Accountability constitutes a central pillar of any public procurement system. Without transparent and accountable systems enabling governments and citizens to engage in a mutually responsive way, the vast resources channelled through public procurement systems run the danger of increased corruption and misuse of funds. Even in a system with low levels of corruption, public and civic oversight can help identify inefficiencies, thereby increasing procurement efficiency and effectiveness for the benefit of improved service delivery and ultimately citizens.

In UNDP’s Capacity Development framework\(^1\), accountability is one of four core issues most often encountered in the work to strengthen capacities with national and local governments. Accountability “exists when rights holders and duty bearers both deliver on their obligations.” (UNDP 2008: 12). This conceptually links accountability to a rights-based understanding of development following three principles: “inclusive rights for all people, the right to participation, and the ‘obligations to protect and promote the realisation’ of rights by states and other duty bearers” (Gaventa 2002: 2). As such, the active engagement of a government on one side and its citizens on the other is necessary to achieve any measure of accountability. It is this relationship between state and citizens and the different forms it takes that constitutes the main subject of this case study.

Following UNDP’s Guidelines for CD in public procurement\(^2\) CD for accountability can be about engaging with civil society and other actors through independent review mechanisms, disclosure of information and instating participatory monitoring systems (UNDP 2010: 21). To ensure accountability, transparency mechanisms such as public oversight and monitoring, are important. In the following sections some accountability mechanisms will be analysed in the area of public procurement, namely civil society involvement in public procurement; the role of the media in public procurement; and e-Procurement and transparency. The purpose of this paper is to serve as inspiration for governments, CSO’s and other stakeholders wishing to put focus on accountability and transparency in their own procurement systems.

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\(^1\) UNDP defines Capacity Development (CD) as ‘the process through which individuals, organizations and societies obtain, strengthen and maintain the capabilities to set and achieve their own development objectives over time’. The CD process is divided into five steps, from stakeholder engagement to evaluation, and operates based on principles of long-term involvement, ownership and use of national systems among others. The four core issues most commonly found are: 1) institutional arrangements; 2) leadership; 3) knowledge; and 4) accountability. (UNDP 2008).

\(^2\) The Public Procurement Capacity Development Guide (UNDP 2010) provides detailed guidelines for the CD process for procurement in the following areas: Engaging Stakeholders; Establishing a Capacity Baseline; Identifying Capacity Assets and Gaps; Developing a Capacity Plan; Measuring Capacity; Integrating OECD-DAC MAPS (see more on www.unpcdc.org).
The role of civil society in public procurement

Civil society can play an important role in raising awareness around public procurement and other areas of public financial management (PFM). Kpundeh outlines three distinct types of awareness raising in PFM, namely national efforts (e.g. anti-corruption agencies), local or citizen efforts (which include civil society and media oversight) and populist initiatives (2004: 258). The aim of this awareness raising is to exert political pressure: “Local or citizen efforts aim to pressure public officials to use public resources for civic, not private, purposes” (Ibid. 259).

The ways in which civil society can influence public procurement are many. In the Philippines civil society organizations are allowed to monitor all stages of the procurement process including the meetings of award committees (see Case 1). This includes the obligations to invite two observers to follow the procurement process. The two observers must have knowledge of procurement and no interest in the tender (ADB/OECD 2005: 19).

In a similar effort to gain access and directly monitor the public procurement processes civil society has in some cases supported the elaboration of a so-called integrity pact (IP) promoted by Transparency International. In the IP, a pact commits the public sector and all bidders for a specific public tender to a set of rights and obligations including desisting from offering or accepting bribes, collusion, etc. Further, the pact introduces civil society monitoring of the procurement process: “civil society organizations are permitted to monitor all stages of the procurement process *…+*. Special training is conducted for these civil society representatives to strengthen their capability to monitor public procurement activities.” (ADB/OECD 2006: 94).

In civil society monitoring of public procurement the actual presence, albeit with no formal influence, of civil society on procurement committees is not commonly found. However, the Philippines has a history of a very active civil society involved in the ousting of two sitting presidents in the last three decades and “is perceived as that responsible for bridging the gap between government and the citizens.” (Pimentel 2005: 37).

The civil society oversight function has led to more transparent procurement processes and safe-guarding of compliance with the law among procurement officials. However, the observers’ focus on legal compliance has also proved a difficult issue that can create conflicts between the awards committee and the observers. As a consequence the GPPB is now pursuing a system where observers should focus more on performance of the procurement process. This will align the purpose of awards committees and observers rather than create fertile ground for conflict (GPPB, questionnaire from PCDC workshop in Manila in October 2008 and follow-up consultations in 2009).

Challenges

It is clear that introducing civil society or other independent observers has the potential to strengthen transparency and accountability in public procurement. However, this is not without challenges. One pitfall is the possibility for misunderstandings on the part of the observers as public procurement processes can be complex. In the Philippines

3 For more information on Integrity Pacts see: http://www.transparency.org/global_priorities/public_contracting/integrity_pacts
this inbuilt weakness in the observer system has been countered by including requirements for observers to have experience and knowledge on public procurement and by providing training (ADB/OECD 2006: 94).

Another possible challenge is the power vested in observers. Although these are not intended to have influence on the procurement process, the ability to disclose or hide irregularities immediately bestows observers with a significant responsibility and this potentially opens up new avenues for corruption. It is not in the interest of civil society to be perceived as having a stake in public procurement as this will compromise their status as independent. From the government side, it is also a key question how much power it should vest in stakeholders with no political or financial responsibility.

Related to the independence of observers, a key concern in setting up a system with civil society observers in the public procurement process is that of sustainability. In the Philippines it has been debated whether observers should be paid for their time and efforts in the monitoring the procurement process. Paying observers will naturally improve the sustainability of the monitoring system, yet the same payment will also create doubts about the independence and trustworthiness of observers.4

**Issues to consider**

There is no easy answer to this. A funding mechanism is necessary to maintain a system that, due to the volume and complexities of public procurement, will invariably consume time and resources. Yet again, funding from the same source that funds the awards committees will render the distinction between the two irrelevant.

One possible solution is looking more towards systems such as the previously mentioned IP’s that tie the monitoring of the procurement process to specific localities or types of procurement (services, constructions, etc) and hence spreads out the burden of monitoring across a much larger part of CSO’s. This, on the other hand, introduces the issue of capacity constraints among CSO’s.

Another solution is the abolishment of the civil society involvement in monitoring of public procurement and a greater reliance of the more traditional setup including a strong auditing system and reliance on the media (the role of the media is discussed in the next section). In countries with low degrees of media freedom and independence and an inherent lack of trust in public institutions this may prove challenging.

Civil society can play a variety of roles in public procurement transparency and accountability. It can monitor public material, exert advocacy and pressure on governments to publicize certain material, such as information on bid evaluations and awards, and it can directly monitor the procurement process. Nevertheless, the power bestowed in civil society and the institutional setup must always be subject to an open and democratic debate.

**The role of the media in public procurement**

In public procurement oversight the role of ‘watchdog’ is often associated with the media. Many procurement scandals have been uncovered by the media and a free and independent press is a powerful tool to promote transparency and accountability in public procurement.

**Watchdog**

In public procurement the role of the media is three-fold. Firstly, it is a channel for communication regarding public procurement and the transfer of formal procurement information such as tender notices, award

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4 Information on these ongoing discussions was obtained through consultations with GPPB.
notices, etc. It is commonplace that different public procuring entities (PE) are required by law to publicize procurement information. The purpose of this information is often to increase knowledge in the supplier community about tenders and hence strengthen competition, but it also serves to fulfill obligations related to disclosure and transparency.

Secondly, the role of the media in public procurement is the before mentioned function as ‘watchdog’. Investigative journalism can uncover procurement irregularities, and thus strengthen the claim for transparent and accountable government. In order for the media to be able to perform this oversight role it is, however, necessary that it is free, independent of political and corporate influence and able to access procurement information. Further, it is also a key concern that the media has the necessary capacities to conduct oversight. The complexities of modern public procurement can make this difficult, but many procurement authorities invite media representatives to public procurement workshops and trainings, which enable journalists to understand and critically investigate the subject matter. Although the media has the obligation to scrutinize public procurement, some consider the media coverage to be overly focused on scandals and to have too little positive procurement news.5

Thirdly, the media can serve as a vehicle for education regarding public procurement, informing the general public on procurement systems, rules and regulations and principles.

**E-procurement**

Civil society or media oversight of procurement processes can enhance transparency from the demand side. Another way of strengthening transparency in public procurement is using information technology to strengthen the supply side, using e-procurement. E-procurement has a range of potential benefits for both process and transparency: “Procurement of goods, works, and services through Internet-based information technologies (e-procurement) is emerging worldwide with the potential to reform processes, improve market access, and promote integrity in public procurement.” (Schapper 2008: 115). However, rather than a technical solution, e-procurement should be considered part of procurement reform in general (ibid. 116).

**Risks**

E-procurement can take many forms, from uploading select information such as tender notices to a website to very comprehensive systems including the entire procurement process. Whatever complexity an e-procurement system might display, using the Internet creates an immediate potential for making information public and widely available and thereby enhance transparency. Still, introducing e-procurement is not without risks. The integrity and security of an Internet-based system can be compromised and there is a risk that erroneous information be uploaded. Further, implementing e-procurement is often seen as the main solution to systemic procurement challenges, but a public procurement system will still require a solid legal and regulatory framework, qualified procurement officers, and an oversight mechanism among others to be well-functioning.

**Benefits**

In Chile the introduction of ChileCompra.cl has increased transparency and reduced opportunities for corruption (see Case 2). The immediate availability of procurement information enables civil society or the media to oversee procurement processes. In Mexico there are similar experiences with the introduction of CompraNet, which tracks all federal purchases in Mexico. Information on buyer, supplier, price and quantities is openly available.

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5 The UN Procurement Capacity Development Centre held a series of workshops during 2008 and 2009 in Copenhagen (April 2008), Manila (September 2008), and Johannesburg (February 2009) for procurement officials from Africa and Asia. As part of these workshops data was collected on procurement capacity development initiatives in participating countries.
available online and the government has signed agreements with various stakeholders (NGO’s, universities, private sector representatives) to govern their involvement at different stages of the procurement process (Anaya 2005: 98). As it was the case in Chile, public procurement transparency was strengthened by the introduction of an online procurement information system (OECD 2005: 41).

CASE 2: E-GOVERNMENT AND TRANSPARENCY IN PUBLIC PROCUREMENT, CHILE

In Chile at the end of the 1990’s, public procurement faced severe challenges in the form of weak mechanisms of control, the absence of a uniform legal framework and a multitude of different regulations in government agencies. In response to this, the government established ChileCompra.cl, an e-procurement system aimed at achieving “high transparency levels, efficiency and use of technologies of information in the public procurement.” (Escobar 2008: 999).

The process of implementing the e-procurement system included stakeholder lobbying, using the media to gain and maintain public and political support, and a study demonstrating the substantial efficiency gains that the government stood to obtain by the proposed system. The resulting system gathers all government procurement information such as tenders, awards and information on bidding processes, rules and regulations in an online portal. This has increased transparency for participating businesses and the general public as well.

Today the implementation of the e-procurement system has made public procurement in Chile “more transparent, reduced firms’ transaction costs, increased opportunities for feedback and cooperation between firms and public agencies, and sharply reduced opportunities for corruption.” (Orrego et al 2000).

Concluding remarks

Transparency in public procurement is about information. The access to key procurement information by civil society, the media and other stakeholders, and the ways in which these actors can use the information, directly affects accountability. Furthermore, transparency is considered a highly cost-effective way of achieving greater accountability (Schapper 2008: 116).

There is little doubt that under the right circumstances increased transparency in public procurement can lead to greater accountability, better service delivery and, ultimately, less waste of public resources. Meanwhile, a lot of factors should be considered when attempting to strengthen transparency through increased access to information. Among the critical areas is monitoring of the procurement process and the information it produces (tenders, bids, minutes from technical committees, bid evaluation records, etc.). Under a system where observers are physically present during bid evaluation meetings, such as the one in the Philippines, a key concern must be to maintain the integrity and independence of these observers. This could be carried out through training activities, rotation schemes or other measures to be considered.

Having a free and independent media is also a critical concern, but free media alone does not guarantee that monitoring and coverage of public procurement adequately. Media representatives must undergo training in public procurement in order for them to accurately cover a subject matter that can appear complex and difficult to fully understand. Moreover, the media needs access to relevant information. Introducing e-procurement represents one way of providing this access to the media, to civil society organizations and to the supplier community.
Transparency in public procurement constitutes an arena for governments and citizens to engage and for rights holders and duty bearers to both deliver on their obligations. Accountability in public procurement is strengthened, when this positive relationship exists between a government and its citizens.

Written by Rasmus Jeppesen
*United Nations Procurement Capacity Development Centre*
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*www.unpcdc.org*
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