PROMOTING AID-FUNDED LOCAL AND REGIONAL PROCUREMENT: ISSUES FOR CONSIDERATION

WP-EFF Joint Venture on Procurement

18 September 2007, Copenhagen

This note is for COMMENT by the Joint Venture for Procurement on 18 September 2007. After the discussion the note will be revised and submitted to the DAC for further GUIDANCE.

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I. Introduction

1. The objective of promoting aid untying continues to figure prominently on the international development agenda. Most recently, the June 2007 Heiligendamm G-8 Summit Declaration noted (paragraph 21) “the need to continue enhancing efforts to untie aid pursuant to the 2001 OECD Development Assistance Recommendation”. In response to this and other demands”, such as the forthcoming 3rd High Level Forum on Aid Effectiveness, the DAC has been discussing promising ways to move the debate forward.

2. In 2006, the DAC agreed to eliminate the coverage thresholds in the 2001 DAC Recommendation on untying ODA to the Least Developed Countries. Currently, the DAC is considering a proposal to extend the country coverage of the 2001 Recommendation to include those Heavily Indebted Poor Countries (HIPCs) that are not already covered because of their LDC status [see DCD/DAC(2007)41]. In addition, the DAC continues to exchange views on other approaches to increase the impact of the Recommendation on aid effectiveness. These discussions are conducted on the basis of two criteria — i.e. (i) the likelihood of consensus and (ii) the magnitude of the potential impact on untied aid.

3. One of these approaches is to encourage donors, where they undertake the procurement themselves, to promote greater local or regional procurement of the goods, services and works funded by that aid. Such a move would clearly benefit the recipient/regional economy without opening aid funded procurement to global competition. Consequently, promoting aid-funded procurement of goods, services and works from local and regional sources is a shared objective of DAC Members, which has also been acknowledged as an explicit objective in the 2001 Recommendation.

4. To the extent that such aid, as set out in paragraph 3, is procured from local or regional sources, it would still be classified by the DAC as tied aid as it does not meet the DAC definitions for untied or partially untied aid. While promoting local or regional procurement is thus not the same as untying aid, such an initiative certainly contributes to the outcomes sought through untying; specifically, it promotes ownership and benefits the local/regional economy. Equally, in promoting local/regional procurement, care must be taken to ensure aid effectiveness, e.g. by promoting as much competition as possible and by avoiding distortive approaches.

5. The DAC has discussed how to achieve this objective at a number of occasions. Progress has been made but a number of outstanding issues require further discussion at a more technical level. Consequently, the DAC agreed at its June 2007 meeting to invite comments from the Joint Venture on Procurement of the Working Party on Aid Effectiveness.

6. The remainder of this note addresses these issues and is structured as follows:

- Section II sets out the objectives of promoting local and regional procurement.
- Section III addresses eligibility criteria for local and regional procurement.
- Section IV defines the geographical coverage of the region.
- Section V suggests how to ensure bids from bona fide companies which adhere to corporate social responsibility standards.
• Section VI sets out the provisions to promote local and regional procurement.
• Section VII discusses the links between this initiative and the 2001 Recommendation on Untying.
• Section VIII proposes a procedure to monitor the possible agreement.
• Section IX elaborates a number of issues that require further consideration.

7. Members of the Joint Venture on Procurement are invited to comment on all the topics raised, but their views are in particular appreciated on the issues for consideration (Section IX)

II. Objectives

8. Untying aid in accordance with the DAC definition remains the ultimate goal. However, we also need to focus on the outcomes we seek to achieve via untying (e.g. ownership, value for money, benefits to the local/regional economy), and untying is not the only means to those ends.

9. Against that background, the objective of this initiative is to promote aid funded procurement from local and regional companies in those cases where donors are not in a position to fully and freely open up procurement to companies in substantially all countries (i.e. untie their aid).

III. Defining eligibility

10. The proposal is focussed on aid where the procurement of goods, services and works is undertaken through donors’ national procurement systems. In those cases where donors are not in a position to use recipient procurement systems (i.e. meet the objective of the Joint Venture on Procurement) the idea is to move forward through encouraging aid funded procurement from local and regional sources.

11. Eligible companies in this context are companies with a legal presence in the country/region in question. For example, to use Ghana as an illustration, eligible companies would include those with a legal presence in Ghana itself or for example, in the sub-Saharan Africa region. This would also include affiliates with ownership and control links to parent companies in other countries (e.g. in the OECD area), but which do have a legal presence in Ghana or sub-Saharan Africa.

12. In addition to such local and regional based suppliers, companies based in the donor country providing the aid are also eligible to provide the goods, services and works concerned. This follows as this initiative does not require a change in the tying status (along the lines of the DAC definitions3) of aid but rather seeks to promote more open procurement eligibility.

IV. Defining “regional” procurement

13. Obviously, “local” procurement means procurement inside the recipient country under discussion. The following criteria to define a “region” for the purpose of aid funded procurement are suggested:

a) In order to ensure that regional procurement provides ‘value for money’, the region needs to be large enough to ensure a reasonable number of competitive suppliers.

b) In order to ensure clarity to potential eligible suppliers, the region needs to be easily recognisable and meet some established geographic definition.

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c) In order to ensure fairness amongst potential eligible suppliers, the combination of all regions should include substantially all developing countries.

14. Furthermore, the DAC agreed that the coverage of the specific region should be decided *ex ante* and apply equally to all Members. Not doing so could seriously undermine transparency and predictability for potential regional bidders.

15. On that basis, the following regions are proposed, based on the DAC practice:

- Sub-Saharan Africa
- Middle East and North Africa
- East Asia and the Pacific
- South Asia
- Latin America and the Caribbean
- Europe and Central Asia

V. **Bona fide companies and corporate social responsibility**

16. Since this initiative is focused on procurement undertaken by donors, ensuring that bids are made by *bona fide* companies should already be an integral part of donor’s procurement procedures and systems. Since all DAC donors should already have such provisions in their procurement documentation, the issue of *bona fide* suppliers should not raise any particular problems in the context of this initiative.

17. In addition, Members raised the issue of how to ensure that companies adhere to Corporate Social Responsibility (CRS) standards. Again, since this initiative is directed to aid funded procurement undertaken by the donor, it is the donor’s responsibility to ensure that its procurement documentation and procedures (up to and after bid award) satisfactorily address CSR issues and permit redress in circumstances where requirements have not been followed.

18. Furthermore, if CSR issues arise in relation to procurement, reference could be made to the 1998 ILO Declaration on Fundamental Principles and Rights at Work. This has been signed by all countries, and covers, *inter alia*, forced, compulsory and child labour. Donor procurement procedures could thus stipulate that procurement awards would not be made to companies that do not respect these principles and that a breach of respect for them could be considered as grounds for annulment of a contract.

VI **Provisions to promote local and regional procurement**

19. The approach to promote aid funded procurement from local and regional sources could include the following dimensions. Donors should:

- Seek to remove any provisions in their procurement procedures that discriminate *de jure or de facto* against local or regional procurement;
- Undertake best efforts to promote local/regional procurement compatible with sound procurement principles
• Seek to include “benefits to the local/regional economy” in bid evaluation criteria in addition to price, quality and service considerations. Such a provision could pay particular attention to the value that the local or regional companies add to the goods, services or works, employment created and expected impact on poverty reduction.

20. While some donors’ procurement systems have provisions for a price preference margin in favour of developing country sources, there is no consensus on this practice in the DAC. It is thus suggested that such preference margin practices are not part of this initiative to promote local and regional procurement.

VII  Relation to the 2001 DAC Recommendation

21. This initiative is focused on aid where donors are not in a position to move towards fully untying their aid. Consequently, this initiative applies only to ODA that is not covered by the 2001 DAC Recommendation. Thus, for example, it addresses ODA to all developing countries (rather than just the LDCs as is the case for the Recommendation). Furthermore, donors that have already untied their ODA beyond the coverage of the Recommendation are urged to maintain the untying status of that aid. In other words, the provisions of the 2001 Recommendation or donor practices that go beyond it take precedence over the provisions of this proposal on local/regional procurement.

22. On this basis, the initiative applies to:
   a) That aid for which donors are responsible for procurement and which is not already untied;
   b) Technical co-operation and food aid to all countries on the DAC list of aid recipients (both of these categories are excluded from the coverage of the 2001 Recommendation).
   c) All aid to countries on the DAC list of aid recipients that are not covered by the 2001 Recommendation.

VIII. Monitoring the initiative

23. Currently, the DAC does not collect information concerning local and regional procurement in any systematic manner. To achieve the required transparency in this area, provide recognition to donors’ efforts and to minimise the administrative burden on Members a two pronged approach to monitoring is suggested:

24. First, and in relation to procurement procedures, Members should identify provisions in their procurement procedures which de jure or de facto discriminate against aid funded procurement from local or regional companies. These provisions should be notified to the DAC. Equally, Members should also notify to the DAC provisions that actively promote local and regional procurement.

25. Second, and in relation to data requirements, we should establish a baseline against which progress in promoting local and regional procurement can be measures. Preferably, such as baseline should cover at least the three years preceding implementation of the initiative. Donors should then provide annual data to the DAC on contracts (number and amounts) awarded to local and regional companies.

26. The DAC should review annually the qualitative and quantitative progress toward the implementation of the initiative on the basis of such indicators.

27. All the information required for the qualitative and quantitative monitoring of the implementation of the initiative should be available from DAC Members. Consequently, monitoring should not impose any
undue additional administrative burden on donors and the details of monitoring approaches and reporting requirements should seek to ensure this.

IX. Issues for consideration

28. Members of the JV-Procurement are invited to address, inter alia, the following issues:

- From its expertise on procurement, comments on the overall approach (is it complete, are key issues missing?) and specific provisions (including monitoring and data requirements).
- In relation to the work of the JV-Procurement to strengthen procurement systems in partner countries, are there areas where synergies between the two work streams could be strengthened and are there any areas where we need to avoid overlap or indeed contradictory approaches?
NOTES


2. DCD/DAC/M(2007)5/FINAL

3. DCD/DAC/M(2007)7/PROV

4. The 1987 DAC Guiding Principles for Associated Financing and Tied, Untied and Partially Untied ODA provide the following definitions:

   - Tied aid is defined as official or officially supported loans, credits or associated financing packages where procurement of the goods or services involved is limited to the donor country or to a group of countries which does not include substantially all developing countries.

   - Untied aid is defined as official development assistance for which the associated goods and services may be fully and freely procured in substantially all countries.

   - Partially untied aid is official development assistance for which the associated goods and services must be procured in the donor country or among a restricted group of other countries, which must however include substantially all developing countries.

These definitions are also incorporated in the OECD Arrangements on Guidelines for Officially Supported Export Credits and Credit Guarantees.