



UNODC

United Nations Office on Drugs and Crime

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;
- Establishing in advance the conditions for participation, including selection and award criteria and tendering rules;
- Provide for sufficient time to potential tenders to prepare and submit their tenders and using by default an open tender procedure;
- Provide for transparent publishing of all procurement decisions including publishing the invitations to tender;
- Establish procedures, rules and regulations for review of the procurement process, including a system of appeal;
- 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;
- Put in place other administrative practices promoting integrity in procurement (such as the rotation of personnel, debarment procedures, etc.).

Ans: To ensure the national procurement system is based on principles of transparency, competition and objective criteria in decision-making the President's Office of Myanmar issued the Directive No. 1/2017, Tender rules for Business Activities, to comply the government departments and organizations in construction, purchase, procurement of services, lease and sale.

Besides, From the former President's office, the following documents were issued:

1. "Instruction on Project Bank: Instruction No. 2/2018"
2. "Directives to be followed in State-owned land, Leasing of buildings; Transfers and Joint Ventures: Directive No. 3/2018"

3. “Construction Procedural instructions that set the standard for tendering and soliciting state funds for businesses: Instruction No. 7/2020”.

Additionally, the former Ministry of Planning, Finance, and Industry published:

“Notification No. 1/2020”, which pertains to voluntary proposals submitted in accordance with the procedure for the competitive tendering process, without invitation from the government.

In addition, the Ministry of Construction issued a "Business Directive for Implementing a Business under a Contract System" on 9/1/2014 and 6/9/2014 concerning construction works implemented by the Union, Regional and State departments and organizations.

This procedure is issued for tender processes undertaken by the Union, Region and State government departments and organizations in order to prevent any waste of public funds, corruption, a tender monopoly of any individuals or groups as well as to create fair competition, transparency, responsibility, accountability and to cause such kind of construction, purchases, procurement of services, lease and sales that are beneficial to and effective for the country and the public.

The Union, Region and State government departments and organizations shall notify the Union Government to avoid any doubts from the public related to the construction, purchase, procurement of services, lease and sales if entrepreneurs or companies which won the tender have a family, social, business or project-related relationship with the competent authority from the Union ministry. Moreover, the tender selection process shall be conducted fairly and transparently without abuse of power, authority and influence.

A "Tender Committee", "Committee for Calculating the Floor Price", "Tender Acceptance and Evaluation Committee" and "Tender Quality Assurance and Acceptance Committee" shall be established for the Union, Region and State government departments and organizations for construction, purchases, procurement of services, lease and sales.

All persons involved in the sale of state-owned property, tendering or purchasing goods, procurement of services and procurement of non-consultation services shall be ethical and avoid bribery and corruption. If there is bribery and corruption, the following shall be done:-

- (a) Cancellation of the contract and the tender.
- (b) Acting against the employees from the purchasing departments and organizations in accordance with the existing rules and regulations.
- (c) Banning the bidders, suppliers or purchasers from other tenders.

If there are any complaints, the Tender Committee shall investigate if a bidder complains about a grievance stemming from the tender selection process with sufficient evidence. If he/she is not satisfied with the decision of the Tender Committee, the Ministry of Planning and Finance shall establish a complaint resolution team with the permission of the Union government comprising at least 3 representatives from the ministries. The complaint resolution team shall perform the following tasks:

- (a) Accepting, recording and screening the complaints related to purchasing.
- (b) Discussion with the bidders who complained.
- (c) Deciding on the complaints.
- (d) The decision of the complaint resolution team shall be final and binding.

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:

- 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.

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.

Ans: When calling an open tender for the construction, purchase and procurement of services with a value from Ks. 10 million to Ks. 100 million, it shall be necessary to prominently announce these two weeks prior to the specified tender opening date on the notice board of the relevant ministry, general administration department, district and township administration office. Moreover, at least 3 persons from the relevant department or organization shall be included when establishing the Tender Acceptance and Evaluation Committee in addition to the authorized persons from the competent department. An open tender for the construction, purchase and procurement of services with a value of more than Ks. 100 million shall be prominently announced at least twice in the state- owned media one month prior to the tender opening date. Likewise, it shall also be announced at least one month prior to the opening date on the ministry's website.

The purchasing department or organization shall evaluate the tender in accordance with the evaluation standards prescribed in the tender documents. The evaluation of the tender bidders shall be done as follows:-

- (a) Documents complete?
- (b) Tender guarantee.
- (c) Whether the bidder meets the specified capacity.
- (d) Permission from the producer if required.
- (f) Experience of the tender bidder.
- (g) Compliance with the specified standards.
- (h) Compliance with the specification of the business.

Whether the bidder will win or lose the tender shall be decided based on these Criteria.

The tender opening shall be recorded on photo and video for tenders where the purchase amount is higher than Ks. 1 billion.

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;

Ans: Coordination Challenges: Ensuring effective coordination between various government agencies responsible for integrity in procurement, which is essential for a consistent and unified approach to procurement practices.

Communication Challenges: Establishing clear and open lines of communication between government bodies, agencies responsible for procurement integrity, and representatives of the business community to foster transparency and trust.

Implementation Challenges: Overcoming practical problems in implementing directives and policies, especially in the context of Myanmar's ongoing political and economic transitions.

Financial Challenges: Securing sufficient and consistent funding for government bodies and agencies responsible for procurement integrity and public finance management, which is crucial for sustaining reform efforts.

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.

Ans: Capacity Building: Training programs for procurement officials to enhance their skills in using e-procurement systems and understanding anti-corruption practices.

Software and Hardware: Provision of necessary software and hardware to support the implementation of e-procurement systems

Legal and Regulatory Support: Assistance in developing a robust legal framework that supports transparency and accountability in procurement processes.

Technology Transfer: Sharing of technology and expertise related to e-procurement systems, including software and best practices for their implementation.

Monitoring and Evaluation: Support in setting up systems to monitor procurement processes and evaluate the effectiveness of anti-corruption measures.

International Cooperation: Facilitation of partnerships with other countries to share experiences and best practices.