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Civic Engagement in Procurement Reform**

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**Procurement Services Unit  
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## **Acronyms and Abbreviations**

BCC	Behavioral Change Communication
CAS	Country Assistance Strategy
CFAA	Country Financial Accountability Assessment Report
CPAR	Country Procurement Assessment Report
CPTU	Central Procurement Technical Unit
CSO	Civil Society Organization
e-GP	Electronic Government Procurement
GoB/GOB	Government of Bangladesh
IMED	Implementation Monitoring and Evaluation Division
MIS	Management Information System
NGO	Non Governmental Organization
RHD	Roads and Highways Department
WB	World Bank
WDR	World Development Report

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## BACKGROUND AND RATIONALE

### Background

1.1 The redefinition of the role of the state combined with global wave of privatization witnessed during the last two decades has shrunk the public sector. The resulting increased reliance on external parties to execute public services, has had a threefold effect. First, government purchasing of goods, works, and services has become more prominent.<sup>1</sup> Second, governments are more aware that spending on procurement is at the core of their discretionary spending. And third, policymakers are increasingly aware that even minor improvements in procurement efficiency can yield substantial cost savings and financial well-being of the nation, the ability of citizens to access and use quality services, and the competitiveness of domestic firms.

1.2 Public procurement reform essentially involves *improvements in transactional processes*. Reforms are linked to improving the efficiency of government spending and focus primarily on altering the rules governing transactions. Examples range from efforts to increase transparency of and adherence to existing regulations, to passing new procurement laws, to creating new organizations designed to manage and regulate the procurement process. These reforms typically alter the power relationship among stakeholders.

1.3 Public procurement however is not just a mechanism for executing transactions. It is an integral part of the development process and a priority area for reforms within the overall framework of a country's public financial management (PFM) system. Budgets get translated into public services in large part through the operation of the procurement system.

1.4 In developing countries, the state is often the largest single buyer of goods and services, the largest investor, and the largest single customer for a significant proportion of firms in the economy. Public procurement decisions thus have major impacts at the micro, meso and macro levels – on the productivity and development of individual firms, on the performance of various sectors, and ultimately on the growth of the national economy. Moreover, the state is the largest single owner of assets in almost all countries, and its decisions on managing its stock and flow of assets strongly influence local resource markets. Thus procurement reform, if implemented properly, can stimulate and support *private sector development and enhance trade*.

1.5 Of equal importance, procurement reforms, if successful, can be instrumental in curbing corruption. Public procurement is often at the epicenter of corruption. Its association with corruption is understandable, given the number of discretionary choices that are part of the procurement process (what to buy, how much to buy, from whom to

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<sup>1</sup> In many developing countries, only administrative costs and payment of debt service rival the value of payment for procurement.

buy) and the amounts of money that are involved. Widespread corruption within procurement systems is particularly damaging since it tends to pervert public spending (causing an overemphasis on capital spending and generating a lower rate of return), reduce the value of public assets (since bribe-givers benefit by skimping on quality), and distort the economy (since firms invest in competing politically and not economically).

### **Objectives:**

1.6 This Policy Note has two objectives in the context of Bangladesh: (i) identify possible modalities for increasing social awareness among the general public to demand best value for money in the use of public funds and, through this, for promoting a general acceptance of social accountability as a legitimate form of engagement between the public sector, the citizenry, and the private sector; and (ii) provide guidance on (a) how to engage government officials and the contracting community in adopting a culture shift towards more transparent practices and (b) how to communicate to the public the importance and benefits of adopting behavior well suited in facilitating greater efficiency and effectiveness of public procurement. Both these objectives can contribute to the emergence/ engagement of highly visible and vocal civil society organizations in the monitoring of procurement process as well as outcomes, particularly those interest in fighting corruption.

### **Rationale:**

1.7 The inefficiency and corruption in government procurement of goods, works, and services is often due to inadequate “checks” and “balances” in the procurement process and more generally in the broader public financial management system, i.e. an inadequate system of “accountability”. The accountability breaks down in public procurement for a variety of reasons including, among others, inadequate enforcement of laws/regulations by government officials combined with the abuse of political office for private gain.

Kickbacks from government contracts can be a lucrative source for election finance. A legislator could potentially own a contracting company or make arrangements with contractors in his/ her constituency on surreptitiously extracting a kickback. So opposition from such legislators can be intense should their companies or allied private contractors fail to win contracts through a transparent bidding process. In the end, the community or the beneficiaries/ are the losers: road/ schools are constructed poorly or not built at all, textbooks are of appropriate quality or are not delivered, critical drugs are pilfered from government warehouses and sold in the private market, etc.. All these result in poor service delivery.

1.8 For the disposition and use of public funds, traditionally, efforts to induce increased accountability of public officials have tended to concentrate on the “*supply-side*” of governance, e.g., changing administrative rules and procedures, introducing IT based systems, formulation of new laws. However, because of inadequate checks and balances underpinned by the near absence of a culture of accountability, these supply-side interventions have had limited success. The “*demand-side*” of accountability

appears to have been ignored over the years, meaning the users have not had a voice to influence the quantity and quality of services that they are receiving. In order to ensure effective service delivery with better outcomes on the ground, the need for building a road-map for the demand-side of accountability is emerging.

1.8 For the typical supply side interventions to gain real traction, they need to be ensconced in an environment where both public officials and external stakeholders have an appreciation and respect for the need and importance of accountability – both individual and organizational accountability for decisions, actions, and outcomes. Often times this culture of accountability is in fact not well embedded in society or in some cases, where there is an emerging appreciation for the importance of accountability, stakeholders do not have the ability or a space/forum to express their concerns effectively (e.g. lack of collective action initiatives). In either case, the so-called “demand side” of reform is absent or weak. Experience shows that it is the combination of demand side with supply side measures that lead to real, sustainable changes/ reforms because the demand side initiatives are typically the vehicle through which a culture of accountability both within and outside the public sector is infused and nurtured.

1.9 In many developing countries, the emergence and/or deepening of the culture of accountability can be anchored on the growth of “demand side” initiatives that focus on improving the delivery of public goods and services. Public service delivery is often the major point of contact between the government and the citizenry as well as the private sector. Citizen based initiatives like Bangalore’s report card survey, Porto Alegre’s participatory budgeting, or the Philippines’ Procurement Watch and G-Watch effectively seek improvements in the delivery of public goods and services. They de facto introduce a form of accountability now often referred to as social accountability<sup>2</sup> which experience suggests help build an appreciation for greater accountability within public sector agencies.

1.10 This Policy Note discusses the need to induce as well as propose a possible approach to stimulating behavioral change among all stakeholders to the public procurement system in Bangladesh (government, civil society, and private sector) that brings acceptance of the idea or concept of social accountability as a legitimate form of engagement. The rationale for this is based on the above realization that typical supply side interventions/ reforms do not lead to the desired or expected changes in outcomes because a culture of accountability has not emerged to the desired extent within the public sector and that social accountability mechanisms may be the best entry point for facilitating the emergence and deepening of this culture.

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<sup>2</sup> This is in contrast to the accountability of public servants to their superiors and thus of bureaucrats to policymakers.

## 2. BANGLADESH CONTEXT

### **Bangladesh Context and Issues**

2.1 Inefficiencies in the public procurement system have been identified as one of the most significant issues affecting public sector performance in Bangladesh (CAS 2000 and CPAR 2002). Also, the World Bank's Country Assistance Strategy 2006 (CAS), aligned with the Government's National Strategy for Accelerated Poverty Reduction 2005 (NSAPR), identified governance as the major constraint preventing Bangladesh from improving the investment climate. Time and again, the media has reported on possible anomalies in government contracting that have cost the country millions of dollars. For instance, on several occasions, it has reported on faulty power generation contracts. It is in fact ironic that over the last five years, power generation capacity has stagnated as new power plants were not established, while at the same time the demand for power and its supply failures have risen to unprecedented levels, resulting in a serious power crisis across the country. Though several efforts were made to procure a number of power plants, they did not materialize because of undue, non-transparent and alleged political interference in the procurement process. Similarly, in the road sector, the World Bank had to cancel US\$35 million from a credit because the Government of Bangladesh could not implement and conclude the procurement process for 14 important contracts due to non-transparent processes including allegations of collusive bidding practices. Today, given the tenor of the times, procurement reform has taken on a dimension of anticorruption.

2.2 To its credit, the Government of Bangladesh has not ignored the problem. Over the past five years, it has made important strides in improving the legal framework for procurement and establishing a structure for managing the functions. The Central Procurement and Technical Unit (CPTU) at the planning agency (IMED) has been strengthened, becoming de facto the center of gravity for procurement reforms. Procurement regulations with all associated procedures have been put in place and have been in force for about three years now. And a new procurement law was recently passed mandating uniform procurement policy across all public sector entities.

2.3 Though the basic legal and regulatory foundation of reform has been laid, actual implementation and appropriate monitoring of the regulations has been slow and little progress has been made in attaining tangible outcomes on the ground. Experience shows that there are still substantial inefficiencies in procurement practices, much of it grounded in the lack of accountability within the public sector, resulting in delays in the issuance of contracts and the ossification of inappropriate bidding practices including collusion. The end result has been significant non-compliance to the rules and regulations governing public procurement and bad outcomes, e.g., high costs and poor quality.

2.4 Such noncompliance is driven by an inadequate understanding of the new procedures and, the deliberate intention of some stakeholders to hijack the process to generate private rents. Reviews indicate a uniform perception that on the one hand there



is lack of accountability among public officials and on the other the private sector is part and parcel of the problem – it perpetrates inefficiency in and corruption of the procurement system and thus retards the emergence of accountability as a principle that should govern public procurement.

2.5 The Government is now embarking on a round of reforms designed to improve its capability to implement the new rules and regulations more efficiently (in terms of process) and effectively (in terms of outcomes) – supply side initiatives. This includes the development of a procurement focused management information system, the adoption of an IT based procurement system, and the expansion and institutionalization of training program aimed at (a) establishing a professional career path within the government and (b) familiarizing non-specialists on the new rules/regulations and systems. The experience in a number of countries suggest that for such an attempt to succeed in its efforts, it will need to be complemented by demand side initiatives engaging external stakeholders – beneficiaries/users, civil society organizations including think tanks, the business community particularly the contractors/ consultants, and the media.

### **3. POLICY GUIDANCE FOR BUILDING SOCIAL ACCOUNTABILITY**

3.1 In light of the country context, the following four components will guide the process of attaining the objectives of the Policy Note by gradually infusing social accountability as an acceptable form of discourse and engagement in public procurement:

- developing and implementing a communication strategy to help build support for the reform;
- initiating advocacy/ education campaigns at the beneficiary level;
- facilitating dialogue between procuring entities and the contracting community; and
- initiating civil society monitoring of procurement process as well as outcomes after substantial progress on above.

3.2 While the first two components deal with the first objective of the Policy Note (communication and social awareness), the latter two concentrates more on the other objective (procurement process/outcome monitoring by stakeholders). Thus, the above components can be addressed through two separate but related sets of activities. First, *creating a communication strategy and fostering greater public awareness* of the importance of a well functioning public procurement system and promoting a better understanding of the operations and mechanics of the procurement process. Second, *the initiation of a long term process of engagement of beneficiary groups*, civil society, think tanks, and the private sector in monitoring the implementation of procurement regulations – are the rules and procedures being followed -- and procurement outcomes. Both aim to support behavioral change that, among others, brings recognition and acceptance of the legitimate role civil society groups can play in holding Government accountable for the proper conduct of procurement and the willingness of such groups to engage.

#### **Communication Strategy and Public Awareness Campaign**

3.3 Most government officials are accustomed to a closed bureaucratic culture and many see societal participation as a threat to their authority. On the other hand, citizens frequently are not aware or do not have the capacity to take advantage of the openings available to them. This is particularly true when it comes to such a technical field as procurement. It is important to be able to draw wide public support for such a change, not just from the general public and civil society but likewise from policymakers, public officials, members of parliament, and local politicians. The following areas could be included to support this perspective:

*Communication strategy:*

3.4 It will be necessary to develop and implement a culturally grounded communication strategy to make the average citizen aware and appreciate the need for a well functioning procurement system. The first step would be to carry out an opinion

research (a quantitative survey and a series of focus groups) to determine how much the public understands and appreciates procurement and the values that it embodies (proper management of public funds, outsourcing the provision of goods and services in a competitive manner, accountability of public officials, etc.). Based on the results of this research, a comprehensive communication strategy could be developed to shape the way awareness is expanded, deepened, and eventually molded into acceptance. The OECD-DAC procurement performance indicators for a country system can be an important complement to the strategy by enabling both government and the public to track the performance of the system over time.

*Public awareness campaign:*

3.5 Within the broad framework of the communication strategy, a public awareness campaign on procurement will be developed. Education is important in creating awareness to inform citizens, the media, and other third parties of the basics of proper procurement, i.e. the steps in the process and the essential requisites for carrying out each step properly, and, through the lens of public procurement, to expose them to the logic and usefulness of social accountability mechanisms. The awareness campaign could include, among others, training of selected Civil Society Organization(s)- CSO on the basic principles, fundamentals, logic, and implications of procurement and a “roaming” workshop that would go to different towns and would be handled by the CSOs. While a key CSO could develop the public awareness campaign, it is expected that implementation would probably be subcontracted to local communication firms. The execution will probably take place through the mix of channels most suitable to reach a large and varied population (like radio, TV, print media, as well as through school teachers, community leaders, etc.).

*Behavior change:*

3.6 It is not enough to sensitize government officials and the public about the new procurement rules and regulations, or to make businesses aware of and sensitive to the correct procurement procedures. It will be necessary to devise activities targeted at explicitly promoting appropriate behavior. Strategic communication alone cannot change the behavior of rent-seeking officials and corrupt businessmen or induce the right behaviors of the beneficiaries. Much more will be required to change such behaviors. But it can potentially have an impact on the majority of cases in which individuals, while not clearly corrupt, might engage in illegal activities due to ignorance or peer pressure. The package of activities could include dedicated workshops, award schemes, mentoring programs, as well as interpersonal communications.

*Advocacy campaign:*

3.7 The above activities will have to be supported by a well thought out advocacy program. This needs to be designed to garner support of officials at the central and local levels for the “supply side” procurement reforms as well as for mainstreaming and expanding these reforms to include the engagement of civil society groups, non-profit

organizations or beneficiaries, i.e. demand side initiatives. This advocacy effort will strive at keeping procurement reform high in the agenda of decision-makers, politicians, civil society, beneficiaries, and the media. This will help ensure that there is an ongoing debate about the importance of a sound procurement system for the continued and more rapid development of the country.

### **Support Building and Engagement of Beneficiaries**

3.8 This advice/guidance deals with the establishment of an entry point for engagement of beneficiary groups/ community support groups/ civil society groups/ non-profit organizations/ business chambers/ media apex bodies in monitoring the implementation of the procurement act and associated procurement outcomes. In the Bangladesh context, the engagement of external parties in monitoring and advocacy will require a relatively long gestation period that will undoubtedly take several years to mature. Not surprisingly, pro-active and focused advocacy for third party monitoring of government activities is still very much at a nascent stage: though well known for its vibrancy and effectiveness in the delivery of services, the NGO community (and civil society more generally) in Bangladesh is still in the very early stages of engaging pro-actively in advocacy for governance reforms and in demanding greater accountability of the Government in the delivery of public goods and services.

3.9 The following elements constitute the fundamentals of building support for monitoring of public procurement by civil society.

#### *Improving public access to and research on procurement information:*

3.10 The existing legal restraints on access to information held by public authorities (including the Official Secrets Act, the Conduct of Government Civil Servant Rules, etc.) have buttressed the culture of secrecy in public institutions. From broader perspectives, the importance of right to information law in creating an appropriate enabling environment in the longer term cannot be overemphasized. With CPTU developing a functioning website and a management information system (MIS) with a set of performance indicators, more and more information is going to become available on procurement related matters. CPTU expects to scale up its MIS to form a first phase of e-government procurement (e-GP). With this development, CPTU's website will contain detailed procurement information from the key ministries/ agencies, who will be entering data through an interactive data entry system. This information will be made available (through the website) to the public for use in research, analysis, and other related activities. A designated CSO or group of CSOs could analyze those data and report about performance of key sectoral ministries that would help policy makers to easily distinguish good performing public sector entities in terms of use of resources using the national procurement practices.

*Technical training of media professionals and other interested third parties:*

3.11 The idea is to promote procurement literacy among civil society in such a way that it inspires them to get involved and question the manner in which policies are made and actual procurement carried out<sup>3</sup>. Procurement data is highly technical and requires specialist training; without sufficient training, interested citizen groups and other third parties will not be able to make effective use of such information. It will thus be important to establish a training program in procurement practices for the various stakeholders who have an interest in using this data. The idea is to promote procurement literacy among civil society groups and media professionals to enable them to analyze and understand the available data. Participants should be briefed on what to look for with regard to irregular behavior in the procurement process and what the various possibilities are for manipulating the system for the wrong reasons. This training task could possibly be delivered by a CSO in collaboration with capacity building consultants, if identified in due course.

3.12 Journalists and media professionals should be trained to increase and improve the current coverage of procurement related issues, emphasizing the social dimension of public procurement (that is, on how properly procured works, goods and services can enhance the wellbeing of the population). A two-pronged approach may be best. The first would provide introductory training to batches of media professionals, in Dhaka and elsewhere, on the basics of procurement and how to cover it. This would involve a series of one-time workshops, aiming at reaching as vast a number of reporters as possible and giving them the tools to understand the basic issues. On a parallel track, substantive training would be offered to a core group of journalists, from print and electronic media, on public procurement, including the investigative tools to find and bring to light cases of abuse and bad procurement. A suitable format for this intensive program would be one where participants are exposed to the topic in a thorough manner (like a residential week long course) and are subsequently invited to regular sessions in the course of a year.

*Support Building/Establishing a Government – contractors Forum:*

3.13 Politically sensitive issue like procurement reform cannot be implemented by a technical team alone, no matter how good it is. CPTU will need a lot of support at the political level, from the Prime Minister/ Chief Advisor's office down to the government at local level, to be able to start implementing some of the most critical features of reform. For this purpose, both CPTU and civil society will have to work together to build an alliance of individuals and organizations that not only support the concept of procurement reform but are able and willing to stand up for it in public. Building an alliance is a task that requires time, effort, and a good deal of planning. In terms of

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<sup>3</sup> A good example of how this might work is in the area of road safety. The BRAC Centre for Governance Studies has started a road safety training program that focuses on growth areas, e.g. market places, where the problem tends to be most severe. It engages 10 to 12 individuals in the area to talk about road safety problems and on the basis of these discussions organize workshops with the community. The workshops are intended to produce community developed action plans for promoting road safety. BRAC helps in the implementation of the plan. BRAC assessments of the program indicate that road safety has indeed improved in the areas where the program has been active.

initiating engagement between the government (CPTU and procuring entities) and external stakeholders, a good place to start is with the contracting community. This could endeavor to establish a regular forum through which the contracting community (contractors' association, suppliers' association, consultants' association, etc.) can engage in a continuous dialogue with the government on procurement related issues. To facilitate and institutionalize this dialogue, CPTU can seek the assistance of a third party which will act as moderator between the procuring entity and the contracting community. This could be a think-tank, a well established NGO, or civil society organization. Whatever the form this takes, the groups involved will need to undergo sufficient training on procurement to be a credible moderator.

*Creation of Formal Civil Society/ Beneficiary Monitoring:*

3.14 Civil society by nature will have various forms and will be better classified, for instance, advocacy groups, social mobilization, human rights groups, media groups, community groups, and so on. A particular CSO can serve many purposes. For instance, the media is both a beneficiary and a channel. Business/ professional organizations are both beneficiaries (as they are taxpayers), and at the same time bidders or contractors in the public procurement system. To expand, deepen, and sustain efforts to engage beneficiaries in the conduct of procurement, it will be important to establish an enabling environment. For creating a space or forum for beneficiaries to engage with government on procurement process, it will be necessary for the Government to establish formal arrangements through which more direct engagement of beneficiaries in the procurement process can be officially sanctioned. This could start for instance with the creation of a *Public-Private Stakeholders Committee* (PPSC) comprising reputable individuals from civil society, think-tank, business apex bodies, and senior government officials. It would be desirable to have such PPSC chaired by civil society with a secretariat for logistical and administrative support. A clear terms of reference of the PPSC needs to be drawn with full ownership of such stakeholders including the transparency issue of proceedings.

3.15 Over time, to create a public-civil partnership and anchor the activities that will be needed to mainstream procurement reform, the PPSC could help identify a CSO (e.g., think-tank, specialized institutes within universities, professional associations, non-governmental organizations) that would be willing and able to specialize on public procurement and to engage constructively with the government as a partner in procurement reform. This specialized CSO is critical for harnessing the cooperation and support of beneficiaries, other civil society organizations as well as the government in promoting procurement reforms. With its expertise, this procurement focused CSO can command the respect (on procurement issues) of beneficiaries, other CSOs, NGOs, the professional associations such as Bangladesh Association of Consulting Engineers (BACE) and the Chamber of Commerce, policy/research institutes, the media, and the government and, thus, have the ability to focus a wide variety of groups and organizations on advancing and sustaining reforms in public procurement.

3.16 Organizationally, this procurement focused CSO in Bangladesh could take several alternative forms. First, it could be a new, stand alone CSO with its own board,

management, and staff. Second, it could be an umbrella organization with a secretariat established by a group of interested CSOs/academics. Third, it could be a new arm of one of the existing prominent NGOs or policy institutes. The idea and specific organizational form of this CSO will perhaps need to be discussed among prominent stakeholders in the civil society, business, and the policy research community. Given the necessary resources, this procurement focused CSO can effectively serve as a coordinating body for activities and programs that can help the government promote reforms in public procurement and monitoring of actual implementation works as an independent body, outside the government umbrella. To make the monitoring of procurement and implementation effective, such a CSO can be funded from an independent source, either from grants or other bilateral sources.

### *Regional and International Networking*

3.17 Several countries in the region are currently going through the process of reviewing and reforming their procurement policies. The Philippines is a good example of interesting work in this area, including the successful partnership between the government and civil society for promoting reform and monitoring procurement outcomes. Ensuring that like-minded officials and civil society representatives have a venue to discuss their work, challenges and obstacles will be an asset. This can be done initially through field visits and study tours but eventually can crystallize into something simpler but more sustainable like a regional electronic forum where peers connect and exchange experiences online.

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