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Strengthening Public Procurement Reforms In Pakistan



ASP-RSPN

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1. Acronyms

ADB	Asian Development Bank
AGPP	Advisory Group on Public Procurement
AJK	Azad Jammu and Kashmir
ASP	Assessment and Strengthening Program
B&R	Buildings and Roads
CBP	Capacity Building Plan
ERP	Enterprise Resource Programme
GDP	Gross Domestic Product
GoB	Government of Balochistan
GoKP	Government of Khyber Pakhtunkhwa
GoS	Government of Sindh
HR	Human Resource
KP	Khyber Pakhtunkhwa
LMS	Learning Management System
M&E	Monitoring and Evaluation

NIP	National Institute of Procurement
NPS	National Procurement Strategy
NWFP	North West Frontier Province
P&D	Planning and Development
PEC	Pakistan Engineering Council
PFM	Public Financial Management
PPRA	Public Procurement Regulatory Authority
RSPN	Rural Support Programmes Network
SBD	Standard Bidding Document
USAID	United States Agency for International Development

2. Context And Overview

Public procurement is a key element of a government's development activities and is vital to ensure transparency in public expenditure. Internationally about 10 to 15 percent of GDP is spent through public procurement which is nearly 40 percent of the total public expenditure. Without an efficient procurement system large sums of public money can remain unutilized and be wasted. A malfunctioning procurement system also results in unethical and corrupt practices which not only affect economic development but also reduce citizen's trust in government. A robust public procurement system makes additional resources available for development and leads to better outcomes of expenditure by assigning the tasks to the best possible service provider. This ultimately has a positive bearing on service delivery. An ADB report notes that procurement reforms improve spending efficiency by 1 percent of GDP. Thus this saving could be diverted to other pressing sectors like education, health and municipal services.

Public procurement is at the nexus of governance, anti-corruption and competition, offering opportunities to build on common values of openness, transparency, fairness, competition, value for money and accountability.

Pakistan embarked upon reforms in its public procurement system in 2002 with the promulgation of the Public Procurement Regulatory Authority Ordinance in 2002 and the consequent establishment of the Public Procurement Regulatory Authority (PPRA). Federal government took a lead in initiating procurement reforms and provinces also followed suit. In the first generation of reforms federal and provincial governments have adopted new public procurement laws and have established public procurement regulatory authorities to oversee the implementation of these laws. Pakistan is now one of the few developing countries which have a robust public procurement system at national as well as sub-national level.

ASP-RSPN is collaborating with the federal and provincial public procurement regulatory authorities in deepening the reform process and further strengthening their public procurement systems through a series of second-generation reforms. The main focus of these reforms is on strengthening the legal framework, policy advocacy, institutional capacity building of the regulatory authorities, and the development and improvement of policies, procedures and management systems for effective and transparent procurement processes.

3. Asp-rspn – An Introduction

Assessment and Strengthening Program – Rural Support Program Network (ASP-RSPN) is a five year program funded by the USAID. A substantial portion of USAID development portfolio is likely to be utilized through public sector partner organizations. In Pakistan One of the predicaments of aid delivery mechanism is that many local institutions face institutional capacity issues especially in the area of procurements. This leads to a higher degree of risk, inadequacies in outcomes and consequently serious repercussions for development. ASP's mandate therefore is to partner with institutions to build capacity of Pakistani organizations for effective delivery of aid.

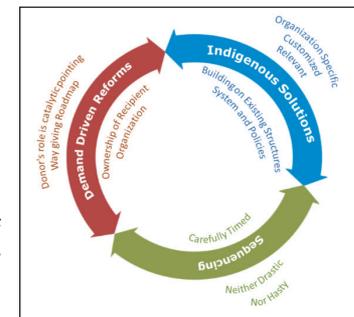


Figure : ASP-RSPN's Approach towards Capacity Building

ASP's support to partner organizations is based on three pillars:

Pillar-I: The basic principle followed by ASP-RSPN approach towards capacity building is to devise an organization-specific, customized and relevant capacity building plan without using a "one-size-fits-all formula" approach. This enshrines the golden rule of building on the existing structures, systems and policies without re-inventing the wheel.

Pillar-II: ASP believes that the reforms should be demand driven and should have the full ownership of the recipient organization.

Pillar-III: The sequencing of interventions is critical and should be carefully timed in order to avoid the possible blow-back which usually happens when reforms are either too drastic or hasty.

ASP-RSPN sees itself as a catalyst whose job is to point the way towards reforms and consensually develop a roadmap of how to get there. It provides positive options to the government whether it wants to tread that path. All Regulatory Authorities in the country have taken up reform seriously and effectively.

Under this guiding principle, ASP has partnered with the federal and provincial governments for several capacity building initiatives in the areas of financial management, human resource management, public procurements, budgeting and planning. Cementing of public procurement regime, which was at a nascent stage in Pakistan, is one of ASP-RSPN's significant achievements.

4. Procurement laws and Systems In Pakistan at the Federal and Provincial level

4.1 Federal Government

4.1.1 Government's Initiatives:

Public Procurement Regulatory Authority (PPRA) was established in 2002 under the PPRA Ordinance 2002. Since its establishment the PPRA has come a long way in developing a sound public procurement system at the federal level. A summary of its achievements is given as follows:

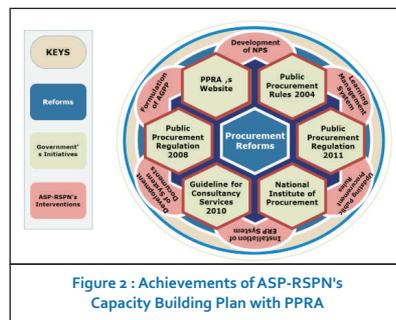
- Promulgation of Public Procurement Rules 2004 which provide a common legal framework for all procuring entities at the national level
- Establishment of the National Institute of Procurement (NIP) which regularly conducts training programmes for officials of federal government's procuring agencies.
- Issuance of the Procurement Regulations, 2008 and 2011 which give detailed guidelines and operating procedures for carrying out procurement in furtherance of the Procurement Rules
- Guidelines for Consultancy Services 2010
- Setting up a website for posting of procurement notices, procurement plans, bid evaluation reports and contract documents

4.1.2 Asp-rspn's Intervention:

ASP-RSPN has joined hands with the PPRA for bringing further reforms through new initiatives. The overarching goal of this collaborative effort is to improve governance, management, transparency, accountability and quality of public procurement of goods, works and services at the federal level.

In consultation with the PPRA, ASP-RSPN developed a Capacity Building Plan for implementing PPRA's reform agenda. Under the CBP ASP-RSPN has provided the technical assistance in the following areas:

1. Formation of the Advisory Group on Public Procurement – ASP-RSPN has provided catalytic support to the PPRA in establishing the AGPP. Working under the aegis of the PPRA, AGPP is a voluntary association of all procurement regulatory authorities in the country. Federal finance ministry as well as the provincial finance departments are also members of this group. Public procurement in Pakistan is a provincial subject but a need has always been felt to create harmony in laws, rules and regulations governing public procurements in the country to facilitate businesses and encourage more private sector involvement. Formation of the AGPP is an important milestone in harmonization of different procurement regimes in the country and developing a common vision on ensuring transparency and efficiency in procurement. So far two meetings of the AGPP have been held which were attended by representatives of the federal and provincial PPRA's, finance departments of all provinces as well as AJK and Gilgit Baltistan and staff of the international development agencies. These meetings have been fruitful in terms of deliberating and approving the national Procurement Strategy and learning from each other's experience for making the public procurement systems more robust. ASP-RSPN has provided logistical support for holding these meetings which are becoming a useful platform for all members to share and learn from each other's experience.



2. Development of the National Procurement Strategy (NPS) - The strategy is a landmark policy document which has been developed in consultation with all stakeholders including federal and provincial governments, private sector and the development partners. The strategy sets the direction of public procurement regime in Pakistan and lays out a roadmap of sequential and sustained reform measures for the public procurement systems at federal and provincial levels.

National Procurement Strategy (2013-16) is a unanimously approved document which lays out a common vision and outlook on making procurement process more efficient and transparent in the country. It gives a complete roadmap and timelines for reforms in four broad areas: legal framework; institutional arrangements; monitoring and oversight and capacity building

3. Development of a Learning Management System - LMS is a customised web-based system for online training for officials of procuring agencies through lecture videos, hand-outs, power point presentations, quizzes, assignments, and online evaluation/tests etc. LMS will supplement the classroom trainings that National Institute of Procurement currently provides and will build PPRA's in-house capacity to expand the coverage of procuring agencies for training purposes. Class-room trainings that NIP currently provides are inadequate to meet the ever-increasing demand from various ministries and departments of the federal government to train their procurement staff. LMS would be a cost-effective way to meet this demand in an efficient manner.

4. Development of System Documents: ASP-RSPN has provided support in developing, updating and consolidating system documents including standard bidding documents (for goods, works and services). ASP-RSPN's experts have assisted the PPRA in upgrading and improving the Public Procurement Rules to bring them in line with the international best practices. Draft Rules and bidding documents have been circulated to the relevant stakeholders for feedback before their formal adoption.

5. Development of an ERP system - ASP-RSPN's team has assisted PPRA in developing a comprehensive, end-to-end automated solution of PPRA's business needs that will help bring

efficiency and effectiveness in its operations. PPRA's website has also been revamped under the same intervention to make it more functional and user-friendly.

4.1.3 Planned Initiatives:

Under the spirited leadership of PPRA's management, ASP-RSPN is working on further initiatives which include establishment of an M&E system and institutional structures for ensuring internal controls and compliance with standard procedures; capacity building of procurement staff; revisions of composite schedule of works and advocacy to mobilize the support of the civil society and public representatives for a transparent procurement framework in the country.

4.2 Balochistan

4.2.1 Prevailing Public Procurement Regime:

The Government of Balochistan enacted the Balochistan Public Procurement Regulatory Authority Act in 2009. But since then the progress has been slow. Public Procurement Regulatory Authority has not been established neither Procurement Rules have been developed. In the absence of these, procuring agencies of Balochistan continue to follow the Balochistan Purchase Manual and the Building s & Roads (B&R) Code which are quite outdated and cannot cope with the requirements of a modern public procurement system.

4.2.2. Asp-rspn's Initiatives:

In consultation with the Government of Balochistan, ASP-RSPN prepared a Capacity Building Plan for institutional development and strengthening of the public procurement regime in the province. CBP consists of two phases. In the first phase ASP-RSPN would assist GoB in preparing the procurement rules, regulations and standard bidding documents (SBDs) that will govern all public procurements in the province. ASP-RSPN would also provide technical assistance for developing Service Rules (HR Manual) for BPPRA's employees, BPPRA's website and an M&E system for effective working of the authority. Phase II envisages a detailed plan for hand-holding and capacity building for BPPRA's staff.

So far a number of measures have been taken. As a first step ASP-RSPN deployed a procurement expert for conducting a situation analysis which looked at structural weaknesses of the existing system. The situation analysis report concluded that due to the absence of a comprehensive regulatory regime, the public procurements in Balochistan province suffer from following weaknesses:

- (i) Non-existence of a clear legal framework dealing with procurement of consultancy services.
- (ii) Lack of institutional mechanism for redress of bidders' grievances which lead to litigation and consequent delays in bid awards.
- (iii) Inadequacy of the Purchase Manual and B&R Code to provide for other procurement methods e.g., quality and cost based procurements
- (iv) Want of sufficient accountability provisions in the existing laws, rules to deter fraudulent or collusive practices.
- (v) Dearth of quantifiable and non-discretionary evaluation criteria in the bidding documents.
- (vi) Inadequacy of the contract agreements which do not cover important issues such as price adjustment, mobilization advance, timely payments, penalties in case of delays in performance of contracts or breach of contract by either parties etc.
- (vii) Lack of sufficient capacity and professional expertise in the procuring entities.

The situation analysis would inform the subsequent interventions for improving the legal framework as well as the administrative structure to uphold it.

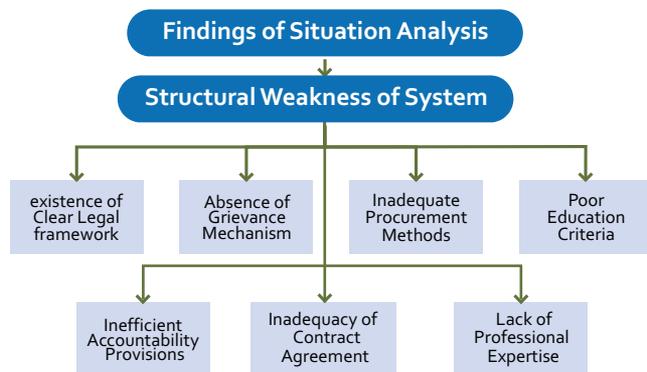


Figure 3: Snapshot of Situation Analysis in Balochistan

ASP-RSPN has also provided support to GoB in preparing Human Resource Manual for BPPRA. The manual is a compendium of rules, regulations and detailed procedures for efficient management of the employees of the authority and is developed within the scope of the applicable rules of Government of Balochistan. Procurement expert deployed by ASP-RSPN has also assisted the government in drafting the Public Procurement Rules. Since ASP-RSPN is working with federal and provincial PPRAs, the Procurement Expert was able to draw from this valuable experience and incorporated the good practices followed in other procurement regulatory authorities into Procurement Rules for Balochistan.

4.2.3 Way Forward:

Government of Balochistan has recently notified the establishment of Balochistan Public Procurement Regulatory Authority (BPPRA) and a Managing Director has been appointed. First meeting of the authority's Board of Directors has been held in which draft Procurement Rules and HR Manual developed with ASP-RSPN's assistance were presented. ASP-RSPN will continue to work with the Government of Balochistan for strengthening of an independent and adequately staffed regulatory authority equipped with robust regulatory framework and laws which are based on national and international best practices. This collaboration will especially focus on the capacity building of procurement staff. These endeavours will result in a well-functioning and transparent procurement system in the province.

4-3 Khyber Pakhtunkhwa

4.3.1 Gokp's Reform Initiatives:

KP was the first province to promulgate a procurement law in 2002, called "The NWFP Procurement of Goods, Works, Services and Consulting Services (Amendment) Ordinance". In furtherance of this Ordinance the Finance Department prepared and approved the Procurement Rules in 2003. However, the Ordinance and the Rules did not receive wide acceptance due to a number of reasons which included the absence of any institutional mechanism for enforcement of the newly adopted law and rules; absence of regulations and standard bidding documents which procuring agencies could use and non-adoption of the rules by several government departments. Therefore, procurement documents prescribed by the Pakistan Engineering Council (PEC) including the standard bidding documents continued to be used by all departments.

4.3.2 Asp-rspn's Catalytic Role:

Procurement reforms were rekindled in Khyber Pakhtunkhwa after almost a decade. ASP-RSPN played a catalytic role in revival of these reforms by developing a comprehensive Capacity Building Plan which envisaged provision of support to GoKP in establishing a public procurement regulatory authority with the mandate to prescribe and enforce procurement rules for all public sector organizations in the province. The Public Procurement Regulatory Authority Act Khyber Pakhtunkhwa was enacted in September 2012 which established the Khyber Pakhtunkhwa Public Procurement Regulatory Authority (KP-PPRA). Government of Khyber Pakhtunkhwa has envisioned a phased approach for institutional development of the authority. The first phase consists of establishment of KPPRA as an autonomous entity while the second phase will consist of building its institutional capacity. Through its Capacity Building Plan ASP-RSPN is partnering with the GoKP for implementing this reform programme. So far the following achievements have been made:

ASP-RSPN deployed a team of specialists consisting of HR, financial and procurement experts for implementation of the CBP. With support from ASP-RSPN's Procurement Expert, Procurement Rules have been updated/ revised and shared with the government. The draft Rules have been sent to the Law

Department for vetting after which these will be notified. The Procurement Expert has also assisted in upgrading and improving the standard bidding document which the procuring agencies of KP government will be using as templates for carrying out procurements. With technical assistance from ASP-RSPN, HR Manual for the Authority has been prepared which will help the authority for managing its operations in efficiently and effectively. In the next phase ASP-RSPN will help the authority in developing an M&E system.

- *Achievements of ASP-RSPN's CBP with KP-PPRA:*
 - *Improving PPRA Rules*
 - *Upgrading SBDs*
 - *HR Manual for KP-PPRA*
 - *FM Manual for KP-PPRA*

4.3.3 Future Plans:

GoKP has taken the essential steps for creating the KP-PPRA. In order to bring the momentum of reforms to fruition, there is a need to make the authority fully functional by hiring the requisite staff and approving and notifying key documents including the Procurement Rules, SBDs, HR Manual. This will consolidate the hard work that has been done so far and pave the way for introducing a transparent, effective and efficient public procurement system in the province.

4.4 Government of Sindh

4.4.1 Sindh Government's Major Initiatives:

Government of Sindh established the Sindh Public Procurement Regulatory Authority in August 2006 through the Sindh Public Procurement Ordinance. In April, 2009, the Sindh Assembly enacted the SPPRA Act, 2009 followed by notification of the Sindh Public Procurement Rules in March 2010. The Sindh PPRA is governed by a board with almost half of the members from the private sector ensuring independence of the Authority.

SPPRA has been successful in making a number of achievements which include:

- a. Development of Sindh Public Procurement Rules which have

not only consolidated all provincial rules and regulations on public procurements but has also upgraded and improved them by incorporating the international best practices.

- b. Sindh PPRA's website provides updated information on all the tender opportunities, posts bid evaluation reports, procurement plans and contract documents.
- c. Training of procurement officials through its capacity building initiative.
- d. Notification of Standard Bidding Documents (SBDs) of Goods, Works and Consultancy Services.
- e. Preparation of Procurement Regulations for Works, Goods and Drugs and SBDs for Services which are awaiting notification.
- f. Translation of the Sindh Public Procurement Rules 2010 into Sindhi and Urdu.
- g. Notification of the Employee Service Regulations

4.4.2 Asp-rspn's Collaboration:

Like other public procurement regulatory authorities, ASP-RSPN has joined hands with the Sindh PPRA for improving governance, management, transparency, accountability and quality of public procurement of goods, works and services in Sindh.

Under Phase I of its capacity Building Plan, ASP-RSPN organized five training workshops for procurement-related capacity building of the procurement officials of Sindh government. These workshops were held at Karachi, Hyderabad, Sukkar, Mirpur Khas, and Larkana in with almost 280 officials from Work & Services, Health, Education, Population Welfare, Labour, Law, Services & General Administration, Public Health Engineering, Board of Revenue, Food, Planning & Development, Youth Affairs, Irrigation, Auqaf, Religious Affairs, Zakat & Ushr, Culture and Antiquities departments, Sindh Katchi Abadi Authority, Sindh Bank, Sindh Assembly and officers from SPPRA participated.

4.4.3 Future Course Of Action:

Under Phase II of the Capacity Building Plan ASP-RSPN will be working together with SPPRA for translation of rules into local languages, development of training module. SPPRA is well ahead of other public procurement regulatory authorities in the country in terms of the comprehensiveness of its legal framework and the quality of its human resources. These interventions will further augment its systems to make it a leader of public procurement reforms in the country

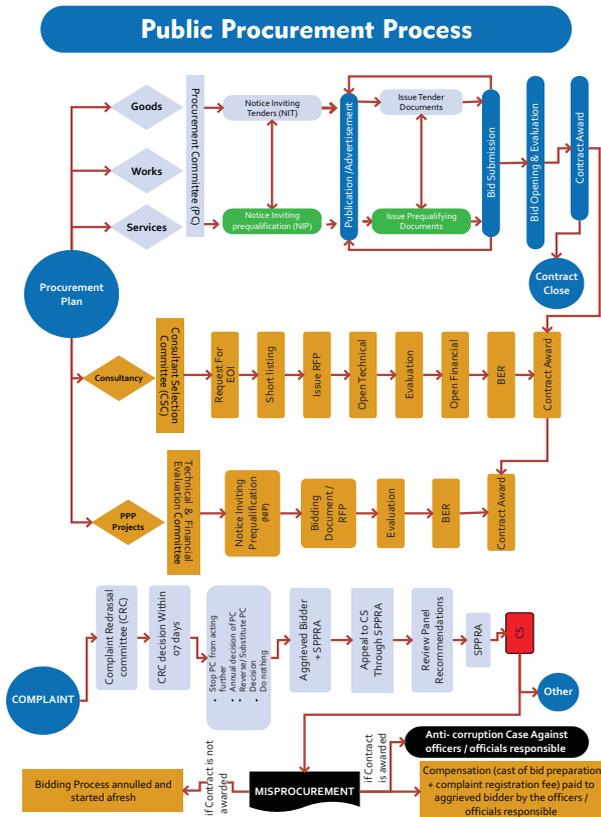


Figure 4: Public Procurement Process under SPPRA Rules

5. Conclusion

Pakistan's public procurement system has come a long way thanks to the wide-ranging reforms undertaken at federal and provincial levels. The federal government and two of the four provincial governments now have well-functioning public procurement regulatory authorities who are moving at a positive trajectory so far as improving the standards of public procurement are concerned. This is reflected in various assessments and evaluations of public procurement regime in the country at national and sub-national level. The provinces where PPRAs have not been established so far are all set to embark on this journey of reforms – their job done easier by learning from those who have successfully treaded this path before them.

In order to achieve the desired outcomes of procurement reforms – increased transparency, improved financial accountability, reduced corruption, a more attractive investment climate, greater competition to drive value for money and increased citizens' satisfaction- there is a need to augment the impetus for reform. Procurement reform is a long – term process and there are many obstacles along the way. Establishing the legal framework and the regulatory institutions are the first and arguably the easier steps in the reform process. Enforcing compliance with the law and building capacity of the regulatory authorities to deliver are the more complex steps that may take longer to achieve. Recognising this challenge, ASP-RSPN is working with the government for enabling the public procurement system to proceed through next stages of progression and reach a stage where public procurement is conducted according to higher standards of integrity, transparency, competition, fairness and value for money. Two reform measures need special mentioning which ASP-RSPN has been instrumental in bringing about: introduction of Learning Management System (LMS) and installation of ERP. With the help of LMS, procurement regulatory authorities can take their capacity building initiatives to a new scale as the technology removes the constraints of time and space.

LMS has the potential to train a large number of public officials of federal and provincial procuring agencies in a cost-effective manner and now it is up to these regulatory authorities to make full use of this facility. Similarly ERP is a transformative tool that will fundamentally change the way business is run in procurement regulatory authorities. This reform alone will increase efficiency and effectiveness of regulatory authorities, manifold which in turn will go a long way in improving the public procurement regulatory regime in the country.

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ASP-RSPN has been instrumental in introducing two landmark reforms: LMS and ERP. By using LMS PPRAs can take training of procurement officials to a new scale whereas ERP has the potential to fundamentally change the way business is run by public procurement regulatory authorities. Adoption of these reform measures will go a long way in improving the public procurement regulatory regime in the country.