



Annex I Guidance Note

Prevention of corruption in procurement at various government levels, including good practices, lessons learned and challenges, and the effective use of technology to prevent, detect, deter and counter corruption in procurement

1. The Secretariat has produced this Guidance Note to assist States parties in providing information on initiatives and practices they have implemented regarding the topics under consideration at the fifteenth session of the Working Group on the Prevention of Corruption taking place from 28 August to 6 September 2024.
2. The Secretariat wishes to recall paragraph 12 of the report of the Working Group on Prevention on its second intersessional meeting, which noted that in advance of each meeting, States parties and signatories should be invited to share their experiences of implementing the provisions of the Convention under consideration, preferably by using the self-assessment checklist.
3. In furtherance of this, the Secretariat outlines a set of questions, based on those in the self-assessment checklist, which States parties and signatories may wish to use as a guide when providing information regarding the two topics under consideration. States parties and signatories are encouraged to view the questions below only as guidance and are free to provide any information believed to be relevant to the topics under consideration.

I - Information requested from States parties and signatories in relation to prevention of corruption in procurement at various government levels and the effective use of technology to prevent, detect, deter and counter corruption in procurement (arts. 9 and Conference resolution 10/9).

1. Please describe (cite and summarize) the measures/steps your country has taken (or is planning to take) to implement this provision of the Convention.

In relation to integrity in public procurement processes, States parties and signatories may wish to cite and describe measures that:

- Ensure the national procurement system is based on principles of transparency, competition and objective criteria in decision-making;
 - Cambodia implements procurement system based on laws and regulations on public procurement. The new law on public procurement was promulgated on 19 April 2023¹ to set out rules, methods, procedures and infrastructure to manage and implement all public procurement projects to ensure the public procurement processes are carried out with transparency, accountability, integrity, competitiveness, fairness, effectiveness, efficiency, equity, quality, economical, and time-saving.
- Establishing in advance the conditions for participation, including selection and award criteria and tendering rules;

¹ The previous law on public procurement was promulgated in 2012.



- According to article 33 of the law on Public Procurement (2023), all procurement units shall prepare annual procurement plan which includes all necessary steps to carry out the bid process.
- The details on how to prepare procurement plan are stipulated in the Circular on Procurement Plan Preparation dated August 28, 2017.
- The procurement workplan contained in annual procurement plan consist of the details required to carry out each stage:
 - The determination of pre-qualification of bidder (in case of necessary)
 - The preparation and approval of bid document
 - The bid advertisement, bid selling, and bid opening
 - The bid evaluation
 - The Contract signing
 - the management and implementation of contract.

- Provide for sufficient time to potential tenders to prepare and submit their tenders and using by default an open tender procedure;

- The Procurement Manual promulgated by sub-decree dated May 22, 2012 sets out bid advertisement duration until the bid opening day that allow bidder to prepare and submit bid document:
 - ❖ 45 days for international competitive bidding
 - ❖ 30 days for domestic competitive bidding
 - ❖ 15 days for other competitive bidding.
- According to article 47 of Law on Public Procurement (2023), all bid document submitted must be opened in public after the finished date of bid submission. In addition, all necessary information of each bid documents must be shown in the bid opening meeting and included in the meeting minutes. The copies of bid opening minutes shall be provided to all participants of the meeting.

- Provide for transparent publishing of all procurement decisions including publishing the invitations to tender;

- Article 42 of Law on Public Procurement (2023) determines the preparation of bidding notification in which the Procurement Units of the Procuring Entities shall prepare notification for bidding advertisements that includes in advance the following information:
 - ❖ Description of the type and quantity of goods, works, or services to be procured
 - ❖ Names, address, email, phone, and faxes of procurement unit
 - ❖ Method of procurement to be used
 - ❖ Requirement for qualification bidders
 - ❖ Date of selling, receiving, and opening of bid document
 - ❖ Specification of the requirement for bid security and contract implementation security.
- The information and criteria stated in the bid documents are the criteria for selecting and awarding bid project.



- Establish procedures, rules and regulations for review of the procurement process, including a system of appeal;

- Sub-decree on Public Procurement dated October 18, 2006 sets out procedures to lodge complaints at all stages of procurement works as follow:
 1. Lodging complaints to the procuring entities (article 38)
 2. Lodging complaints to Ministry of Economy and Finance (article 39)
 3. Lodging complaints to the court (article 40).

- Provide for a thorough selection of personnel responsible for procurement, including screening procedures; as well as establishing a conflict of interest management system with declarations of interest and methods to resolve conflicts in particular cases;

- According to article 11 of Law on Public Procurement (2023), in the implementation of procurement works, head, vice-head, and all members of procurement committee, bidders, and other relevant officials and persons must abide by the Code of Ethics.
- The details of Code of Ethics are set forth in Circular on Procurement Code of Ethics dated August 31, 2016 which includes:
 - Principle of Procurement Code of Ethics related to conflict of interest, corrupt practise, the receiving of undue advantages, competitiveness, fairness, auditing etc.
 - The responsibilities of each relevant entity and persons to abide by the Code of Ethics such as Ministry of Economy and Finance, Head of Procurement Entity, Procurement Committee, and Official of Procurement Committee
 - Sanction for the Violation of the Code of Ethics.

- Put in place other administrative practices promoting integrity in procurement (such as the rotation of personnel, debarment procedures, etc.).

- Law on Public Procurement (2023) contains sanctions for the violation of the law. For example, public officials that violate provisions set forth in the Law on Public Procurement or are found to be related to any irregularities in the process of procurement work shall receive sanctions.
- In addition, based on article 35 and 40 of the law on common stature of civil servants of the kingdom of Cambodia 1994, public officials that violate provisions set forth in the Law on Public Procurement or are found to be related to any irregularities in the process of procurement work, they may result in the application of disciplinary sanctions provided in Article 40 of this law, without prejudice to possible penal proceedings.

2. Please describe (cite and summarize) the measures/steps your country has taken, if any (or is planning to take, together with the related appropriate time frame) to promote the effective use of technology to prevent, detect, deter and counter corruption in procurement.

States parties and signatories may wish to provide information on measures that:



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- Utilize technology, such as online platforms for the distribution of information relating to public procurement and tenders as a way to prevent corruption, enhance transparency and ensure competition and objective criteria in procurement decision-making.

Information sought may, in particular, include the following:

- Description of any electronic system of public procurement, including, for example:
 - The means by which tender invitations are published;
 - The inclusion of all pertinent information on the award of contracts;
 - Ways in which applications may be submitted (including the use of electronic procurement platforms); and
 - Ways in which the criteria to be used for selection and award are publicized.
 - Any other ways, in which technology is used in the procurement process
 - Any other ways, in which technology is used to detect corruption or identify irregularities.

- The Royal Government of Cambodia established Public Procurement Reform Strategy 2019-2015 since 2017 with the purpose to transform public procurement system to be a system that is trustworthy, effective, competitiveness, economical and in line with international standards. The main composition of public procurement system to be prioritized includes:
 - 1) The preparation and approval of procurement plan
 - 2) The implementation of public procurement work
 - 3) The monitoring and evaluation of procurement work
 - 4) The strengthening of independency of complaint mechanism and the establishment of sanction system
 - 5) Supporting infrastructure such as the amendment of legal framework, the public procurement manual, the use of electronic public procurement system (e-GP) and capacity building.
- Based on the Public Procurement System Reform Strategy 2019-2025, the General Department of Public Procurement of the Ministry of Economy and Finance (MEF) will implement public procurement of digital goods and services through e-GP in the future, and it will continue to learn from experience to modernize this work further.
- Recently, the MEF issued Instruction No. 006 dated 13 May 2022 on the implementation of full procurement function of Financial Management Information System (FMIS) for ministries and institutions and the authorized budget entity with full procurement functions including: 1) bidder list management 2) procurement planning 3) bidding process management and 4) contract management.
- In the future, the MEF will gradually add more procurement functions to the FMIS system. The preparation and implementation of e-GP procurement will be based on an assessment of the procurement system and the evolution of FMIS.

When providing information on the use of technology to prevent, detect, deter and counter corruption in procurement, States parties and signatories may wish to refer to their submissions for the sixth meeting of the Working Group, held in 2015.

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3. Please outline actions required to strengthen or improve the measures described above and any specific challenges you might be facing in this respect.

Examples of the types of challenges States parties and signatories may have faced include:

- Challenges in developing the proper legislative framework;
- Coordination challenges between government agencies responsible for integrity in procurement and other bodies;
- Communication challenges between government bodies, agencies responsible for integrity in procurement, and business community representatives;
- Other implementation challenges; and
- Financial challenges with respect to maintaining sufficient and consistent funding for government bodies and other government agencies responsible for integrity in procurement and management of public finances.

4. Do you require technical assistance in relation to the measures described above? If so, please specify the forms of technical assistance that would be required. In case you have received or are receiving technical assistance to implement these measures, please indicate so in your response.

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