluation Committee has not followed bidding procedures, Monitors can submit a report to government authorities such as the Ombudsman or Auditor General

Monitoring Checklist

- Phase 4 – Implementation

Maintain Engaged during Implementation Phase, particularly where most visible

- Monitors can document end results, call attention to projects not adequately completed
- Assess value and quality of infrastructure projects
- Also, Monitors could partner with government agencies to increase monitoring efforts

Monitoring Checklist

- Phase 4 – Implementation

Step 1: Compare Specs, pricing and others in draft contract with bidding documents

- Request access to draft of final contract
- Use PMG and MA questions to compare Specs, pricing and other info in draft contract with bidding docs in order to identify differences

Monitoring Checklist

- Phase 4 – Implementation

- Step 2: Document and assess quality of implementation

- Request access to implementation sites or during delivery of goods/services procured
 - Partner with government agencies to help account for final results
 - Count and document the number of goods being delivered and compare with bid documents
 - Work with technical experts to determine quality of project, goods or services delivered

Monitoring Checklist

- Phase 4 – Implementation

- Step 2: Document and assess quality of implementation

- Assess adequacy of timing/delivery, make note of delays
 - Assess whether final product is fully functional and operational and responds to Specs
 - Use PMG and MA questions to help analyze results and detect failures and/or substandard work

Monitoring Checklist

- Phase 4 – Implementation

Step 3: Make note of renegotiations or changes to contract and/or pricing

- Request clarification from evaluation committees of any proposed changes to contracts and documents
- Verify approval of contract changes and variation in orders are within approved percentages
- Use PMG and MA questions and tips to detect changes

Monitoring Checklist

- Phase 4 – Implementation

- Step 4: Generate summary of findings

- Use checklist to put together a list of findings for project and for future reference
 - Keep running record of findings and historical information for future comparisons
 - Project summaries can help Monitors determine if budgets are disproportionate and establish reference prices for goods and services

What to monitor

CSO may not monitor everything. Consequently they may consider:

- Volume and magnitude:
 - Low-volume/high-value
 - High-volume/low-value
- Own capacity, strengths and weaknesses
- Relevance and impact of the project
- Complexity/difficulty of the process

What to monitor

- Technical competence required
- Availability of monitors
- Funds at their disposal
- Location of projects
- Areas or sectors such as:
 - Health,
 - Infrastructure
 - Education

What to monitor

- An additional way to select what to monitor is tracking budget and expenditures by “*following the money*” to where it is actually spent, and
- Comparing budgetary allocations with actual expenses

Civil Society Procurement Monitoring

- Although there are corruption risks along all procurement activities, what may seem like corruption may in fact, at times, be issues related to incompetence, inefficiency or error
- Consequently, it is important for CSO to make a distinction between lack of competence, efficiency problems and errors from pure corruption, especially if there could be criminal acts involved

Civil Society Procurement Monitoring

- Participants are encouraged to explore the CSPM tool to see how it works and bring it to the attention of CSO in their respective countries to see if they can use it to monitor PSP, thus contributing to minimizing corruption opportunities

CSPM tool

- References to the tool can be found at:

<http://monitoring.transparency-usa.org/>

- To navigate through the different components of the tool see "More information on the CSPM tool"

<https://dl.dropboxusercontent.com/u/19136296/Civil%20Society%20Procurement%20Monitoring%20Tool%20%20How%20it%20Works.swf>

Integrity Pacts

- A tool developed during the 1990s by Transparency International (TI) aimed at helping governments, businesses and civil society fight corruption in PSP
- Essentially an agreement between the government agency offering a contract and the companies bidding for it that they will abstain from bribery, collusion and other corrupt practices for the extent of the contract
- To ensure accountability, Integrity Pacts also include a monitoring system typically led by CSO, hence the CSPM tool

Integrity Pacts

- Have been applied in more than 15 countries and 300 separate situations.
- Help save taxpayer funds, ensure that infrastructure projects and other public works are delivered efficiently, and stave off avenues for illicit gain
- Provide enhanced access to information, increasing the level of transparency in public contracts
- In the region there are many successful examples in Colombia, Mexico and other countries

In summary

- Civil Society has an important role to play in monitoring public sector procurement and in helping curb corruption
- The use of the CSPM tool developed by TI is one more important contribution to Civil Society's arsenal in the fight against corruption

Many thanks for your attention!

Questions?

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