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Public

Guide for Acceptance of the Use of Country Procurement Systems

VPC/FMP

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CONTENTS

I.	INTRODUCTION.....	1
II.	ORGANIZATION OF THE PROCUREMENT SYSTEM ACCEPTANCE PROCESS	2
	A. Planning.....	3
	B. Execution.....	5
	C. Technical decision.....	7
	D. Management decision	8
	E. Approval by the Board of Executive Directors and publication of the results	8
III.	IMPLEMENTATION OF THE DECISIONS	9
	A. Instructions for the use of Procurement Systems	9
	B. Monitoring systems.....	9
	C. Strengthening initiatives	10
IV.	REQUIREMENTS FOR THE ACCEPTANCE OF PROCUREMENT SYSTEMS	10

ANNEXES

Annex 1	Guidelines: Requirements for Accepting a Country's Procurement System
Annex 2	Results Matrix
Annex 3	Improvement Plan
Annex 4	Contents of the Report
Annex 5	Stages and Officials or Units Responsible for the Acceptance Process

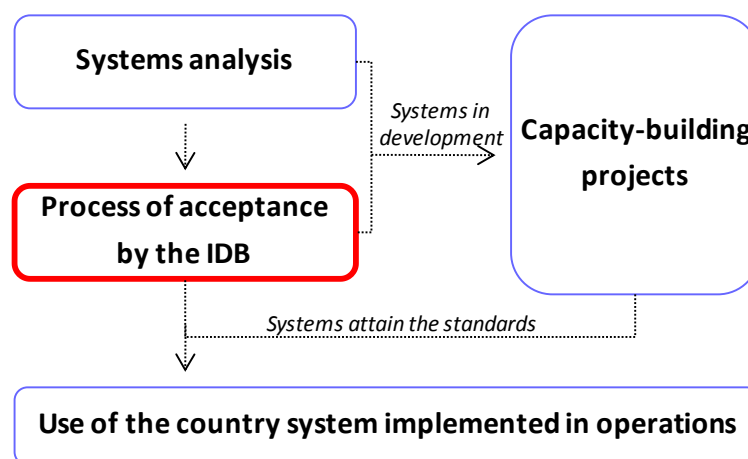
ABBREVIATIONS

CPP	Country programming paper
DAC	Development Assistance Committee
EVP	Executive Vice President
FMP	Operations Financial Management and Procurement Services Office
ICB	International competitive bidding
ICS	Institutional Capacity of State Division
OECD	Organisation for Economic Cooperation and Development
OPC	Operations Policy Committee
PDLs	Performance-driven loans
PPC	Project Procurement Committee
PRG	Project Risk Guide
QRR	Quality and Risk Review
UNDB	United Nations Development Business Online
VPC	Vice Presidency for Countries
VPS	Vice Presidency for Sectors and Knowledge

I. INTRODUCTION

- 1.1 The New Operational Framework (document [GN-2494](#)) and the Strategy for Strengthening and Use of Country Systems (document [GN-2538](#)) describe the Bank's actions to support countries' efforts to develop their institutional capacity. They establish that country procurement systems¹ may be used in Bank-financed operations if they comply with internationally-accepted practices. This Guide establishes the requirements that must be met by a country procurement system for the Bank to accept its use as well as the methodology to determine whether such system complies with these requirements. Country systems will be applied in accordance with the requirements set forth in this Guide for contracts with an estimated amount below the threshold established by the Bank for each country in regard to: (i) International Competitive Bidding for goods and work; and (ii) International Short Lists for consulting services.² Consequently, the Bank's procurement policies (documents GN-2349-9 and GN-2350-9)³ will continue to apply in their entirety and the use of country procurement systems will be limited to the decision adopted in accordance with the provision of paragraph 2.22 of this document. In particular, contracts procured under international competitive bidding will follow the provision set forth in section II of the Policies.
- 1.2 To achieve this objective, different stages will need to be implemented for each of the Bank's client countries, especially focused on strengthening their national competitive bidding systems, which are summarized in the following diagram:

Stages for the strengthening and use of Procurement Systems



¹ Hereafter "Procurement Systems" or "Systems."

² See document GN-2350-9, paragraphs 2.6 and 2.7.

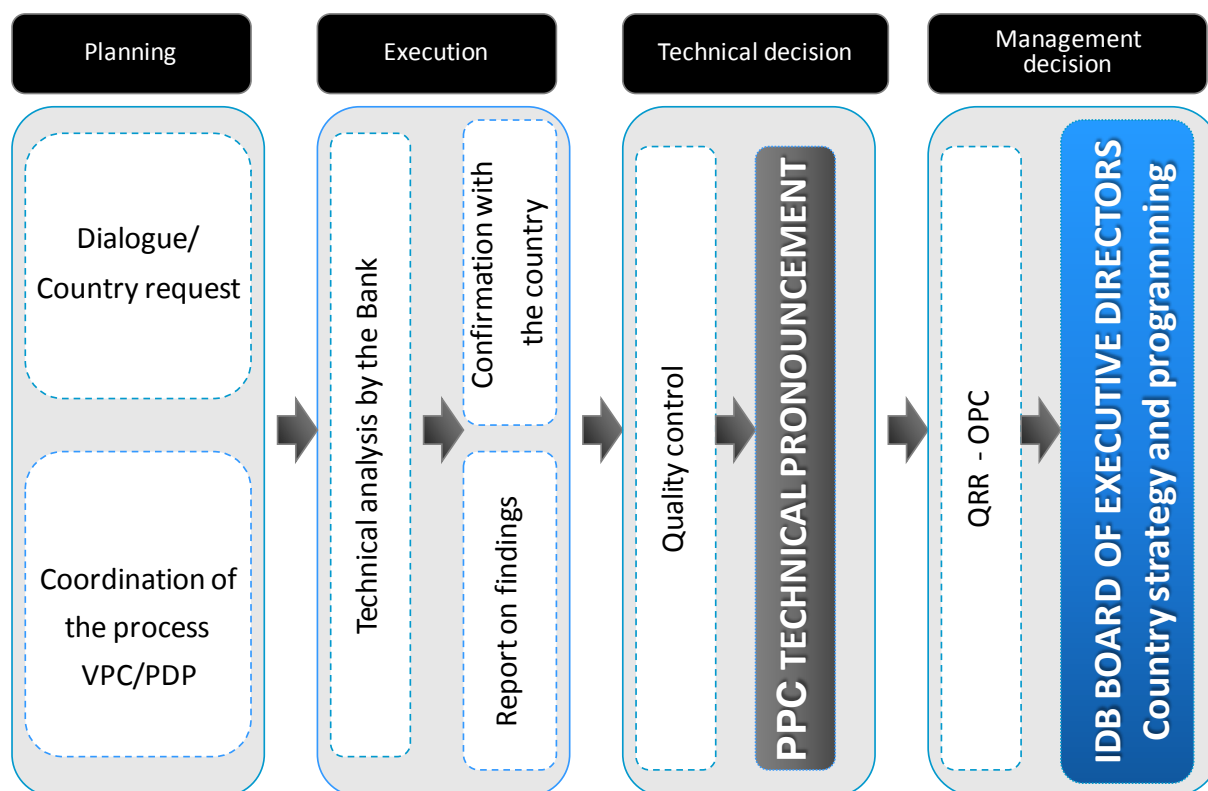
³ GN-2349-9: *Policies for the Procurement of Works and Goods Financed by the IDB*; and GN-2350-7: *Policies for the Selection and Contracting of Consultants Financed by the IDB*; hereinafter referred to as "the Bank's procurement policies."

- 1.3 In this context, **the purpose of this guide is to brief Bank staff on the process of accepting a country's Procurement System**, providing criteria and tools to determine: (i) full or partial acceptance by the Bank; (ii) the conditions for implementing the System in operations; and (iii) the actions needed to strengthen Systems in the event they do not meet the required standards.
- 1.4 The following sections describe the organization of the analysis and decision-making process that the Bank will follow to accept the use of Procurement Systems, the best practice requirements it will use, and the guidelines for their implementation in operations.
- 1.5 For a better understanding and application of this guide, a prior reading of the following documents is required: (i) [OECD/DAC Methodology for Assessment of Procurement Systems](#); (ii) [Protocol for Applying the OECD/DAC Methodology in Analyzing Public Procurement Systems](#); and (iii) [E-tendering Requirements for MDB-financed Procurement](#), all of which are accessible at www.iadb.org.

II. ORGANIZATION OF THE PROCUREMENT SYSTEM ACCEPTANCE PROCESS

- 2.1 The Bank will internally organize a process of analysis and decision making to accept the use of Procurement Systems, which is summarized in the following diagram:

Procurement System Acceptance Process



2.2 Each of the stages in the process is described below, along with the activities needed to be implemented and the official or unit responsible for doing so.

A. Planning

A.1 Dialogue and country request

- 2.3 It is incumbent upon the countries to ask the Bank to accept the use of their Procurement Systems in the operations it finances. The Bank may prompt implementation of this initiative but it will not take the initial steps if it is not a priority in the government plans of a given country.
- 2.4 The Bank's Representatives in the countries—with support from the procurement specialists—will be responsible for furthering the dialogue with the national authorities on this subject, discussing the following: (i) the mutual interests and benefits of initiating a process of using and strengthening their Procurement Systems; (ii) the Bank's strategy in this area; (iii) the possibility of a country requesting full acceptance of its System or one of its subsystems;⁴ (iv) the

⁴ See paragraph 4.4.

- procedures and requirements for acceptance; (v) the government institutions and agencies that should participate; (vi) execution times; and (vii) the basic elements contained in the results report to be prepared.
- 2.5 To ensure that the process is effective and has good prospects for success, the following criteria should be considered prior to undertaking it:
- a. The interest demonstrated by the government expressed through formal backing by national authorities.⁵
 - b. The existence of an updated and complete diagnostic analysis of the Procurement System that employed the OECD/DAC methodology. If the existing analyses are not up-to-date or have not been approved by the Bank,⁶ they will be updated before initiating an acceptance process.
 - c. Timing of execution. The government needs to have sufficient time and its authorities need to be available to implement either the agreements to permit use of the Systems or possible actions to improve them.
- 2.6 The country may request an analysis covering the use of its entire Procurement System or only one or more of its subsystems or sectors of the public administration. In either case, the analysis and decision-making process by the Bank will be the same.
- 2.7 When a government asks the Bank⁷ to initiate a process for acceptance of its System or subsystems, the Country Office will:
- a. Ask the government to designate a counterpart to lead the process on the country's behalf, with sufficient authority to: (i) arrange for support to obtain the information required during the exercise; and (ii) confirm the conclusions and recommendations of the analysis, for its subsequent approval by government and Bank authorities.
 - b. Ask the Procurement, Financial Management, and Portfolio Monitoring Division (VPC/FMP) to coordinate the process.

A.2 Coordination of the process

- 2.8 VPC/FMP will coordinate the entire process of acceptance of a country's Procurement System. To that end, it will be responsible for carrying out the following activities:

⁵ Authorities with sufficient powers to conclude agreements with the Bank, generally the Ministry of Finance or Economic Affairs. Ideally, the initiative should be included in a government planning or programming document or in the country strategy.

⁶ For the results of the diagnostic analysis of the procurement system to be accepted, the procedure established in the [Protocol for Applying the OECD/DAC Assessment Methodology in Analyzing Public Procurement Systems](#) must have been carried out.

⁷ Normally through a note from the ministry responsible for public procurement policies to the Representative at the Bank's Country Office.

- a. Designating a project leader and a technical team of specialists so as to have a variety of opinions for analysis of the System. The project leader will be responsible for coordinating all the stages of acceptance of the Systems and/or formulation of recommendations to strengthen them.
 - b. Arrange for any financial resources that may be required⁸ and establish in the Bank's systems a knowledge and capacity-building product (KCP) for project charges.⁹
 - c. Ask the Project Procurement Committee (PPC) to perform quality control and reach decisions regarding the results and recommendations made by the technical team.
 - d. Arrange with the respective country manager for a quality and risk review (QRR) and approval by the Operations Policy Committee (OPC) in the event that the final report or technical pronouncement suggest that the Procurement System be used in full or in part.
 - e. Report the results of the analysis and recommendations to all the areas involved with the country or the sector (for sector analyses).
 - f. Include the results of the analysis in the Fiduciary Technical Note on the country for inclusion in the country strategy or its update.
- 2.9 Annex 5 contains a table with all stages of the process and the official or unit responsible for them.

B. Execution

B.1 Technical analysis

- 2.10 In this stage, the work of the technical team consists of determining whether the Procurement System complies with the requirements established in this guide (see Section IV) and, if it does not, identifying the strengthening activities required to enable it to comply.
- 2.11 The following activities will be carried out for this purpose:
- a. **Establish a work plan, budget, and cooperation requirements.** Prepare a schedule of work with milestones and tentative timetables; estimate costs and request a budget from VPC/FMP; identify the information and cooperation required from the government.
 - b. **Coordinate with the government.** During the entire process, ongoing communications will be maintained with the government counterpart to ensure coordination, consistency, and ownership of the results. Initially, the government counterpart must be presented with the methodology and specific

⁸ The Bank's technical team will present a budget, mainly covering missions or costs to collect information.

⁹ If a KCP is created, VPC/FMP will provide all the technical inputs for the eventual financing thereof, in accordance with the respective procedures.

guidelines to be used to analyze acceptance of the System, together with the work schedule and information and cooperation requirements.

- c. **Perform the preliminary analysis.** Conduct a preliminary examination based on the information available from the OECD/DAC assessment or other supplementary evaluations available, identifying: (i) whether the System or subsystems comply with the practices required in Annex 1; (ii) the additional information required to complete the analysis; and (iii) the necessary conditions for improvement with a view to discussing the feasibility of implementing them with the government.

This work will follow the guidelines indicated in Section IV.

- d. **Request and process supplementary information.** In the event that the existing analyses do not provide all the information required, it will be necessary to flesh it out through: (i) consultations with the different agents involved with the System or subsystems to obtain information, deepen the analysis, and verify the results; (ii) verifications of performance using simple samples in test runs, on site inspections, stratified measurements, and others; and (iii) new studies or expert opinions on any of the practices analyzed for which sufficient information is not available.
- e. **Perform the final analysis.** Using all the information obtained, prepare a draft final analysis. The draft will include the following as a minimum: (i) results matrixes on the analysis of the Procurement System (see Annex 2) with their supporting information; and (ii) proposals for strengthening activities (see Annex 3).

- 2.12 **Coordinate support for capacity building.** The technical team will discuss the capacity-building activities proposed with the pertinent Bank units, particularly the Institutional Capacity of State Division (VPS/ICS). The objective is to prepare a potential plan to assist the government in implementing the strengthening initiatives that are required,¹⁰ as indicated in paragraphs 3.3 and 3.4.

B.2 Confirmation with the government

- 2.13 The Bank's technical team will present the preliminary results of the analysis to its counterpart, asking for feedback and confirmation of the findings and conclusions that will be presented for acceptance by the Bank. If there are any disagreements, further evidence will be sought until the different ratings, gaps, and solutions for improvement that have been identified are confirmed.
- 2.14 The team will prepare an aide-mémoire to be signed with the government's technical counterpart indicating the agreements they have reached on a preliminary basis on the findings and conclusions. This document will contain the following as a minimum:
 - a. The Systems or subsystems that could potentially be used.

¹⁰ See paragraphs 3.3 and 3.4 in section C, Strengthening initiatives.

- b. The conditions that executing agencies must comply with to operate under this arrangement.
- c. A statement indicating that the use of the Procurement Systems is compatible with the international standards and consistent with the Bank's Procurement Policies (in no case will this affect the application of the current policies to Bank-financed procurements¹¹).
- d. Step-by-step implementation where applicable.
- e. The government's commitments to fill any gaps identified.
- f. The assistance that the Bank could provide for the country.
- g. Frequency at which use of the Systems or strengthening plans will be monitored and the entities responsible.
- h. The Bank's right to suspend use of the System in the event that the rules and practices on the basis of which acceptance was approved cease to be complied with.

B.3 Results report

- 2.15 After performing the analysis and confirming the results with the government, the Bank's technical team will write up its conclusions in a report indicating the feasibility of using the entire System or some of the subsystems in Bank-financed operations, together with its recommendations for strengthening activities when required. The report will be submitted for review by the PPC and for a subsequent management decision in the Bank, as indicated in the following sections.
- 2.16 Annex 4 contains guidelines for preparing the report.

C. Technical decision

C.1 Quality control

- 2.17 The PPC will verify the quality of the analysis, the pertinence of the recommendations, and execution of due process. The verification will include a peer review by procurement specialists from other regions or areas who did not form part of the Bank's technical team that produced the analysis.
- 2.18 If any objections are made, the team will review its findings and supporting information for a new verification by the PPC. In the event that substantial modifications are made to the findings and recommendations for the strengthening and the use of Systems, it will be necessary to confirm such changes with the government counterparts.

¹¹ The Bank's Procurement Policies (GN-2349-9 and GN-2350-9) will continue to be applied in their entirety and the use of country procurement systems will be limited to the decision adopted in accordance with the provision of paragraph 2.22 of this document.

C.2 Technical pronouncement

- 2.19 After the verification, the PPC will issue a technical pronouncement which may or may not confirm the conclusions of the technical team on use of the Procurement System, or will make comments and recommendations. If the recommendation is favorable the Bank will issue management approval. Otherwise, the acceptance process for use of the Procurement System will end and the Bank will begin a dialogue with the country to begin strengthening activities.

D. Management decision

- 2.20 If the PPC's technical pronouncement is favorable, it will be submitted for approval through the Bank's management decision-making mechanisms.

- 2.21 This stage will involve the following:

- a. QRR. This mechanism is intended to review the quality and risk of the results of the exercise, and may or may not confirm the technical conclusions and recommendations on the full or partial use of Procurement Systems.

To comply with this objective, the QRR will:

- (i) Determine that due diligence has been applied with regard to compliance with the principles or requirements of the guide for these evaluations.
- (ii) Establish whether the conclusions are consistent with the work done.
- (iii) Determine whether any vague or unclear aspects of the conclusions and/or recommendations must be complemented.
- (iv) Consider whether the recommendations on supervision and strengthening activities are pertinent and viable given the risk levels established. Confirm the decisions and courses of action recommended by the technical team that performed the analysis.

The QRR will follow the Bank's current procedures in terms of its makeup and deliberations.

- b. OPC. The Vice President for Countries will present the technical report and the minutes containing the technical analysis and recommendations of the QRR to the OPC. The OPC will approve the recommendations of the QRR on the partial or full use of the Procurement Systems in Bank-financed operations, in accordance with the Bank's current procedures with regard to its makeup and deliberations.

E. Approval by the Board of Executive Directors and publication of the results

- 2.22 The Management decisions on the use of Procurement Systems will be included in the respective Report for Acceptance of the Use of the Country System, which will have been presented for consideration and approval by the Bank's Board of Executive Directors. Once the report has been approved by the Board of Executive Directors, the use of the country system or subsystem, as applicable, will be reflected in the following Country Programming Document and the subsequent

country strategy. A subsystem may correspond to a different type of procurement, a component of the System, or a sector in the public administration, including executing agencies that are eligible for PDLs.¹⁴

- 2.23 All supporting information underpinning the decisions will be available for consultation by the Board.
- 2.24 Once approved, the decisions will begin to be implemented in Bank-financed operations following the guidelines described in section III of this guide.
- 2.25 Publication of the results report will follow the Bank's rules on disclosure of information, which means it may be shared with other donors if so authorized by the government.

III. IMPLEMENTATION OF THE DECISIONS

A. Instructions for the use of Procurement Systems

- 3.1 After the full or partial use of a Procurement System has been approved, VPC/FMP in conjunction with VPS will be responsible for making the necessary arrangements to implement their use, in the context of Bank policies. To that end, it will issue instructions to be considered in the formulation and execution of loan contracts with the country. The instructions will include:
 - (i) The conditions or regulations identified in the System acceptance report that will be applied in operations and mentioned in loan contracts with the country.¹⁵
 - (ii) Guidelines to ensure that the country's new situation is considered when the Project Risk Guide (PRG) is applied in project preparation. In particular, the assessment of the executing agency's fiduciary capacity will include an analysis to confirm the use of the approved Systems and recommend possible mitigation measures.
 - (iii) Guidelines for applying the Bank's Procurement Policies and the approved Procurement Systems, stating all the provisions that continue to apply, in particular section 1 and appendices.

B. Monitoring systems

- 3.2 VPC/FMP will establish a monitoring system and will be responsible for monitoring the use of Systems. In particular, for the recommendation or conclusion pertaining to partial or full acceptance of Procurement Systems to remain in effect, the strengths identified during the acceptance analysis must continue to exist. In this context, if the conditions under which full or partial use of the Systems was

¹⁴ See paragraph 4.4(b).

¹⁵ For example, it will be necessary to indicate the types of contracts that have been accepted (competitive bids, framework agreements, Dutch auctions, etc.), specifying that the procurement plan include these designations.

accepted no longer exist, the Bank will require that other methods provided for in its policies be applied until the conditions that led to acceptance of the use of such Systems are reestablished. To that end, VPC/FMP will apply the following measures:

- a. It will assign a Bank procurement specialist to be responsible for monitoring application of the use of the Procurement Systems and will formalize this activity in his/her work plan. The specialist will continuously monitor the System's performance and will report immediately to VPC/FMP on any significant changes that occur, particularly with regard to the practices that made its acceptance possible.
- b. As part of his/her monitoring activities, the fiduciary specialist will establish an agreement between the Bank and the government for the latter to report at least quarterly on the performance of the Procurement Systems and their use in Bank-financed projects, verifying the degree of progress in the agreed actions for proper implementation by the executing agencies.
- c. If the conditions of the Procurement System change and the practices required for its acceptance are not complied with, VPC/FMP and the Bank's Representative in the country will coordinate the dialogue with the government to assess mitigation actions that would make continued use of the System possible, on the basis of which it was accepted. Alternatively, it will issue instructions to stipulate the use of the other procedures established in the Bank's policies.
- d. All relevant aspects of the monitoring, such as progress with strengthening initiatives, changes in the Procurement Systems, effectiveness or cancellation of their use in operations, will be reported in the country programming paper (CPP).

C. Strengthening initiatives

- 3.3 In turn, VPC/FMP, together with VPS/ICS, will coordinate with the government on implementation of the strengthening activities, identified during the diagnostic assessment of the System and analysis of its use. These activities may include loan operations as well as knowledge products such as: (i) advisory service; (ii) policy development and capacity building; (iii) outreach and dissemination activities; and (iv) research and development activities.
- 3.4 In addition, the Bank will promote coordination and agreements with other donors to expedite joint strengthening initiatives. All these initiatives will be reflected in the CPP, following its format and results matrix (document GN-2551).

IV. REQUIREMENTS FOR THE ACCEPTANCE OF PROCUREMENT SYSTEMS

- 4.1 The Bank's requirements for accepting the use of a Procurement System will be based on:

- a. Compliance with best practices in the 54 indicators contained in the [OECD/DAC Methodology for Assessment of Procurement Systems](#),¹⁶ and
 - b. Compliance with a series of specific requirements defined by the IDB for some of those indicators.
- 4.2 Annex 1 contains the specific guidelines that describe the requirements relating to the OECD/DAC methodology indicators and the specific practices required by the Bank. When a country fulfills those requirements throughout its System or in any of its procurement subsystems, the Bank may accept their use in the operations it finances.
- 4.3 The Bank has selected these requirements for the following reasons:
- a. The OECD/DAC methodology has been adopted by the international development community and is also being adopted by most of the developing countries as a standardized tool for the general assessment of Systems. This analysis for the strengthening and use of Procurement Systems in the countries is based on a comparison of those systems with the best practices established in the methodology that are internationally accepted today¹⁷ as being appropriate for achieving satisfactory levels of transparency, economy, and efficiency in procurement.
 - b. Based on its experience and on the region's advanced systems, the Bank has identified some specific best practices that complement the generic practices established in the OECD methodology. The main objective is to help improve national competitive bidding (NCB) standards in aspects such as the contents of the tender documents, participation conditions, evaluation criteria, and others. These practices, moreover, are consistent with the Bank's Procurement Policies. Requirements are specified for electronic procurement systems, which are only very partially covered by the OECD methodology. The description of specific practices allows for better interpretation and less discretionality in the analysis. In the Annex 1 guidelines these requirements have been identified as "Specific IDB practices."
- 4.4 **Guidelines for the application of acceptance requirements.** The following are the main guidelines that the Bank's technical team will follow when analyzing whether to accept use of the Systems:
- a. **Objective.** The central objective of the analysis is to determine whether the System is structurally sound and has no weaknesses that could pose risks for

¹⁶ The most recent version of the methodology was used in preparing the IDB's requirements (version 4 of 10 January 2007). If the OECD updates its practices, the Bank's requirements will also be updated.

¹⁷ These practices have been established mainly, but not exclusively, on the basis of the procurement policies and related studies by multilateral banks, the Agreement on Government Procurement of the World Trade Organization (WTO), the work done by the United Nations Commission for International Mercantile Law (UNCIML), and the agreements reached by the Working Group of the Development Assistance Committee (DAC) of the Organisation for Economic Cooperation and Development (OECD) and the World Bank.

operations or that clearly contradict international practices. To that end, the basic information to be used is the same as was previously obtained in the assessment of the Procurement System, using the OECD methodology. That information will be used to determine whether the country follows the practices described in Annex 1.

- b. **Scope.** Ideally, the analysis will be applied to the entire Procurement System of a country. However, it can also be applied to a subsystem if it is relevant in terms of its impact on the operations of the country and the Bank. That decision will be made by the government, usually depending on its strengths.

In this context, a procurement subsystem will generally be equivalent to one of the following three categories:

- i. Subsystems by type of procurement: some countries have separated procurement procedures for goods, services, works, and consulting services, with differentiated regulations for each.
- ii. Subsystems by component or method: normally the Country Procurement System establishes different procurement methods and has pertinent components to support the operations, such as reverse auction procurement systems or procurement under framework agreements.¹⁸
- iii. Subsystems by sector: various countries have differentiated procurement by sector of public administration, such as the municipal sector or state agencies, with their own rules or functionalities.

Therefore, the government may request an analysis on the use of its Procurement System limited to certain levels or sectors of the public administration, such as the central government, State-owned companies, or certain other sectors such as infrastructure, education, or health care, or in the particular case of a state agency (for example, in the context of approval of a PDL). It could also select only some types of procurement, such as procurement of goods or consulting or works contracts, because they are complete systems and have their own regulations.

- c. **Procedure.** For each of the 54 indicators/practices in the Annex 1 guidelines, it will be determined whether or not the System or subsystem has the requirements described. For that purpose, the information obtained from the analysis using the OECD/DAC methodology and the additional information available/requested are used, applying the context and coverage criteria explained below. The conclusion (complies/does not comply) is noted in the “results” boxes in the table indicating the reasons. In the boxes headed “Conditions for use of the Systems and government commitments” note will

¹⁸ See footnote 12.

be made of the conditions under which the system may be used¹⁹ if any, and of the suggested improvements that the government should commit to implementing to incorporate the required practices. The conclusions and suggested plans for improvement are based on this analysis, and the guidelines in Annexes 2, 3, and 4 can be used as models.

- d. **Context criteria.** The requirements of the Annex 1 guidelines are written in general terms and therefore will be applied depending on the country context and the specific nature of its Procurement System. The main thing is to verify whether the arrangements existing in the country comply with the description of best practices. It will be kept in mind that the same level of compliance can be obtained under different legal or institutional arrangements.²⁰
- e. **Coverage criteria.** Several indicators in the OECD/DAC methodology combine structural considerations of the System with considerations of performance or level of compliance. This can imply that a Procurement System may contain a best practice but that it is not necessarily complied with in all levels of the public administration. In that case, the System could be accepted but the acceptance coverage would only extend to the levels that comply with the practice.²¹ Its use in the other levels would be contingent on their subsequent compliance.

4.5 **Guidelines for preparing conclusions.** For the report on the results of the analysis and recommendations on the use of Systems by the Bank's team, the following guidelines must be kept in mind:

- a. If the Procurement System as a whole does not comply with the required practices, the use of certain subsystems that follow best practices can be recommended. For example, use of one or more of a country's different procurement methods (national competitive bidding, framework agreements, etc.) can be recommended in Bank-financed operations. Alternatively, use of the Country System can be recommended for certain types of procurement

¹⁹ A country's Procurement System may have regulations (example: instructions for preparing the tender documents) or instruments (Internet information system, buyer certification programs) that are not mandatory for government agencies but that are necessary to comply with required practice. In this case, acceptance can be made conditional on having the executing agencies make mandatory use of those components of the country System, which will be established in the respective loan contracts.

²⁰ For example, practice 8 (b) of Annex 1 requires the country to have an arbitration law. Some countries do not have one but the matter is duly legislated in a number of separate provisions. Provided that arbitration is legally valid as a tool for resolving contractual disputes and that the awards are recognized and legally binding on the parties, the substance of the requirement can be considered complied with.

²¹ For example, practice 11 (a) requires that an information system on procurement exist and that the information be "complete." A number of countries have an adequate system but are still in the implementation stage and may have information on the national level but not complete information on the subnational level. Strict application of this instrument may result in rejection of the system for that reason (which does not affect its structure). Strict application of the criterion is useful for designing an improvement plan but would be counterproductive for the purposes of accepting or rejecting the system. Instead, the Bank could offer effective assistance to improve implementation of the information system.

(contracts for goods, services, consulting services, or public works), or the use of certain components such as its electronic system, its auditing system, or buyer certification.

- b. It is also feasible to make recommendations as to the use of the Procurement System either at the sector, national, or subnational level, by an executing agency in particular (in the case of PDLs), when evidence is provided of compliance with the requirements established in this guide.
- c. In any event, the proposal will be functional and practical for the executing agencies of Bank-financed operations. For example, it is not possible to use just one minor component of the System. If the recommendation does not cover the entire System, the subsystem or sectors selected will be substantive. The objective is for use of the Procurement System to contribute to projects and therefore the instructions for carrying out procurement procedures will be easy to interpret.
- d. In the event that the Procurement System or subsystem complies with most of the practices and only minor adjustments are required, the Bank could be asked to accept it subject to verification of improvements in the short term. In this case, acceptance of the Procurement System would come into effect once the corresponding adjustments have been made. The Bank could help the country to remedy such nonsubstantive deviations as part of the program to improve the System.

Annex 1.

Guidelines: Requirements for Accepting a Country's Procurement System

Pillar I – Legislative and Regulatory Framework

1a	Scope of Application and Coverage of the Legislative and Regulatory Framework
<p><u>OECD/DAC general practice:</u></p> <p>The legislative and regulatory body of norms complies with all the following conditions:</p> <p>(a) Is adequately recorded and organized hierarchically (laws, decrees, regulations, procedures) and precedence is clearly established.</p> <p>(b) All laws and regulations are published and easily accessible to the public at no cost.</p> <p>(c) It covers goods, works and services (including consulting services) for all procurement using national budget funds.</p>	
Application Guide	
<p><u>Coverage Criteria:</u></p> <p>Normally, national legislations on public procurement do not include expenditures related to the military or public security. It is also common that state owned enterprises that compete with the private sector be subject to a specific body of rules and their practices are akin to commercial practices. These types of exclusions do not prevent the acceptance by the Bank of a country's system, but these entities will have to be excluded from the recommendations for the acceptance process. In case these entities execute IDB-financed projects, during the formulation of such projects, the Bank will evaluate their systems using the criteria of this methodology, to determine if they are acceptable or if the Bank's procurement policies should be used for the execution.</p> <p>In such a case this shall be documented in the report on the Use of Country Systems, and it shall also be specified in the loan contracts.</p>	
Results of the Analysis	
Conditions for the use of the Systems/ Government's commitments	
1b	Procedures used for Procurement
<p><u>OECD/DAC general practice:</u></p> <p>The Legal Framework meets all the following conditions:</p> <p>(a) Allowable procurement methods are established unambiguously at an appropriate hierarchical level along with the associated conditions under which each method may be used, including a requirement for approval by an official that is held accountable.</p> <p>(b) Competitive procurement is the default method of public procurement.</p> <p>(c) Fractioning of contracts to limit competition is prohibited.</p> <p>(d) Appropriate standards for international competitive tendering are specified and are consistent with international standards.</p> <p><u>Practice specific to the IDB:</u></p> <p>i) All other competitive methods that are not included in the Bank's policies (such as online auctions, procurement of commodities, Framework contracts, etc) may be accepted as long as they are aligned with the principles of economy, efficiency, transparency and equal treatment as established in section I of the Bank's policies. In the results of the analysis of this practice, it is necessary to indicate the procurement methods established in the Legal Framework of the country system and determine whether they are acceptable to the Bank.</p> <p>ii) The national legislation has to allow the use of International Competitive Bidding (ICB) documents which have to be the same as the ones required by the Bank, which incorporate internationally recognized standards. Deviations from this practice will not be acceptable, except in cases where the Bank does not have standard documents for a specific type of procurement or where the country's ICB documents have been previously harmonized with the Bank.</p>	
Application Guide	
<p><u>Coverage Criteria:</u></p>	

Many national legislations do not include specific provisions for international competitive bidding. This will not prevent the acceptance of a Country's System by the Bank, as long as there is an agreement with the Government to use the standard international competitive bidding documents required by the IDB for all procurement above the defined thresholds for this specific type of operations. This case shall be documented in the report on the Use of Country Systems, and it shall also be specified in the loan contracts.

Results of the Analysis	Conditions for the use of the Systems/ Government's commitments

1c

Advertising rules and time limits

OECD/DAC general practice:

The Legal Framework meets the following conditions:

- (a) Requires that procurement opportunities other than sole source or price quotations be publicly advertised.
- (b) Publication of opportunities provides sufficient time, consistent with the method, nature and complexity of procurement, for potential bidders to obtain documents and respond to the advertisement. Such timeframes are extended when international competition is sought.
- (c) Publication of open tenders is mandated in at least a newspaper of wide national circulation or in a unique Internet official site, where all public procurement opportunities are posted, that is easily accessible.
- (d) Content of publication includes sufficient information to enable potential bidders to determine their ability and interest in bidding.

Practice specific to the IDB:

- i) The Legal Framework requires that all public sector entities publish their procurement plans and respective updates on a website that is easily accessible. It is also required that governments publish an aggregated procurement plan for all their public sector.
- ii) The advertizing rules and time limits must also apply to the prequalification invitations or expressions of interest of bidders.
- iii) The Legal Framework requires the use of standard models or instructions for the advertisement of invitations for expressions of interest, invitations to prequalify and submit proposals for competitive biddings. The content of these models and of the model referred in (d) will have to include at least: the Purchasing Entity, the name of the entity responsible for the procurement, the name and other relevant information of the unit in charge, name of the bid, selection method, brief description of the requirements, deadlines and key milestones, budget and, in the relevant cases, the complete information on how to send questions and receive clarifications as well as where the bidding documents are available for consultation and for purchase, requirements for the qualification of bidders, and when applicable, margins of preference for certain types of suppliers.
- iv) For ICB, the country requires that General Procurement Notices (GPN) and Specific Procurement Notices (SPN), or their equivalent, be published in UNDB's website.

Application Guide

Context Criteria:

With respect to item (d), it is often the case that there are no uniform criteria regarding the content of procurement notices. Such cases will not prevent the acceptance of the country's system by the Bank, as long as there is an agreement with the Government to issue instructions regarding the minimum required content for procurement notices.

Coverage Criteria:

In cases where the conditions under item iii) are not met, the Country System can be accepted by the Bank, provided the Government agrees to publish in UNDB the GPN and SPN of the ICB financed by the IDB. This case shall be documented in the report on the Use of Country Systems, and it shall also be specified in the loan contracts.

Results of the Analysis	Conditions for the use of the Systems/ Government's commitments

1d

Rules on Participation

OECD/DAC general practice:

The Legal Framework meets the following conditions:

- (a) Establishes that participation of any contractor or supplier or group of suppliers or contractors is based on qualification or in

accordance with international agreements; requires the use of pass/fail basis for determining qualifications to extent possible; limits domestic price preferential, if allowed, to a reasonable amount (e.g.15% or less); and requires justification for set asides that limit competition.

(b) Ensures that registration if required does not constitute a barrier to participation in tenders and does not require mandatory association with other firms.

(c) Provides for exclusions for criminal or corrupt activities, administrative debarment under the law subject to due process or prohibition of commercial relations.

(d) Establishes rules for the participation of government owned enterprises that promote fair competition.

Application Guide

Coverage Criteria:

Many national legislations do not include specific provisions for international competitive bidding. This case does not prevent the acceptance of a Country's System by the Bank, as long as there is an agreement with the Government to use the standard international competitive bidding documents required by the IDB for all procurement above the defined thresholds for this type of operations. This case shall be documented in the report on the Use of Country Systems, and it also shall be specified in the loan contracts.

Results of the Analysis

Conditions for the use of the Systems/ Government's commitments

1e

Tender documentation and technical specifications

OECD/DAC general practice:

The Legal Framework meets the following conditions:

- (a) Establishes the minimum content of the tender documents and requires that content is relevant and sufficient for tenders to be able to respond to the requirement.
- (b) Requires the use of neutral specifications citing international standards when possible.
- (c) Requires recognition of standards which are equivalent when neutral specifications are not available.

Practice specific to the IDB:

i) The national legislation has to allow the use of International Competitive Bidding (ICB) documents which have to be the same as the ones required by the Bank, which incorporate internationally accepted standards. Deviations from this practice will not be acceptable, except in cases where the Bank does not have standard documents for a specific type of procurement or where the country's ICB documents have been previously harmonized with the Bank.

ii) The minimum content for the documents referred to in item (a) for National Competitive Bidding (NCB) has to be detailed, establishing a set of clear rules for each stage of a bidding process, to facilitate the participation of suppliers as well as to adequately regulate the execution of the contracts, based on the practices established in (2f). As a reference for minimum content, the Bank's standard bidding documents may be used.

Application Guide

Coverage Criteria:

Many national legislations do not include special provisions for international competitive bidding. This situation shall not prevent the acceptance of a Country's System by the Bank as long as there is an agreement with the Government to use the standard international competitive bidding documents required by the IDB for all procurement above the defined thresholds for this type of operations.

Also, if concepts such as price adjustments, insurance during contract execution, and exchange rates variations, are not considered in the national legislation, the system may still be accepted if the country agrees to include these concepts in the contracts ensuing from the bidding process.

These cases shall be documented in the report on the Use of Country Systems, and it shall also be specified in the loan contracts.

Results of the Analysis

Conditions for the use of the Systems/ Government's commitments

1f	Tender evaluation and award criteria
<p><u>OECD/DAC general practice:</u></p> <p>The Legal Framework mandates that:</p> <p>(a) The evaluation criteria are relevant to the decision, and precisely specified in advance in the tender documents so that the award decision is made solely on the basis of the criteria stated in the tender documents.</p> <p>(b) Criteria not evaluated in monetary terms are evaluated on a pass/fail basis to the extent possible.</p> <p>(c) The evaluation of proposals for consulting services gives adequate importance to the quality and regulates how price and quality are considered.</p> <p>(d) During the evaluation period, information relating to the examination, clarification and evaluation of tenders is not disclosed to the participants or to others not involved officially in the evaluation process.</p> <p><u>Practice specific to the IDB:</u></p> <p>i) For NCB, the legislation has to establish that for the procurement of goods, works and non consulting services, the bid evaluation criteria, other than price, have to be quantifiable, when possible.</p>	
Application Guide	
<p><u>Context Criteria:</u></p> <p>If the legislation applicable to NCB establishes a margin of preference for the evaluation of bids for goods manufactured in the Borrower's country; these provisions might be acceptable if they are reasonable and do not constitute an obstacle for competition.</p>	
Results of the Analysis	Conditions for the use of the Systems/ Government's commitments
1g	Submission, receipt and opening of tenders
<p><u>OECD/DAC general practice:</u></p> <p>The Legal Framework provides for the following conditions:</p> <p>(a) Public opening of tenders in a defined and regulated proceeding immediately following the closing date for bid submission.</p> <p>(b) Records of proceedings for bid openings are retained and available for review.</p> <p>(c) Security and confidentiality of bids is maintained prior to bid opening and disclosure of specific sensitive information during debriefing is prohibited.</p> <p>(d) The modality of submitting tenders and receipt by the government is well defined to avoid unnecessary rejection of tenders.</p> <p><u>Practice specific to the IDB:</u></p> <p>i) The country's legislation allows the Purchaser to reject all bids upon justification.</p> <p>ii) The country's legislation has to require that bidders submit bids with a validity period that is sufficient for the Borrower to compare and evaluate all the bids. Such legislation must also give the option to the Purchaser to require a bid security from the bidder or a sworn statement pertaining to the bid validity. Additionally, it must include adequate sanctions if the bidder does not comply with the terms of the bid security or of the statement.</p> <p>iii) For NCB, the evaluation process has to be confidential up until the moment when the contract award is formally announced.</p> <p>iv) In the case that the country uses electronic bidding systems, these systems have to meet the best practice standards promoted by the Bank. These practices are available in the "E-Tendering Requirements for MDB Financed Procurement" document which can be found at www.mdbegp.org. The methodology set forth in the "E-Tendering Requirements for MDB Financed Procurement" document is the same methodology that will have been applied to evaluate the systems.</p>	
Application Guide	
<p><u>Context Criteria:</u></p> <p>An electronic system may be accepted even if it doesn't meet all the Bank's requirements or, if it has not been evaluated yet. In these cases, Bank procedures must continue to be used to accomplish these activities.</p>	

<p><u>Coverage Criteria:</u></p> <p>When an electronic system meets the Bank's requirements but it does not yet include all the required information, an agreement may be reached with the government to have at least all Bank-financed operations reported in the information system.</p> <p>This case shall be documented in the report on the Use of Country Systems, and it also shall be specified in the loan contracts.</p>	
Results of the Analysis	Conditions for the use of the Systems/ Government's commitments
1h	Complaints
<p><u>OECD/DAC general practice:</u></p> <p>The Legal Framework provides for the following:</p> <p>(a) The right to review for participants in a procurement process.</p> <p>(b) Provisions to respond to a request for review at the procuring/agency level with administrative review by another body independent from the procuring agency that has the authority to grant remedies and includes the right for judicial review.</p> <p>(c) Establishes the matters that are subject to review.</p> <p>(d) Establishes timeframes for issuance of decisions by the procuring agency and the administrative review body.</p> <p><u>Practice specific to the IDB:</u></p> <p>Bidders have the right to complain or protest without this resulting in added conditionality or impediments for them to compete (limitation of opportunity, content, formalism, submission of securities).</p>	
Application Guide	
There are no particular or specific indications	
Results of the Analysis	Conditions for the use of the Systems/ Government's commitments
2a	Implementing regulation that provide defined processes and procedures not included in higher-level legislation
<p><u>OECD/DAC general practice:</u></p> <p>There are regulations that supplement and detail the provisions of the procurement law that meet the following requirements:</p> <p>(a) They are clear, comprehensive and consolidated as a set of regulations available in a single and accessible place;</p> <p>(b) They are updated regularly;</p> <p>(c) The responsibility for maintenance is defined.</p>	
Application Guide	
<p><u>Context Criteria:</u></p> <p>Regulations are often published in more than one website, as a result, the responsibility for maintaining and updating these websites may not be clear. These deviations are only acceptable if the government agrees on a) designating one website as the official website for consultation, and b) assigning to the technician in charge of the official website the responsibility for its update.</p>	
Results of the Analysis	Conditions for the use of the Systems/ Government's commitments
2b	Model tender documents for goods, works, and services

<p><u>OECD/DAC general practice:</u></p> <p>(a) There are model invitation and tender documents provided for use for a wide range of goods, works and services procured by government agencies.</p> <p>(b) There is a standard and mandatory set of clauses or templates that are reflective of the Legal Framework, for use in documents prepared for competitive tendering.</p> <p>(c) The documents are kept up to date with responsibility for preparation and updating clearly assigned.</p> <p><u>Practice specific to the IDB:</u></p> <p>i) The model documents referred in item (a) have to establish, for each type of procurement, a set of clear rules for each stage of the bidding process and provide enough information for potential bidders to prepare substantially responsive bids. To evaluate the country's model documents, the Bank's standard documents for NCB, currently applied in various countries in the region, may be used as a reference.</p>	
Application Guide	
<p><u>Context Criterion:</u></p> <p>In cases where a country does not have standard bidding documents for NCB, documents that include provisions and contractual clauses acceptable to the Bank may be used. Any specific requirements will have to be included in the agreements with the country regarding the use of its procurement systems.</p>	
Results of the Analysis	Conditions for the use of the Systems/ Government's commitments
2c	Procedures for pre-qualification
<p><u>OECD/DAC general practice:</u></p> <p>Procedures exist that define pre-qualification which:</p> <p>(a) Provide for limitations on the content of pre-qualification criteria that are based on the needs of the specific procurement.</p> <p>(b) Specify the use of pass/fail for application of qualification criteria.</p> <p>(c) Provide guidance on when to apply a pre-qualification procedure.</p> <p><u>Practice specific to the IDB:</u></p> <p>i) These requirements also apply to post-qualification; once the best evaluated bid has been selected the bidder's qualifications are verified. In case pre-qualification is not mandatory in the country's Legal Framework, this practice may be accepted if the country has provisions allowing the use of prequalification when warranted.</p> <p>ii) The content of item (a) has to be included in standard models or other instructions limiting the criteria for qualifications to the verification of the bidder's capacity and resources to execute the contract. To this end, objective factors such as previous experience and performance in similar contracts, the capacity of the staff, access to equipment and facilities and the financial situation of the firm.</p>	
Application Guide	
<p><u>Context Criteria:</u></p> <p>When the legal regulations do not include rules for the pre-qualification of bidders, requirements relating to this practice will be reviewed based on the standard documents for pre-qualification or the instructions issued by the country's public contracting authorities, including opinions issued by the country's supreme audit institution.</p>	
Results of the Analysis	Conditions for the use of the Systems/ Government's commitments
2d	Suitable Procedures for the contracting of services or other cases in which technical capacity is a key criterion
<p><u>OECD/DAC general practice:</u></p>	

<p>The Legal Framework and its implementing regulations provide for the following:</p> <ul style="list-style-type: none"> (a) Conditions under which selection based exclusively on technical capacity is appropriate and when price and quality considerations are appropriate. (b) Clear procedures and methodologies for assessment of technical capacity and for combining price and technical capacity under different circumstances. <p><u>Practice specific to the IDB:</u></p> <p>Negotiation of contract terms is allowed for consulting services contracts, provided this is done in order to refine the conditions of execution of the contract. However, performance securities for consulting contracts will not be used, except in cases where failure to complete the services represents a significant risk for the Contracting Unit.</p>					
Application Guide					
<p><u>Context Criterion:</u></p> <p>For the selection of consultants, national legislations are acceptable if the selection process is based on a combination of quality and cost with sufficient weight given to quality, based on the importance of quality for the type of services to be performed. A selection method based exclusively on quality is acceptable to the Bank while a selection method based exclusively on price without previous and explicit consideration of the quality, is not. Even if the country's system does not have a single evaluation methodology for technical capacity or a combination of price and quality and, even if the latter is defined by each Contracting Entity, the condition set forth under item (b) might be considered as met if each such Entity has directives and clear and general guidelines allowing it to formulate a methodology to this effect.</p>					
	<table> <tr> <th>Results of the Analysis</th><th>Conditions for the use of the Systems/ Government's commitments</th></tr> <tr> <td></td><td></td></tr> </table>	Results of the Analysis	Conditions for the use of the Systems/ Government's commitments		
Results of the Analysis	Conditions for the use of the Systems/ Government's commitments				
2e	User's guide or manual for contracting entities				
<p><u>OECD/DAC general practices:</u></p> <ul style="list-style-type: none"> (a) There is a unique procurement manual detailing all procedures for the correct administration of procurement regulations and laws; (b) The manual is updated regularly; (c) The responsibility for maintenance of the manual is clearly established. 					
Application Guide					
<p><u>Coverage Criterion:</u></p> <p>It is often the case that the procurement manual for the Contracting Entities only covers one level or sector of the Government. In this case, the Bank may accept this practice only for said level or sector (for instance a practice might be acceptable at the Central Government level but not at the Municipal level or not for State Owned Enterprises). In some systems there is a single manual or general instructions applicable to all entities and covering the major aspects of the Legal Framework. This single manual or general instructions are complemented by detailed manuals at the level of each institution. This is an acceptable set up and there has to be responsible parties for the maintenance of both instruments.</p>					
	<table> <tr> <th>Results of the Analysis</th><th>Conditions for the use of the Systems/ Government's commitments</th></tr> <tr> <td></td><td></td></tr> </table>	Results of the Analysis	Conditions for the use of the Systems/ Government's commitments		
Results of the Analysis	Conditions for the use of the Systems/ Government's commitments				
2f	General Conditions of Contracts (GCC) for public sector contracts covering goods, works and services consistent with national requirements and, when applicable, international requirements				
<p><u>OECD/DAC general practices:</u></p> <p>Both of the following apply:</p> <ul style="list-style-type: none"> a) There are GCC for the most common types of contracts and their use is mandatory. b) The content of the GCC is generally consistent with internationally accepted practice. 					

Practice specific to the IDB:

i) The norms establishing the contents of the General Conditions of Contract (GCC) and of the bidding documents have to include:

- An equitable distribution of risks and responsibilities and the rights and obligations between the parties. The distribution of risks will be agreed between the parties but it must be done in such a way that it does not generate unnecessary costs for the Borrower; it does not pass on to the bidders risks which cannot be assured or controlled.
- Provisions for price adjustment that allow for an adequate compensation for price variations which cannot be controlled by the bidder. They have to protect the bidder against cost increases and the Borrower against inflated bids resulting from risk coverage. In cases of contracts which execution will exceed 18 months, the inclusion of these provisions should be mandatory.
- For works, a performance security of a sufficient amount to protect the Contracting Entity against a breach of contract, must be required. For goods, the need for a performance security will depend on the market and the current commercial practice. Contracts must include liquidated damages clauses. They must also include provisions pertaining to termination for force majeure.
- Provisions covering the applicable law and the venue for dispute resolution.
- The provision of a guarantee against advance payment.
- The inclusion of provisions on fraud and corruption in contracts.
- No limitation to the modification of contracts provided that the essential characteristics of such contracts are maintained.
- An adequate description of the goods to be covered/insured. This will allow their replacement in case of total or partial loss. The type of insurance to be provided by the bidder must also be specified. Indemnification under the transport insurance policy must at least be equal to 110% of the contract value, it must be payable in the currency of the contract or in a freely convertible currency, all of this to ensure prompt replacement of the loss or damaged goods.
- Provisions specifying that for payment purposes local currency can be used. If the country allows bid submissions and payments in foreign currency, the national legislation and/or the bidding documents have to entail a mechanism or specific provisions to ensure that, bidders don't incur losses or receive profits due to variations in the exchange rates.
- Provisions for price adjustment which compensate adequately for price changes which cannot be controlled by the bidder and protect, the bidder against costs increases, and the Borrower against inflated bids to cover said risks.

Application Guide

Context Criterion:

It is common to have the content of the general conditions of contract regulated by different bodies of rules within the Legal Framework (i.e. the rules applicable to the Supreme Audit Institution, Regulations, mandatory Guidelines, etc). A country's system with different bodies of rules which, overall contain conditions to be included in contracts which are equivalent to the internationally accepted conditions, shall be acceptable.

Results of the Analysis

**Conditions for the use of the Systems/
Government's commitments**

Pillar II – Institutional Framework and Performance

3a

Procurement planning and associated expenditures are part of the budget formulation process and contribute to multiyear planning

OECD/DAC general practices:

There is a regular planning exercise instituted by law or regulation that:

- starts with the preparation of multiyear plans for the government agencies, from which annual operating plans are derived.
- followed by annual procurement plans and estimation of the associated expenditures.
- and culminates in the annual budget formulation.

Procurement plans are prepared in support of the budget planning and formulation process.

Practice specific to the IDB:

The country Procurement Legal Framework must state that all Government agencies have to prepare and update periodically, a yearly

Procurement Plan listing the main contracts to be executed, their procurement methods, estimated amounts and dates when each procurement process will initiate.	
Application Guide	
<p><u>Context Criterion:</u></p> <p>Government programming is an activity that could be also regulated by other legal instruments such as decrees and/or guidelines.</p> <p>If the Procurement system does not have an official procurement planning process in all Government agencies, the Bank could still accept the use of this country's Procurement system as, as the Bank will continue to require a detailed Procurement Plan for all Bank-financed operations. This issue must be documented in the Report on the Use of Country Systems and it must also be specified in all loan contracts.</p>	
Results of the Analysis	Conditions for the use of the systems/ Government's commitments
3b	Budget law and financial procedures support timely procurement, contract execution, and payment
<p><u>OECD/DAC general practices:</u></p> <p>(a) budget funds are committed or appropriated within a week from the award of the contract to cover the full amount of the contract (or amount to cover the portion of the contract to be performed within the budget period).</p> <p>(b) there are published business standards for processing of invoices by the government agencies that meet obligations for timely payment stated in the contract.</p> <p>(c) payments are authorized within four weeks following approval of invoices or monthly certifications for progress payments.</p>	
Application Guide	
<p><u>Context criterion:</u></p> <p>All budgetary regulations, decrees, guidelines or similar instructions will be acceptable if they establish that payments will be done through the budgetary systems of the various entities and that the time for payment to suppliers shall not exceed 30 consecutive calendar days, independently of any internal regulation.</p> <p>In some systems, the time for the acceptance of invoices and the time for payment must be specified in the contract. This is also acceptable for the Bank.</p> <p>For Bank-financed projects, payment delays and or lack of payment will be evaluated and used as performance indicators; they will need to be remedied by the adoption of appropriate mitigation measures.</p>	
Results of the Analysis	Conditions for the use of the systems/ Government's commitments
3c	No initiation of procurement actions without existing budget appropriations
<p><u>OECD/DAC general practices:</u></p> <p>(a) the law requires certification of availability of funds before solicitation of tenders takes place.</p> <p>(b) there is a system in place (e.g. paper or electronic interface between the financial management and the procurement systems) that ensures enforcement of the law.</p>	
Application Guide	
<p><u>Context Criterion:</u></p> <p>All the budgetary regulations, decrees, guidelines or similar instructions will be acceptable to the Bank, provided they are mandatory and establish that, as a prerequisite for the initiation of any procurement process, the procurement activity must have been approved and the corresponding funds must be available, independently of any internal regulation followed by each entity.</p>	

Results of the Analysis		Conditions for the use of the systems/ Government's commitments	
3d	Systematic completion reports are prepared to certify budget execution and to reconcile the execution with budget programming		
<u>OECD/DAC general practice:</u> The procurement system is sufficiently integrated with the financial management and budgetary systems to provide information on the completion of all major contracts. <u>Practice specific to the IDB:</u> Integration must allow immediate registration of all contract milestones in the Budgetary System. This integration will preferably be electronic, however, parallel registration systems may be acceptable to the Bank, provided there are mandatory procedures stipulating that all contracts milestones need to be registered immediately in the Budgetary System.			
Application Guide			
There are not specific indications			
Results from the Analysis		Conditions for the use of the systems/ Government's commitments	
4a	The status and basis for the normative/regulatory body is covered in the legislative and regulatory framework		
<u>OECD/DAC general practice:</u> There is a normative or regulatory body or the functions are clearly assigned to various units within the government which is specified in the legal and regulatory framework in unambiguous way without gaps or overlaps.			
Application Guide			
<u>Context Criterion:</u> The Bank may accept that the Procurement regulatory body or if there is no such body, the entity(ies) who is/are assigned this function be subject to different regulations, provided there is no gap or overlap.			
Results of the Analysis		Conditions for the use of the systems/ Government's commitments	
4b	The entity has a defined set of responsibilities that include but are not limited to the following		
<u>OECD/DAC general practice:</u> The body has a defined set of responsibilities that include but are not limited to the following: <ul style="list-style-type: none">• providing advice to contracting entities.• drafting amendments to the legislative and regulatory framework and implementing regulations.• monitoring public procurement.• providing procurement information.• managing statistical databases.• reporting on procurement to other parts of government.• developing and supporting implementation of initiatives for improvements of the public procurement system.• providing implementation tools and documents to support training and capacity development of implementing staff.			

Application Guide	
There are no particular instructions	
Results of the Analysis	Conditions for the use of the systems/ Government's commitments
4c	The entity's organization, funding, staffing, and its level of independence and authority (formal authority) to exercise its duties should be sufficient and commensurate with its responsibilities
<u>OECD/DAC general practice:</u> The regulatory body (or the assignment of responsibilities for the regulatory function if there is not a body) is at an adequate level in Government and financing is secured by the legal/regulatory framework.	
Application Guide	
<u>Context Criterion:</u> To be acceptable to the Bank it is sufficient that a mandatory annual budgetary allocation for the regulatory body (or the entity(ies) which is/are assigned this function, be included in the budget law.	
Results of the Analysis	Conditions for the use of the systems/ Government's Commitments
4d	The responsibilities should also provide for separation of duties and clarity so as to avoid conflict of interest and direct involvement in the execution of procurement transactions.
<u>OECD/DAC general practice:</u> The body is not responsible for direct procurement operations and is free from other possible conflicts (e.g. by being member of evaluation committees, etc.).	
Application Guide	
<u>Context Criterion:</u> The regulatory body or the entity(ies) which is/are assigned this function should not be responsible for contracting on behalf of other government entities. However, the regulatory body or the entity(ies) assigned this function may have a supervisory role and/or managerial role for third parties. As such, they could administer framework contracts. This is acceptable only; if in doing so they are independent.	
Results of the Analysis	Conditions for the use of the systems/ Government's Commitments
5a	The country has a system for collecting and disseminating procurement information, including tender invitations, requests for proposals, and contract award information
<u>OECD/DAC general practice:</u> The objective of this indicator is to determine a) the existence and capacity of the procurement information system in the country; b) the accessibility of the information system; c) the coverage of the information system; and d) whether the system provides one stop service (to the extent feasible) where those interested can find information on procurement opportunities and outcomes. The system should	

include annual or multi annual procurement plans, specific advertisements or notices of procurement opportunities, publication of contract awards, linkages to rules and regulations and other information that is relevant to promote competition and transparency. For purposes of practical application, the collection and dissemination of information should focus on procurement above a set value that reflects established thresholds for use of competitive procedures. Depending on the country, information systems may only focus on procurement financed by the national budget.

Practice specific to the IDB:

The country manages all its contract information and contract transactions through electronic systems which comply with the best practices established in the document "E-Tendering Requirements for MDB Financed Procurement (<http://www.e-gp.net/>)". Acceptance of these systems by the Bank for use in Bank-financed operations, will be determined if after an evaluation conducted on the basis of the methodology set forth in said E-Tendering Requirements, they are found to be in compliance with these requirements.

Application Guide

Context Criterion:

If the information system or the electronic procurement system is not in compliance with all best practices required by the Bank, or if an evaluation has not been performed to determine its acceptance, it could still be accepted by the Bank, provided the other procedures contemplated in Bank policies continue to be used to perform these activities.

Coverage Criterion:

If the information system or the electronic procurement system is in compliance with IDB requirements but not all the required information has been gathered yet, the IDB and the government may agree on some modalities to report all Bank-financed operations in such system.

If this is the case, this must be documented in the report on the Use of Country System, and it must also be specified in all loan contracts.

Results of the Analysis		Conditions for the use of the systems/ Government's Commitments	
5b	The country has systems and procedures for collecting and monitoring national procurement statistics		

OECD/DAC general practices:

- (a) There is a system in operation to collect data.
- (b) The system collects data on procurement by method, duration of different stages of the procurement cycle, awards of contracts, unit prices for most common types of goods and services and other information that allows analysis of trends, levels of participation, efficiency and economy of the purchases and compliance with requirements.
- (c) Reliability of the information is high (verified by audits).
- (d) Analysis of information is routinely carried out, published and fed back into the system.

Application Guide

There are no particular instructions

Results of the Analysis		Conditions for the use of the systems/ Government's commitments	
5c	A sustainable strategy and training capacity exist to provide training, advice and assistance to develop the capacity of government and private sector participants to understand the rules and regulations and how they should be implemented		

OECD/DAC general practice:

There is a training and capacity building strategy that provides for:

- (a) Substantive permanent training programs of suitable quality and content for the needs of the system.

- (b) Evaluation and periodic adjustment based on feedback and need.
(c) Advisory service or help desk to respond to questions by procuring entities, suppliers, contractors and the public.

Application Guide

Context Criterion:

Almost all countries have procurement training programs; however, these are not necessarily permanent neither do they always offer the necessary content to address the existing training needs. This might be acceptable to the Bank if the government agreed to prepare and implement a training program for all Bank-financed operations procurement staff. Sufficient time must be allocated for the preparation of this task in order to allow for a proper analysis of the needs, the preparation of curricula, the implementation logistic, etc. In any event, all institutional capacity evaluations carried out as part of project preparation will have to ensure that the projects under consideration include suitably trained staff to manage all procurement processes.

Results of the Analysis

Conditions for the use of the systems/ Government's commitments

5d Quality control standards are disseminated and used to evaluate staff performance and address capacity development issues

OECD/DAC general practice:

The purpose of this sub-indicator is to verify existence, relevance and comprehensiveness of the quality assurance and standards for processing procurement actions and to ensure their systematic application to provide for monitoring of performance. Examples of such standards might include response times to reply to inquiries, or length of time to prepare tender documents after receipt of a requirement.

Although these types of standards will vary widely between countries and levels of government, they should as a minimum:

- (a) Provide quality assurance standards and a monitoring system for procurement processes and products.
- (b) Provide for a staff performance evaluation process based on outcomes and professional behaviors.
- (c) Ensure that operational audits are carried out regularly to monitor compliance with quality assurance standards.

Application Guide

Context Criterion:

For the purposes of criterion (c) above, all country electronic systems that consistently report publicly all activities carried out by the staff responsible for procurement in all government procurement units are acceptable to the Bank.

The professional training programs as well as the aspects pertaining to career management under items 6 (a) and (b) above, form part of the regular administration of a Civil Service and are not limited to procurement specialists. These requirements do not represent an immediate risk for Bank financed projects; as long as the country has suitably trained staff managing procurement on all Bank financed projects. In the medium to long term, however, the weaknesses of such system may affect the quality of project performance. In such case, the Bank will devise an agreement with the government to strengthen the system so as to avoid discontinuing its use in the medium term, in Bank financed operations.

Results of the Analysis

Conditions for the use of the systems/ Government's commitments

Pillar III – Procurement Operations and Market Practices

6a The level of procurement competence among government officials within the entity is consistent with their procurement responsibilities

OECD/DAC general practice:

The level of procurement competence among government officials within the entity is consistent with their procurement responsibilities. The purpose of this indicator is to assess the degree of professionalism and knowledge of those responsible for implementation of

procurement activities.	
(a) There are defined skill and knowledge profiles for specialized procurement jobs.	
(b) There is systematic matching of skills against requirements for competitive recruitment.	
(c) Staff required to undertake procurement activities on an ad hoc basis have the knowledge they need to undertake the activity or have access to professional staff that can provide this knowledge.	
Application Guide	
Please review the criterion for practice 5 d)	
Results of the Analysis	Conditions for the use of the systems/ Government's Commitments
6b	The procurement training and information programs for government officials and for private sector participants are consistent with the demand
<u>OECD/DAC general practice:</u> The procurement training and information programs for government officials and for private sector participants are consistent with demand. This sub-indicator assesses the sufficiency of the procurement training and information programs in terms of content and supply. (a) Training programs' design is based on a skills gap inventory to match the needs of the system. (b) Information and training programs on public procurement for private sector are offered regularly either by the government or by private institutions. (c) The waiting time to get into a course (for public or private sector participants) is reasonable, say one or two terms.	
Application Guide	
Please review the criteria for practice 5 d)	
Results of the Analysis	Conditions for the use of the systems/ Government's Commitments
6c	There are established norms for the safekeeping of records and documents related to transactions and contract management
<u>OECD/DAC general practice:</u> (a) The legal/regulatory framework establishes a list of the procurement records that must be kept at the operational level and what is available for public inspection, including conditions for access. (b) The records should include: <ul style="list-style-type: none"> • Bidding documents and addenda. • Bid opening records. • Bid evaluation reports. • Formal appeals by bidders and outcomes. • Final signed contract documents and addenda and amendments. • Claims and dispute resolutions. • Final payments. • Disbursement data (as required by the country's financial management system). (c) There is a document retention policy that is compatible with the statute of limitations in the country for investigating and prosecuting cases of fraud and corruption and with the audit cycles. (d) There are established security protocols to protect records either physical or electronic.	
Application Guide	
<u>Coverage Criterion:</u>	
There are two dimensions for the compliance of this requirement. One is the integrity and security of the files and the other one is the	

implementation of this requirement by all governmental agencies. Compliance with this practice will be analyzed in its substantial aspects. If, however, not all the agencies comply with this, an agreement will be reached with the government to ensure compliance in the case of executing units in charge of operations financed by the Bank.

Results of the Analysis	Conditions for the use of the systems/ Government's Commitments
6d	There are provisions for the delegation of authority to others who have the capacity to assume these responsibilities

OECD/DAC general practice:

Delegation of authority and responsibility is key to having a well functioning system especially when procurement is decentralized. When delegation is not provided, the system tends to function inefficiently and it can lead to excessive concentration of decision making under a few individuals who have neither the training nor knowledge to make procurement decisions. Delegation should be undertaken in accordance with the following:

- (a) Delegation of decision making authority is decentralized to the lowest competent levels consistent with the risks associated and the monetary sums involved.
- (b) Delegation is regulated by law.
- (c) Accountability for decisions is precisely defined.

Application Guide

Context Criterion:

Issues pertaining to delegation are often covered in a generic way in the legislation while regulations, instructions or other similar mandatory instruments cover the specifics. If these rules are clear, precise and practical the country's system could be accepted.

Results of the Analysis	Conditions for the use of the systems/ Government's Commitments
7a	There are effective mechanisms for partnerships between the public and private sector

OECD/DAC general practice:

- (a) Government encourages open dialogue with the private sector and has several established and formal mechanisms for open dialogue through associations or other means.
- (b) The government has programs to help build capacity among private companies, including for small businesses and training to help new entries into the public procurement marketplace.
- (c) The government encourages public/private partnerships and the mechanisms are well established in the Legal Framework to make possible such arrangements.

Application Guide

Context Criterion:

In many countries, private organizations provide this service. That practice is also acceptable if there is an adequate coverage and if the service meets the quality standards.

Results of the Analysis	Conditions for the use of the systems/ Government's commitments
7b	Private sector institutions are well organized and able to facilitate access to the market

<u>OECD/DAC general practice:</u> The private sector is competitive, well organized and able to participate in the competition for public procurement contracts.					
Application Guide					
<u>Context Criterion:</u> Repeated contract awards to the same few firms could be a consequence of the market structure (countries with small economies); or could be due to performance reasons (difficult environment to do business with the State, competition barriers, restrictive or overstated specifications or collusion, etc). The evaluator will identify the main causes for the occurrence of these issues and could accept the use of systems in which these issues are merely the result of structural causes while at the same time there is an effective compliance of the other practices related to transparency.					
<table> <tr> <th>Results of the Analysis</th><th>Conditions for the use of the systems/ Government's Commitments</th></tr> <tr> <td></td><td></td></tr> </table>		Results of the Analysis	Conditions for the use of the systems/ Government's Commitments		
Results of the Analysis	Conditions for the use of the systems/ Government's Commitments				
7c	There are no major systemic constraints (e.g. inadequate access to credit, inappropriate contracting practices, etc.) impeding the private sector's capacity to access the procurement market				
<u>OECD/DAC general practice:</u> There are no major constraints inhibiting private sector access to the public procurement market.					
Application Guide					
There are no particular instructions					
<table> <tr> <th>Results of the Analysis</th><th>Conditions for the use of the systems/ Government's commitments</th></tr> <tr> <td></td><td></td></tr> </table>		Results of the Analysis	Conditions for the use of the systems/ Government's commitments		
Results of the Analysis	Conditions for the use of the systems/ Government's commitments				
8a	Procedures for contracts administration are clearly defined this includes inspection and acceptance , quality control, and methods to review and issue contract amendments in a timely manner				
<u>OECD/DAC general practice:</u> Procedures are clearly defined for undertaking contract administration responsibilities that include inspection and acceptance procedures, quality control procedures, and methods to review and issue contract amendments in a timely manner. All of the following procedures are important aspects of contract administration. These procedures will help ensure quality performance of the contract requirements and will facilitate prompt payment of invoices including final acceptance and final payments. (a) Procedures for acceptance of final products and for issuance of contract amendments are part of the legal/regulatory framework or are incorporated as standard clauses in contracts. (b) Clauses are generally consistent with internationally accepted practices (see IFI standard contracts for good practice examples). (c) Quality Control (QC) procedures for goods are well defined in the model contracts/documents or in the regulations. QC is carried out by competent officers, inspection firms or specialized testing facilities. (d) Supervision of civil works is carried out by independent engineering firms or qualified government supervisors and inspectors. (e) Final payments are processed promptly as stipulated in the contract.					
Application Guide					
There are no particular instructions					
<table> <tr> <th>Results of the Analysis</th><th>Conditions for the use of the systems/ Government's commitments</th></tr> <tr> <td></td><td></td></tr> </table>		Results of the Analysis	Conditions for the use of the systems/ Government's commitments		
Results of the Analysis	Conditions for the use of the systems/ Government's commitments				

8b	Contracts include dispute resolution procedures that provide for an efficient and fair process to resolve disputes arising during the performance of the contract
<p><u>OECD/DAC general practices:</u></p> <p>(a) There is an Arbitration law in the country. (b) The law is consistent with generally accepted practices for neutrality of arbitrators, due process, expediency and enforceability. (c) The country accepts as a matter of course international arbitration for international competitive bidding. (d) Provisions for Alternative Dispute Resolution (ADR) are standard in contracts. (e) ADR provisions conform to the international standard wording (may refer to IFI standard bidding documents for sample of good international practice).</p>	
Application Guide	
<p><u>Context Criteria:</u></p> <p>Some countries do not have an Arbitration Law, but this could be accepted if this issue is properly covered in several bodies of law. As long as, arbitration is valid under the law as a means of dispute resolution and contractual disagreements resolution, the arbitration awards are recognized and legally binding for the parties involved, this requirement is substantially met.</p>	
Results of the Analysis	Conditions for the use of the systems/ Government's commitments
8c	Procedures exist to enforce the outcome of the dispute resolution process
<p><u>OECD/DAC general practices:</u></p> <p>(a) The country is a member of the New York Convention on enforcement of international arbitration awards. (b) The country has procedures to enable the winner in a dispute to seek enforcement of the outcome by going to the courts. (c) The country has a process to monitor this area of contract administration and to address performance issues.</p>	
Application Guide	
<p><u>Context Criterion:</u></p> <p>If there is no centralized system in which arbitration awards are registered, this sub-indicator could still be considered as met, if the government has taken appropriate measures to ensure that the entities have adequate systems allowing them to monitor the status of any pending conflict resolution.</p>	
Results of the Analysis	Conditions for the use of the systems/ Government's commitments

Pillar IV - Integrity and Transparency of the Public Procurement System

9a	A Legal Framework, organization, policy, and procedures for internal and external control and audit of public procurement operations are in place to provide a functioning control framework
<p><u>OECD/DAC general practice:</u></p> <p>The system in the country provides for:</p> <ul style="list-style-type: none"> (a) Adequate independent control and audit mechanisms and institutions to oversee the procurement function. (b) Implementation of internal control mechanisms in individual agencies with clearly defined procedures. (c) Proper balance between timely and efficient decision making and adequate risk mitigation. (d) Specific periodic risk assessment and controls tailored to risk management. 	
Application Guide	
<p><u>Context Criterion:</u></p> <p>This indicator will be analyzed together with the Financial Management Diagnostics.</p> <p>In cases where the control and auditing systems do not meet the requirements, the Procurement system could still be accepted, if the Bank continues to apply its own procedures in this area, implementing additional control measures such as independent procurement audits or higher supervision levels.</p> <p>This situation must be documented in the Report on the Use of Country Systems and it must also be specified in the loan contracts.</p>	
Results of the Analysis	
Conditions for the use of the systems/ Government's commitments	
9b	Enforcement and follow-up on findings and recommendations on the control framework provide an environment that fosters compliance
<p><u>OECD/DAC general practice:</u></p> <p>Internal or external audits are carried at least annually and recommendations are responded to or implemented within six months of the submission of the auditors' report.</p> <p><u>Practice specific to the IDB:</u></p> <ul style="list-style-type: none"> i) The management of these entities must implement either the recommendations formulated by the auditors within the specified timeframe or explain why such recommendations are not warranted. 	
Application Guide	
<p><u>Context Criterion:</u></p> <p>This indicator will be analyzed together with the Financial Management Diagnostics.</p> <p>In cases where the control and auditing systems do not meet the requirements, the Procurement system could still be accepted, if the Bank continues to apply its own procedures in this area, implementing additional control measures such as independent procurement audits or higher supervision levels.</p> <p>This situation must be documented in the Report on the Use of Country Systems and it must also be specified in the loan contracts.</p>	
Results of the Analysis	
Conditions for the use of the systems/ Government's commitments	

9c	The internal control system provides timely information on compliance to enable management action				
<p><u>OECD/DAC general practice:</u></p> <p>The following key provisions should be provided:</p> <p>(a) There are written standards for the internal control unit to convey issues to management depending on the urgency of the matter.</p> <p>(b) There is established regular periodic reporting to management throughout the year.</p> <p>(c) The established periodicity and written standards are complied with.</p>					
Application Guide					
<p><u>Context Criterion:</u></p> <p>This indicator will be analyzed together with the Financial Management Diagnostics.</p> <p>In cases where the control and auditing systems do not meet the requirements, the Procurement system could still be accepted, if the Bank continues to apply its own procedures in this area, implementing additional control measures such as independent procurement audits or higher supervision levels.</p> <p>This situation must be documented in the Report on the Use of Country Systems and it must also be specified in the loan contracts.</p>					
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Results of the Analysis	Conditions for the use of the systems/ Government's commitments				
9d	The internal control systems are sufficiently developed to allow performance audits to be conducted				
<p><u>OECD/DAC general practice:</u></p> <p>There are internal control procedures including a manual that state the requirements for this activity which is widely available to all staff.</p>					
Application Guide					
<p><u>Context Criterion:</u></p> <p>This indicator will be analyzed together with the Financial Management Diagnostics.</p> <p>In cases where the control and auditing systems do not meet the requirements, the Procurement system could still be accepted, if the Bank continues to apply its own procedures in this area, implementing additional control measures such as independent procurement audits or higher supervision levels.</p> <p>This situation must be documented in the Report on the Use of Country Systems and in the loan contracts.</p>					
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Results of the Analysis	Conditions for the use of the systems/ Government's commitments				
9e	Auditors are sufficiently informed about procurement requirements and control systems to conduct quality audits that contribute to compliance				
<p><u>OECD/DAC general practice:</u></p> <p>There is an established program to train internal and external auditors to ensure that they are well versed in procurement principles, operations, laws, and regulations and the selection of auditors requires that they have adequate knowledge of the subject as a condition for carrying out procurement audits.</p>					
Application Guide					
<u>Context Criterion:</u>					

This indicator will be analyzed together with the Financial Management Diagnostics.

In those cases where the control and auditing systems do not meet the requirements, the Procurement system could still be accepted, if the Bank continues to apply its own procedures in this area, implementing additional control measures such as independent procurement audits or higher supervision levels.

This situation must be documented in the Report on the Use of Country Systems and in the loan contracts.

Results of the Analysis		Conditions for the use of the systems/ Government’s commitments
10a	Decisions are deliberated on the basis of available information, and the final decision can be reviewed and ruled upon by a body (or authority) with enforcement capacity under the law	
<u>OECD/DAC general practices:</u> The appeals mechanism meets the following requirements: (a) Decisions are rendered on the basis of available evidence submitted by the parties to a specified body that has the authority to issue a final decision that is binding unless referred to an appeals body. (b) An appeals body exists which has the authority to review decisions of the specified complaints body and issue final enforceable decisions. (c) There are times specified for the submission and review of complaints and issuing of decisions that do not unduly delay the procurement process.		
Application Guide		
There are no particular instructions		
Results of the Analysis		Conditions for the use of the systems/ Government’s commitments
10b	The complaint review system has the capacity to handle complaints efficiently and a means to enforce the remedy imposed	
<u>OECD/DAC general practice:</u> The complaint review system has precise and reasonable conditions and timeframes for decision by the complaint review system and clear enforcement authority and mechanisms.		
Application Guide		
There are no particular instructions		
Results of the Analysis		Conditions for the use of the systems/ Government’s commitments
10c	The system operates in a fair manner, with outcomes of decisions balanced and justified on the basis of available information	
<u>OECD/DAC general practice:</u> Procedures governing the decision making process of the review body provide that decisions are: a) based on information relevant to the case. b) balanced and unbiased in consideration of the relevant information. c) can be subject to higher level review.		

d) result in remedies that are relevant to correcting the implementation of the process or procedures.	
Application Guide	
Item (b) of this indicator is difficult to assess due to its nature. One way to handle this is to carry-out surveys of a sample of firms or individuals who have used the dispute review system and get their opinion. Other aspects (such as necessary proof, the obligation to make a decision based on the law and in conscience, relying on the existing evidence the proportionality of the remedies), are usually regulated by law.	
Results of the Analysis	
Conditions for the use of the systems/ Government's commitments	
10d	Decisions are published and made available to all interested parties and to the public
OECD/DAC general practice:	
All decisions are publicly posted in a government web site or another easily accessible place	
Application Guide	
There are no particular instructions	
Results of the Analysis	
Conditions for the use of the systems/ Government's commitments	
10e	The system ensures that the complaint review body has full authority and independence for the resolution of complaints
OECD/DAC general practice:	
The complaint review body is independent and autonomous with regard to resolving complaints.	
Application Guide	
Some countries do not have a separate body for the resolution of complaints. In all cases in which the executing agency could not reach a final agreement with the party lodging a protest, the parties shall recourse to the national legal system (courts).	
Results of the Analysis	
Conditions for the use of the systems/ Government's commitments	
11a	Information is published and distributed through available media with support from information technology when feasible
OECD/DAC general practice:	
Information on procurement is easily accessible in media of wide circulation and availability. The information provided is centralized at a common place. Information is relevant and complete. Information is helpful to interested parties to understand the procurement processes and requirements and to monitor outcomes, results and performance.	
Application Guide	
The Bank requires specifically:	
(a) That the law ensures public access to information.	
(b) That if, the information is not published routinely in a place accessible to the public free of charge, the terms under which answers to queries are provided, must be regulated.	

(c) That there are disciplinary consequences if officials do not save and protect the information as specified in the rules.

A number of countries have an adequate system, but they are still at the inception stage. This may result in information being available at the national level but not at the sub-national level. A strict application of this tool could result in the system not being accepted just for this reason (when in fact, it does not affect its structure).

A strict application of this criterion is appropriate to prepare a strengthening plan; however, for purposes of accepting or rejecting the use of the system, a strict application would be counterproductive.

Deficiencies in the system do not necessarily represent a risk for the execution of operations. The system might be acceptable to the Bank if the Government is prepared to agree on a plan to remedy these deficiencies.

Results of the Analysis	Conditions for the use of the systems/ Government's commitments

12a

The legal and regulatory framework for procurement, including tender and contract documents, includes provisions addressing corruption, fraud, conflict of interest, and unethical behavior and sets out (either directly or by reference to other laws) the actions that can be taken with regard to such behavior

OECD/DAC general practice:

The procurement law or the regulations specify this mandatory requirement and give precise instructions on how to incorporate the matter in tendering documents. Tender documents include adequate provisions on fraud and corruption.

Application Guide

Several countries in the region have anticorruption laws that are incorporated by reference in the tendering documents. This is an acceptable practice if there are references to the corresponding laws and articles and the source where they are available for consultation.

Results of the Analysis	Conditions for the use of the systems/ Government's Commitments

12b

The legal system defines responsibilities, accountabilities, and penalties for individuals and firms found to have engaged in fraudulent or corrupt practices

OECD/DAC general practice:

The legal/regulatory framework explicitly deals with the matter. It defines fraud and corruption in procurement and spells out the individual responsibilities and consequences for government employees and private firms or individuals found guilty of fraud or corruption in procurement, without prejudice of other provisions in the criminal law.

Application Guide

There are no particular instructions

Results of the Analysis	Conditions for the use of the systems/ Government's commitments

12c

Evidence of enforcement of rulings and penalties exists

OECD/DAC general practice:

There is ample evidence that the laws on corrupt practices are being enforced in the country by application of stated penalties.

Application Guide

There are no particular instructions	
Results of the Analysis	Conditions for the use of the systems/ Government's commitments
12d	Special measures exist to prevent and detect fraud and corruption in public procurement
<u>OECD/DAC general practice:</u> The government has in place a comprehensive anticorruption program to prevent, detect and penalize corruption in government that involves the appropriate agencies of government with a level of responsibility and capacity to enable its responsibilities to be carried out. Special measures are in place for detection and prevention of corruption associated with procurement.	
Application Guide	
There are no particular instructions	
Results of the Analysis	Conditions for the use of the systems/ Government's Commitments
12e	Stakeholders (private sector, civil society, and ultimate beneficiaries of procurement/end-users) support the creation of a procurement market known for its integrity and ethical behaviors
<u>OECD/DAC general practice:</u> (a) There are strong and credible civil society organizations that exercise social audit and control. (b) Organizations have government guarantees to function and cooperation for their operation and are generally promoted and respected by the public. (c) There is evidence that civil society contributes to shape and improve integrity of public procurement.	
Application Guide	
There are no particular instructions	
Results of the Analysis	Conditions for the use of the systems/ Government's commitments
12f	The country should have in place a secure mechanism for reporting fraudulent, corrupt or unethical behavior
<u>OECD/DAC general practice:</u> There is a secure, accessible and confidential system for the public reporting of cases of fraud, unethical behavior and corruption.	
Application Guide	
In addition, the provisions against fraud and corruption in the Bank's Procurement Policy will apply to all Projects financed by the Bank.	
Results of the Analysis	Conditions for the use of the systems/ Government's commitments

12g	<p>Existence of Codes of Conduct/Codes of Ethics for participants that are involved in aspects of the public financial management systems that also provide for disclosure for those in decision making positions.</p> <p>The country should have in place a Code of Conduct/Ethics</p>
<p><u>OECD/DAC general practices:</u></p> <p>(a) There is a code of conduct or ethics for government officials with particular provisions for those involved in public financial management, including procurement.</p> <p>(b) The code defines accountabilities for decision making and subjects decision makers to specific financial disclosure requirements.</p> <p>(c) The code is of obligatory compliance and consequences are administrative or criminal.</p>	
Application Guide	
<p><u>Context Criterion:</u></p> <p>In some countries, these codes are in the form of law or decrees that establish obligations, duties and rules of conduct for the officials.</p>	
Results of the Analysis	Conditions for the use of the systems/ Government's commitments

Annex 2. Results Matrix

Pillar—Indicators		Results	Conditions for use of the system/ Government commitments
Pillar I – Legislative and regulatory framework			
1	The legislative and regulatory framework for public procurement complies with all the agreed standards and applicable obligations		
2	Existence of documentation and regulations on implementation		
Pillar II – Institutional framework and management capacity			
3	The public procurement system is well integrated and is part of the public sector governance system		
4	The country has a functional legislative/regulatory body		
5	Existence of institutional development capacity		
Pillar III – Procurement operations and market practices			
6	The country's procurement-related operations and practices are efficient		
7	Functionality of the public procurement market		
Pillar IV—Integrity and transparency of the public procurement system			
8	Existence of contract administration and dispute resolution procedures		
9	The country has effective control and audit systems		
10	Efficiency of the appeals mechanism		
11	Degree of access to information		
12	The country has ethical and anticorruption measures in place		
Scope of application of the country system: c. Levels of administration d. Types of contracts e. System components			
Exclusions			
Indications to be included in contracts:			

Annex 3. Improvement plan

[illegible]

Annex 4. Contents of the report

The following guidelines will be kept in mind for preparing the report:

- a. Include an executive summary that states the objectives, scope, and results in terms of: (i) a general conclusion on feasibility and a recommendation as to the full or partial use of the country procurement system; (ii) justification of the recommendation and separate conclusions for each of the pillars analyzed; (iii) risks related to the results obtained; (iv) progress made in terms of the strengths of the country procurement systems, (v) account of the strengthening opportunities identified and agreed on with the government; and (vi) reference to the strengthening or improvement plan that sets out actions, inputs, and the tentative execution schedule.
- b. A detailed report that will include the following sections:
 - (i) **Introduction.** This section will present the background of the process, its scope and nature, level of reliability of the results, the limitations encountered where applicable, and any other aspect essential to understanding the context and circumstances in which the analysis was performed.
 - (ii) **Country background.** This section will include: (i) the country context, with brief reference to the political and economic situation; (ii) the organization of the State, role of the national government, subnational governments, and other levels; (iii) the nature and scope of public spending; and (iv) contextual conditions or known limitations that influence the Country Systems.
 - (iii) **General aspects of the country procurement system.** This section will present a description of the country procurement systems as they exist at present, explaining their background, the role of lead agencies and other agents, progress made, together with other considerations to understand the context in which they perform. In particular, indicate the sources of information used and document their reliability.
 - (iv) **Results and recommendations.** This section will explain the recommendations as to the full or partial use of the country procurement system, with a justification of its acceptability based on use of the different standards and best practices established in the pillars on which each system rests. To that end, refer to the detailed results reported in the results matrix and the strengthening plan, both of which are attached to the results report.
 - (v) **Risks and strengthening initiatives.** This section will describe the strengthening opportunities and risk areas that still exist, mentioning any program or initiative that the government is implementing, the progress made, and its linkage to the opportunities identified in the results matrix. It will also describe the financing for such programs, the

form of participation or intervention by the partners in development, duration, and the additional requirements of such programs. Complementarily, other reform programs that the government is implementing or planning to implement in the near future and that could have an impact on the operation of the country procurement system will be identified and briefly described.

- (vi) **Updating.** If the report is an update of an earlier report, this section will describe the progress made, limitations on expected progress, and/or deterioration of the system since the last assessment.

Annex 5. Stages and Officials or Units Responsible for the Acceptance Process

Activities	Officer or unit responsible
A. PLANNING	
1. Dialogue and country request	
i. Initiate dialogue with country authorities	IDB Representative in the country
ii. Request to the Procurement, Financial Management, and Portfolio Monitoring Division (VPC/FMP) to initiate the acceptance process	IDB Representative in the country
2. Coordination of the process	
i. Designation of the project leader and technical team	VPC/FMP
ii. Definition of roles and necessary resources	VPC/FMP
B. EXECUTION	
1. Technical analysis	
i. Establishment of the work plan	Technical Team
ii. Performance of the analysis	Technical Team
iii. Confirmation of possible strengthening actions and support from the Bank	Institutional Capacity of State Division (ICS)
2. Confirmation with the government	
i. Presentation of preliminary findings to the government and drafting of aide-mémoire on main findings and agreements with the country	Technical Team
3. Results report	Technical Team
C. TECHNICAL DECISION	
1. Quality control	
i. Review and recommendations of the Project Procurement Committee (PPC)	PPC Chief
ii. Confirmation of changes with the government in case of objections or recommendations	Technical Team
2. Technical pronouncement	PPC
D. MANAGEMENT DECISION¹	
1. Quality and Risk Review of results (QRR)	Division Chief and/or Manager in charge
2. Operations Policy Committee (OPC) approval	Executive Vice President
E. APPROVAL BY THE BOARD OF EXECUTIVE DIRECTORS AND PUBLICATION OF RESULTS	
1. Formalization of results in the Fiduciary Technical Note	VPC/FMP
2. Inclusion in the country strategy, section on country systems	Manager in charge
3. Implementation in operations	Project teams
4. Publication of results if authorized	VPC/FMP and Manager in charge

¹ At this stage, the process will only continue if the PPC technical pronouncement is favorable.