



PUBLIC PROCUREMENT REFORM IN MOROCCO

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Introduction: Over the last decade Morocco has made important strides in responding to citizen demands for more transparency, accountability, and shared prosperity. This has also extended into the public sector and its varied functions. In Morocco public contracts account for some 17% of GDP and are responsible for critical activities in the economy, including delivery of key public services.² Given its important role, the Government of Morocco (GoM) prioritized public procurement for comprehensive reforms. Starting with 2003 Country Procurement Assessment Report (CPAR) Morocco embarked on a productive dialogue with the World Bank to improve its procurement system and optimize the performance of its public investments. This has involved a multi-faceted set of reforms:

- **Legal Reforms:** There is a new Constitution with a mandate on anti-corruption and on ensuring good governance in the public sector. A new public procurement decree, incorporating international best practice has been enacted and a second decree is slotted for March 2014.



125 Moroccan Procurement Trainees received training from November 2013 to January 2014, supported by a World Bank IDF grant.

- **Reforming the Institutional Framework:** The creation of a central public procurement policymaking body, uniting authority from diffuse procurement bodies.
- **Capacity Building:** Establishing a national procurement training strategy under the Secretary General of the Government (SGG) and the General Treasury of the Kingdom of Morocco (TGR).
- **Modernization of Tools:** New national e-Procurement system to simplify procedures and enhance access to procurement information.

Country Context: Procurement reforms in Morocco can only be fully understood in the context of political and social reforms over the past decade. While Morocco has a history of productive dialogue with the World Bank on public procurement, the events of 2011 brought good governance, anti-corruption, and PFM reforms to the forefront. With the wave of

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² This includes 70% of all the work performed by Moroccan construction firms, and 80% of the work performed by Moroccan engineering firms Source:

<http://www.oecd.org/countries/morocco/44172038.pdf>

change sweeping the MENA region, Morocco was increasingly aware and keen to respond to demands for more transparency and accountability, including in public spending.

A good illustration of this trend was the strong push for expanding accountability on taxpayer funds. Morocco's July 2011 constitution included some 18 articles on transparency, ethics, integrity, accountability, and in a first, clauses on fighting corruption. Morocco also became the first Arab country to introduce a constitutional provision guaranteeing a right to information. In this context, GoM initiated steps to enhance transparency and accountability in the procurement process, including the solicitation of public comments on related laws or regulations. With more information about public contracts available, including amounts and selected bidders, the goal was to expand the oversight role of beneficiaries and civil society, and to strengthen accountability.

Legal Reforms: Even before the Arab Spring and the new constitution, GoM was engaged in legal changes to bring its public procurement framework to international standards. In 2008, with World Bank support, a new CPAR was carried out to update the 2005 edition. A *Use of Country System (UCS)* assessment³ followed, identifying key gaps in the national procurement system:

- The lack of a credible, independent, and operational complaints handling system
- The exclusion of certain types of contracts⁴ from the main regulations governing public procurement
- The inapplicability of public procurement decrees over decentralized entities

³ The UCS assessment is now known as the Methodology for Assessing Procurement Systems (MAPS) self-assessment.

⁴ Specifically, (i) contracts entered by public and state-owned corporations/enterprises, (ii) service provisions by architects (excluding those from a competitive process) and (iii) concessions.

- The lack of a national framework and capacity building strategy for public and private stakeholders

In response, two major decrees on public procurement were drafted and published for consultation in 2013. The first decree became effective on January 1st, 2014, and the second decree is expected to be enacted in March 2014. Among other new elements, they provide the legal basis for the unification of the regulatory framework, now also applying to administrative State Owned Enterprises (SOEs) and all levels of local government. They also introduced electronic procurement, opened architects' contracts to competition, and mandated that 20% of public contracts be allocated to SMEs.

Institutional Reforms: Procurement in Morocco is a complex task given the government's institutional setup. Historically, TGR has been the World Bank's traditional counterpart on procurement reform. However, the second decree will create a new policy, complaints handling, and training body, the "*Commission Nationale de la Commande Publique*" (CNCP). It is hosted in the SGG for more independence from line ministries and large public buyers. With this new mandate, the SGG, a key institution in the government, takes on an expanded role in procurement policy, reform, and oversight.

As noted, past assessments have identified the system of complaints handling as a key reform area. Though 17% of GDP is spent through public procurement, no more than 25 official complaints are filed each year. When a company had a grievance about a contract and suspected wrongdoing, the only option for redress was to file a complaint directly with the procuring entity that had awarded the contract. Many bidders feared retaliation, retribution, or damage to their ability to compete for future tenders. Thus, a key objective behind the reform of the procurement regulatory body was to create a new independent and objective body with the authority to handle grievances.

Starting in 2011, SGG started to gather the resources and skills to implement this expanded oversight function, including via a

World Bank-financed US\$400,000 Institutional Development Fund (IDF) grant. As an autonomous body, the CNCP will have its own budget, dedicated staff, and appropriate authority. Enhancing CNCP capacity, including in policy making, is an iterative process. There is more to be done to enable it to fully carry out its new responsibilities, and strengthening stakeholder capacity will be critical.

Capacity Building: GoM recognized it needed a targeted and comprehensive effort to strengthen procurement skills within the civil service and stakeholders in the judiciary, administrative, and private sectors. Towards this end, a national public procurement capacity building strategy was finalized in December 2012, with implementation beginning in 2013. In the short-term, it endorses the training of trainers focusing on government officials responsible for procurement. With the support of the World Bank's IDF grant, 125 trainers were trained in Morocco from November 2013 to January 2014. In the medium-term, the strategy highlighted the need for a regulatory authority to be responsible for overseeing the design and delivery of the training programs at all levels (the CNCP). With the new trainers, GoM expects some 6,000 practitioners in government ministries, external services, local governments, controls and other institutions will be trained. These will include face-to-face courses, e-learning, mentoring/coaching, and sessions in cooperation with international institutions.

Capacity building efforts were also supported by the Deauville Partnership, a multi-partner initiative launched by the G8 to support Arab countries engaged in democratic transitions. This additional \$250,000 will help to fund more training of procurement trainers and local governments via the Ministry of the Interior. They will also support efforts of the National Agency for the Promotion of SMEs (ANPME), with TGR collaboration, to train SMEs on public procurement opportunities, especially via the new e-system.

Modernization of Tools: Morocco has been a leader in the MENA region in modern e-Procurement systems designed to increase the efficiency of public expenditures. Morocco's

home-grown system, now many years in the making, is viewed by its champions as one of the key components of the country's commitment to promote transparency and fight corruption. It also represents a significant tool to simplify the process of tendering, lowering barriers to entry and encouraging competition.

With the support of two other IDF grants, the government has developed a procurement web portal with a comprehensive information and dissemination system for public buyers and the private sector. The benefits of Morocco's e-Procurement advances are tangible and far-reaching: tenders can now be published online in less than two minutes, a comprehensive database of government suppliers and contractors is available on the site, and important procurement information is available in real time.

And with upcoming features like bulk electronic purchasing, reverse auction and expansion of e-tendering to be piloted in the coming months, Moroccan e-Procurement is poised to take off. The system will be able to greatly improve efficiency by dramatically reducing the time required to complete the bidding process, helping to conserve valuable government resources. As a user-friendly tool, the e-portal reduces costs not just for the government, but also for firms wishing to enter the public market. Rather than having to resubmit the same documents, the system can store a firm's administrative authorizations and other required information.

E-Procurement is also expected to help small businesses by leveling the playing field and closing the information access gap between large and small firms. By bringing more private sector players into the system and increasing competition, e-Procurement in Morocco is expected to lower prices by approximately 8%, according to government estimates.⁵

Success Factors: Morocco has been a trailblazer in MENA on procurement, and has consistently shown that it is one of more advanced and

⁵ Source: TGR

determined countries in improving their regulations. However, Morocco has benefited from a number of factors that have made reform more palatable than elsewhere. GoM has demonstrated high-level support for and commitment to the procurement reforms. The Ministers of Economy and Finance, General Affairs and Governance (MAGG), the SGG, and the TGR Director General have all been strong reform proponents and have helped push many legal changes. Without making procurement a priority, these efforts could have stalled for years when faced with conflicting interests.

Morocco also has the advantage of strong institutions that have the authority and the resources to lead reforms. For example, the TGR's centralized model and strong network of practitioners/controllers has enabled the effective dissemination of new information and training about laws within their department and beyond. The Inspector-General of Finance (IGF) auditing body is another high-capacity institution that can help in implementation. Given the quality, coverage, and frequency of the agency's audits,⁶ the World Bank is working with them to launch a FY15 pilot program to coordinate on the Post Procurement Review of Bank-financed projects.

Finally, GoM has been aided in all of these efforts by its close collaboration with the World Bank. From the inclusion of procurement in the dialogue over Bank-financed Development Policy Loans (DPLs), to constant technical consultation on various reform aspects (legal, institutional, implementation, enforcement), to the provision of resources to support capacity building efforts (including four IDF grants), the World Bank and Morocco have partnered diligently to improve public procurement in the country.

Conclusion: Morocco still faces many challenges in improving its public procurement system. For instance, significant payment delays are common for contractors, in particular hurting SMEs, and inhibiting their ability to enter or remain in the public market.

⁶ The World Bank's assessments and analysis of the IGF's audits found that they cover all provinces, every year.

The decree could be amended to cover most (not just administrative) SOEs.⁷ Practices in the field can be improved to better align with international standards. In addition, the complaints handling system necessitates continued improvements, and the extension of the new regulations to local governments will require sustained capacity building efforts. In all of these areas, Morocco has struggled to ensure that the pace of the implementation of the reforms matches the breadth of their impact. And in the background, corruption still remains a harmful factor in the field. The key challenge for the future will be transferring the intentions behind the new laws and initiatives into actual changes in practices and behaviors on the ground.

Here as well, the World Bank is working side-by-side with the Government of Morocco to come up with a realistic strategy for progress. As part of a new and innovative regional study "*Enabling Implementation of Public Procurement Reforms*," funded by the Bank's Governance and Anti-Corruption (GAC) Fund, the GoM is developing a reform implementation strategy to address the specific factors affecting the progress of the reforms, and identifying entry points, type, and sequence of subsequent interventions. By moving beyond the traditional technical analysis of public procurement reforms, and assessing the broader environment for change and implementation, the Government of Morocco stands poised to take the next steps to improve its system and enhance results for its citizens.

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⁷ There may be some commercial exceptions like the National Airlines Company, for example, which may have to stick to the private sector practices of their competitors.