

## **REFORMS TO THE PUBLIC PROCUREMENT POLICY OF SRI LANKA**

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### **An Overview**

The volume of public procurement in Sri Lanka has significant ramifications to the National economy. The annual public investment target is well above Rs. 100 billion which coincides with the volume of procurement in the public sector. Hence, the efficacy of the procurement system is an important determiner which affects the economic growth of the country. The recent Tsunami rehabilitation activities have induced the volume of procurement activities in manifolds within a shorter period of time.

The country's procurement capacity is well reflected in the '*Country Procurement Assessment Report*' (CPAR ) published by the World Bank in June 2003 in collaboration with the Government of Sri Lanka, (GOSL) the Asian Development Bank, (ADB) and the Japan Bank of International Corporation (JBIC) . The prime objective of public procurement system is to facilitate economic development activities in the country, so that the challenge is how to obtain financially the most advantageous and qualitatively the best services and supplies through an expeditious process without sacrificing the quality, integrity and transparency.

The major weaknesses perceptible in the procurement system are the extensive delays in contract awards and non-compliance to rules and regulations. This has been exacerbated by frequently changing, inconsistent guidelines, poor monitoring, inadequate knowledge and skills, lack of expert advices and institutional support, non-availability of standard contract documents and specifications, weak contract administration etc., resulting in huge cost and time over-run in many development projects. This has direct negative consequences on critical economic development projects of the country. In a nutshell, the procurement system has been evident as a stumbling block which has a significant influence in slowing down economic development activities of the country.

An inefficient and ineffective procurement system has a serious negative effect on good governance of the country, particularly good public sector Governance, as it fails to generate desired results to ensure value for money of public contracts and transparency and accountability in offering and selecting public tenders. Hence, establishing an efficient and effective procurement system is central to achieve good governance of the country and is an integral component of public sector reforms.

The establishment of a National Procurement Agency (NPA) as an independent regulatory body to oversee procurement monitoring, capacity building and policy related matters is a major strategic policy- decision taken by the government to address the issues. The NPA has been established by Her Excellency the President in pursuance of the powers vested under Article 33 of the Constitution of the Democratic Socialist Republic of Sri Lanka and will be incorporated by an act of Parliament as a Statutory Body. The objectives of the NPA are:

1. To streamline the Government procurement system and standardize same to be equally applicable to all Government Institutions;
2. To ensure better transparency and good governance in relation to government procurement awards;
3. To ensure that all parties who are eligible and desirous of participating in public bidding are afforded an equal opportunity;
4. To ensure that the government will get best value for money in terms of price, quality and timely delivery;
5. To ensure that government procurement system is made efficient and simplified in order to promote development needs of the country;
6. To put in place a monitoring system relating to selection of successful bidders and award of government tenders.

A Five Year Action Plan (2004–2008) has been prepared in line with the strategic vision of the agency.

### ***The Vision***

*“To be recognized as an esteemed and dynamic public entity promoting an efficient, effective, transparent and accountable procurement system for Sri Lanka.”*

Integrity, confidentiality, transparency, accountability and professional ethics are core values governing the activities of the National Procurement Agency.

In order to realize the above vision, a series of action plans have been initiated by the NPA to re-engineer the public procurement system and processes in a phased out manner. The reform initiatives taken so far include.

## **1. Procurement Policy Reforms**

### *(a) Government Procurement Guidelines*

The existing Government Tender Procedure of 1997 has been revised in a manner to provide precise, user-friendly policy directions to government agencies on procurement related issues without providing room for frequent changes, ambiguity or confusion. This will also provide a firm regulatory framework for public enterprises to formulate their own procurement manuals in line with their objectives and requirements. Two separate guidelines will be issued for construction works, goods, related services and selection and employment of consultants separately in all national languages.

### *(b) Harmonization Provisions*

The existing Government tender procedures are not harmonized with the guidelines of major international funding agencies. As a result, public officers as well as contractors and suppliers face difficulties as they have to comply with different rules and procedures. Therefore, the NPA has endeavoured to revise the current Guidelines with a view to harmonizing to the maximum extent possible with that of the requirements of the international funding agencies. It is envisaged that this would simplify that procurement procedure.

### *(c) Procurement Guidelines for Emergency Procurement*

Introduced harmonized and simplified procurement guidelines and standard bidding documents (SBD) for emergency procurements, which could be used for Tsunami reconstruction activities as well.

### *(d) Development of Procurement Manuals*

Two manuals will be issued giving details of steps to be taken for each procurement action. These Guidelines and Manuals will be issued in three language; Sinhala, Tamil and English for the first time.

Parts 1 of the Guidelines and the Manual respectively have been finalized and are ready for printing.

### *(e) Development of the NPA Website*

The NPA Website will provide procurement information such as the Guidelines, SBDs, advanced procurement notices, advertisements, publication of contract awards and publication of blacklisted contractors/suppliers and also will be used for web-based procurement monitoring tool. Hence, this would pave way for a staged e-procurement system as well.

*(f) Procurement Appeal Board*

Established under the Presidential Secretariat to consider appeals/challenges against contract awards.

*(g) Development of Standard Functional Specifications*

A series of standard specifications will be developed for goods that are commonly and regularly procured to introduce consistency and increase competition through a non-discriminatory and clear evaluation criteria. This will be published on the web site to invite comments from manufactures, suppliers and users for refinement.

*(h) Development of Standard Bidding Documents (SBDs ) and Requests for Proposals (RFPs)*

A set of harmonized SBDs for minor, medium and major works and design and build contract documents and SBDs for general goods, health sector goods, supply and installation of plant and information systems and contract documents for general goods have been completed or are in the draft stage. In addition, a set of RFPs for consultancy procurement has been completed. These contract documents will be published in the NPA website after obtaining legal clearance, so that there will be significant time and cost savings in preparation of bidding documents.

***Reform Focus:***

To provide harmonized procurement guidelines to streamline the procurement system and thereby ensure efficiency, transparency and equal opportunity in the procurement process.

**2. *Procurement Monitoring***

A regulatory body which is independent from implementation of procurement activities has been identified as a dire need to oversee procurement monitoring of the government. As such, establishing an effective monitoring mechanism has become the highest priority of the policy reform agenda of the NPA. In the absence of such an institution, procurement monitoring activities of the government had

virtually collapsed during the past years, resulting in a low disbursement rate, both in donor funded projects and domestically financed projects. The following reform initiatives have been taken to establish an effective monitoring system;

(a) *Procurement Planning*

Procurement Planning would address two aspects. Firstly, it facilitates to scrutinize whether spending agencies comply with accepted procurement procedures. Secondly, it will help to monitor whether procurement actions are done in accordance with predetermined time targets. Even though procurement planning is a mandatory requirement for most of the foreign funded projects, this has never been practiced in domestic funded projects. However, in the absence of a close monitoring mechanism, a procurement plan become a mere document with no value. The NPA within a very short period of its office was able to prepare composite plans in respect of Cabinet level tenders at the first instance, through the respective Secretaries of line ministries. This will be extended to other levels of tenders. These procurement plans are being closely monitored.

(b) *Procurement Activity Schedules (PAS)*

Secretaries of line ministries are required to submit PAS pertaining to CATB level contracts at the initial stage. At the moment, PASs have been submitted in relation to almost all Cabinet level contracts that are financed by foreign funding agencies and about fifty percent of domestic funded tenders. This has facilitated NPA to monitor each activity very closely and to take corrective action. This will also be extended to other levels of contracts stage by stage in order to cover almost all procurement activities of the country.

(c) *Procurement Liaison Officers*

The Procurement Liaison Officer is a new concept introduced by the NPA as an initial step of the intended Procurement Cadre. A separate unit, equipped with experienced and skilled officials in procurement is a long felt need for effective monitoring and coordination. The liaison officer is responsible for pre-procurement activities, assisting to prepare and maintain the data base in respect of all contracts at the line ministry, reporting of status to the NPA and taking corrective measures immediately to avoid delays. An incentive payment has been introduced based on their performance. This incentive will be extended to departments involved in procurement of high value and volume.

(d) *Progress Review*

Periodic meetings are convened by the NPA with Secretaries of Ministries, Liaison Officers and other staff to review the progress of Procurement Plans and also to assist them to take corrective measures on procurement issues. This is also a forum for line ministries to put forward their problems and obtain expert advices to resolve them.

The NPA has appointed 36 Cabinet Appointed Tender Boards (CATB) and 32 Cabinet Appointed Negotiation Committees (CANC) and have so far gathered the current status of 44 CATB Tenders and 32 Local Funded CATB Tenders. The present position of the Tenders is given below:

<i>Progress of Tender Boards (CATB)</i>	<i>No. of Tenders</i>	<i>Percentage</i>
<i>Foreign Funded:</i>		
1. Procurement activities have been completed as scheduled.	17	38%
2. Procurement activities are being carried out with less than one month delay.	08	18%
3. Procurement activities are being carried out with more than one month and less than three months delay.	06	13%
4. Procurement activities are being carried out with more than three months delay.	13	31%
<i>Local Funded:</i>		
1. Procurement activities have been completed as scheduled	11	34%
2. Procurement activities of the tenders are being carried out with less than one month delay.	12	38%
3. Procurement activities are being carried out with more than one month and less than three month delay	06	18%
4. Procurement activities are being carried out with more than three months delay.	03	10%

Note

*The above table includes tenders subject to pre tender board activities, tender board completing activities and tenders completing procurement activities.*

NPA has taken effective and close monitoring action on the delays on procurement. Accordingly Ministries have been requested to prepare Tender documents before appointment of Tender Boards and requested to revise the current procurement activity schedules in order to put the delayed projects back on track. Given below is the progress after rescheduling the procurement activities, categorising and identifying incompleteness of pre-procurement activities and obtaining donor concurrences.

<i>Progress of Tender Boards (CATB)</i>	<i>No. of Tenders</i>	<i>Percentage</i>
<i>1. Activities are being carried out according to schedules</i>	<i>56</i>	<i>74%</i>
<i>2. Procurement activities carried out with less than one months delay</i>	<i>20</i>	<i>26%</i>

*Note:*

*NPA has taken effective and close monitoring action to ensure that the procurements are completed within the revised deadlines.*

*(e) Interactive web-based Procurement Monitoring System*

The manual monitoring system has become extremely difficult. Therefore, action has been taken to establish an interactive web-based monitoring system. Consultants have been appointed to develop the system. This system will be in operation within 2-3 months. As a result, Project Directors, Project Managers, Liaison Officers, etc., would be able to interact with the NPA through the "On line Monitoring system." This system will be able to arrest persistent delay in the public procurement system.

*(f) Pre- procurement Activities*

Draft circular has been sent to Secretary to the Treasury to request all government agencies to complete procurement preparatory activities such as preparation of Drawings, plans, BOQs etc well in advance to catch up delays. Since the delay in procurement is mainly due to delays in preparatory activities, this arrangement would avert such delays in the future. The Treasury has agreed with the instructions recommended by the NPA and will issue a circular with the Budget Circular of 2005, to implement the proposal in a phased out manner.

*(g) Accreditation of TB/TEC members*

To ensure a quality and speedy contract evaluation process, accredited TB/TEC member shells have been established, by using serving and non-serving public officers based on their competency and integrity.

***Reform Focus***

*To have effective monitoring and coordination mechanism in place*

### **3. Capacity Building**

In order to strengthen the procurement capacity and sustainability, the following reform initiatives have been taken:

*(a) Short-term training*

To provide training needs of the government, Training Plan (2004-2006) and the Training Calendar for 2005 have been prepared to impart knowledge and improve skills on different aspects of public procurement. This training will be provided not only to public officers but also to contractors, suppliers, auditors etc. The 2005 Procurement Training Calendar was circulated and it received a tremendous response from all parties. The training programmes are in progress.

*(b) Diploma Course*

Action has been taken to commence a one year diploma course in Public Procurement and Contract Administration from 02<sup>nd</sup> June, 2005 in collaboration with the Sri Lanka Institute of Development Administration (SLIDA) under the patronage of the IDA grant. This is one of the long term strategies of the NPA. This will narrow down the vacuum in procurement expertise in the long run.

*(c) Introduction of Public Procurement Subject*

Action will be taken to include Procurement and Contract Administration as a subject to university degree syllabi and curricular of the Law Collage as a strategy to inculcate public procurement management as a separate discipline in higher education.

*(d) Procurement Resource Centre*

A procurement Resource Centre has been established to facilitate further studies and research activities.

*(e) Research and Development Activities*



It is paramount to undertake research activities to ascertain the achieving of expected outcomes of development projects including the sustainability of construction work. This has to be done through professional organizations and universities. However, R and D activities will be initiated through project report activities of Diploma participants which is a partial requirement of the diploma course.

*(f) Establishment of a Procurement Cadre*

A separate cadre for procurement service in the public service is a prerequisite to develop the procurement system. The request made by the NPA to initiate such a service with graduate assistants attached to Ministries have been accepted. The Treasury, in collaboration with the NPA will develop a scheme of recruitment. In addition, action will be taken to expand this service by absorbing existing public officers who are competent in procurement. This will be the core group responsible for procurement management.

**Policy Focus**

*Strengthening procurement capacity in the public sector.*

**4. Technical/Performance Auditing**

The NPA will initiate action to introduce technical and performance auditing techniques and practices in collaboration with the Auditor General in order to ensure that value for money ( economy, efficiency and effectiveness) is achieved in economic development projects and to improve the degree of compliance to prescribed rules and regulations.

**Policy Focus**

*To improve compliance and performance in public procurement*

**5. E-procurement**

In order to improve efficiency, transparency and accuracy of procurement activities in the public sector, actions have been initiated such as publishing SBDs, advanced procurement notices, publication of contract awards, standard specifications in the NPA web site.

However, E-procurement system should be a an integral component of the E-governance process which has already been initiated. But ironically, the e-procurement requirement has not been included to the e-governance process. Discussions are being held to initiate a policy decision to include public procurement activities to the e-governance process.

**Policy Focus** *-To improve Efficiency, accuracy and transparency of the procurement process*

