

## Anti-corruption policies in Asia and the Pacific: Thematic review on provisions and practices to curb corruption in public procurement Self-assessment report Hong Kong, China

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Identifying reform needs, assessing progress and evaluating the effectiveness of anti-corruption policies and practices are central principles enshrined in the ADB/OECD Initiative and its Action Plan. In this context, the present self-assessment report from Hong Kong, China was prepared as background to the Initiative's thematic review exercise on measures to curb corruption in public procurement in the Asia-Pacific region.

This thematic review on public procurement was initiated in reaction to the findings of the Initiative's 2003-2004 in-depth analysis of the legal and institutional anti-corruption frameworks of the Action Plan's then 21 endorsing countries against the standards of this Plan ("Anti-Corruption Policies in Asia and the Pacific – the legal and institutional frameworks", November 2004). In this study, public procurement was identified as one of the areas requiring particular attention in the Asia and Pacific region and where consequently the Initiative's Steering Group had a vital interest to promote reform.

With this aim, the group agreed to pursue analytical work on corruption in public procurement through a thorough review of relevant existing policies, practices and rules so as to assist participating governments in better understanding the corruption risks inherent in their countries' institutional settings and procurement practices. This thematic review further seeks to assess how countries translate into practice their commitment made under the Action Plan to curb corruption in public procurement. Eventually, the review's findings will provide governments with an analytical framework to design policies and procedures that ensure greater transparency and integrity in public procurement and to identify priorities for reform in this respect.

In line with the Action Plan's principle of self-assessment, the review is conducted on the basis of information provided by participating countries in reply to a questionnaire specifically prepared for this purpose by the ADB/OECD Initiative. The present document represents the replies submitted by Hong Kong, China in this framework.

Further information on the exercise, on other participating countries and on the analysis' outcome is available at the Initiative's website at <http://www1.oecd.org/daf/asiacom/stocktaking.htm#trpp>.



## A. General framework

### *Legal and organizational framework:*

1. Please list and briefly describe laws and regulations related to government procurement, including those that give exemption to the standard government procurement rules. Where available, please attach a copy or indicate an internet-site for download of these regulations, if possible in English language. Ensure to include secondary legislation, rules and procedures. Also, please indicate relevant international or regional agreements<sup>1</sup> that your country is committed under, including its level of involvement (e.g. signature, ratification, implementation).

The procedures of government procurement are set out in the Stores and Procurement Regulations (SPR), supplemented by financial circulars issued from time to time. These regulations are administrative measures made under the Public Finance Ordinance. Under the SPR, exemptions have to be approved by the Permanent Secretary for the Financial Services and the Treasury (Treasury).

A copy of the SPR is attached. Public Finance Ordinance can be browsed at website (<http://www.legislation.gov.hk/eng/home.htm>).

Hong Kong, China is a Party to the World Trade Organization Agreement on Government Procurement (WTOGPA) and has endorsed the APEC's Transparency Standards on Government Procurement. Hong Kong, China actively and constructively participates in the work of the WTO Committee on Government Procurement, WTO Working Group on Transparency in Government Procurement and the APEC Government Procurement Experts' Group.

2. Please explain the repartition of tasks and responsibilities in the procurement process among centralized, decentralized and specialized authorities (in particular: design of policies and standards; capacity building; definition of needs and terms of individual tenders; execution of different procurement stages from advertising to contract awarding; dispute resolution; control of the fulfillment of the terms and conditions by the contractor).

The Secretary for Financial Services and the Treasury has the overall responsibility of ensuring that all government procurement activities are conducted in accordance with the established regulations and procedures set out in the SPR and relevant supplemental circulars. The SPR set out the steps on the whole procurement process including drawing up requirements and specifications of stores/services required, issue of public notice of tender invitation, information to be included in the tender documents such as tender specifications and assessment criteria to facilitate suppliers to prepare response offer, tender evaluation, tender negotiation, issue of public notice of tender award and contract management and monitoring.

Under the SPR, bureaux and departments have the authority to consider and approve their departments' procurements of stores and services (excluding engineering and construction works services) with a value of not exceeding HK\$1.3 million and engineering and construction works services with a value not exceeding HK\$3 million. For procurements exceeding the specified limits, they should seek the approval of the following tender boards/consultant selection boards in accordance with the relevant tender and consultant selection procedures before entering into a contract with the successful bidder:

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<sup>1</sup> e.g. APEC Non-Binding Principles on Government Procurement; WTO Agreement on Government Procurement; etc.

- (i) Government Logistics Department Tender Board (GLDTB) – for procurement of goods and services (excluding construction and engineering services and Marine tenders under the Marine Department Tender Board) with a value not exceeding HK\$10 million;
- (ii) Marine Department Tender Board (MDTB) – for marine tenders, such as those for procurement of government vessels and maintenance of mooring and berthing facilities, with a value not exceeding HK\$5 million;
- (iii) Public Works Tender Board (PWTB) – for works tenders with a value not exceeding HK\$ 30 million;
- (iv) Central Tender Board (CTB) – for tenders exceeding the financial limits of GLDTB, MDTB and PWTB;
- (v) Architectural and Associated Consultant Selection Board (AACSB) – for architectural consultancy service with a value exceeding HK\$1.3 million;
- (vi) Engineering and Associated Consultant Selection Board (EACSB) – for engineering consultancy service with a value exceeding HK \$1.3 million; and
- (vii) Central Consultants Selection Board – for consultancy service not under the purview of AACSB and EACSB with value exceeding HK\$1.3 million.

3. Is procurement of goods governed by the same procedures as procurement of services?

Same procedures are followed for procurement of goods and services (except consultancy services), including engineering and construction works services, where the tasks can be specified and performance standards quantified. Consultant selection procedures are followed for consultancy services for problem solving and where the quality of service depends on factors that cannot be precisely specified or quantified. The relevant procedures are set out in SPR.

4. Does the procurement law establish a Public Procurement Office (PPO)? Is the PPO appropriately staffed against its mandate? In this context, please state the total number of staff involved in public procurement country-wide. Are the procurement entities/PPO provided with adequate financial resources for the execution of their tasks?

Government bureaux and departments determine their own procurement requirements on the basis of service needs subject to voting of funds. They conduct procurement exercises in accordance with SPR and financial circulars.

5. Please name the sectors, areas or conditions subject to particular procurement rules (if applicable, e.g. military; local governments; state owned enterprises; urgency).

All government bureaux and departments are subject to SPR and financial circulars. Financial autonomous public bodies have their own procurement procedures and are not subject to SPR and financial circulars, though they may make reference to the government practices.

*Procurement policies and practices:*

6. Do model tender documents exist (e.g. handbooks, model forms, model contracts, etc)? If yes, is their use mandatory, and do they contain a specific anti-corruption clause?

There are standard contract form, tender terms and general conditions of contract for reference by Government departments. The use of the standard contract form is mandatory. There is the standard tender terms stipulating that if the Contractor or any employee or agent of the Contractor shall be found to have committed an offence under the prevention of Bribery Ordinance (Chapter 201) or any subsidiary legislation made thereunder or under any law of similar nature in relation to the Contract or any other Government contracts, the Government may summarily terminate the Contract, without entitling the Contractor to any compensation therefor and that the Contractor shall be liable for all expenses necessarily incurred by the Government as the result of the termination of the Contract.

7. Please provide the latest available economy-wide annual total numbers and values of purchases, with breakdown a) by sector and b) by type of procurement. In this context, please describe the procurement types foreseen by law (e.g. sealed tender, direct purchase; limited tendering) and the policy of your Government towards these types.

The number and value of purchases made by government departments in 2003 are as follows:

- (i) Goods – 1,150 purchases at a total value of HK\$7,448,152,000;
- (ii) Services (other than construction services) – 584 purchases at a total value of HK\$2,198,438,000; and
- (iii) Construction services – 325 purchases at a total value of HK\$28,228,085,000

(Note: The above statistics included contracts covered by WTOGPA requirements and with value above HK\$500,000 for goods and services (other than construction services) and HK\$1,000,000 for construction services.)

As laid down in SPR, government procurement exceeding HK\$1.3 million (for goods and services) and HK\$3 million (for construction and engineering services) in value is normally done by the use of open and competitive tendering procedures so as to obtain the best value for money. Where the nature of the contract (such as a contract that is time critical or one that requires particular high levels of skills and proven reliability) dictates that tenders have to be invited from qualified suppliers/contractors, selective tendering or prequalified tendering may be used. Limited or restrictive tendering is only permissible under specified exceptional circumstances such as to ensure compatibility with existing equipment, for patent or proprietary products or to meet an urgent delivery schedule.

8. Please explain under which conditions pre-selection procedures are conducted.

There may be circumstances which require the prequalification of a list of tenderers financially and technically capable of undertaking a particular project or supplying a particular product. These include projects which require pre-testing of equipment to determine its suitability; projects of an extremely complex nature, high value or subject to very rigid competition programmes; projects which call for a high level of co-ordination, technical expertise, or a Design-and-Build contracts; and products which are critical to the user departments.

9. If your country is currently engaged in or planning a major reform of its procurement system, please briefly state the scope and objectives of this reform.

No.

## B. Transparency and Fairness

### *Transparency of general procurement policies and regulations:*

10. Are the existing laws, regulations and policy guidelines on public procurement publicly available and, if yes, where/how?

Interested persons may request for a copy of the Stores and Procurement Regulations for reference. Moreover we have published a “Guide to Procurement” which sets out the principles underlying government practices, highlights the key features of the government procurement process and provides useful contact to suppliers and posted it on the Internet. We have also posted on the Internet information on Government Tenders, extract of the Stores and Procurement Regulations on Avoiding Conflict of Interest in Government Procurement and Tender Procedures for Government Procurement. The website is (<http://www.fstb.gov.hk/tb/eng/procurement/content.html>)

11. In your country, do certain territorial entities or institutions establish lists of eligible contractors (sometimes called “white-lists”)? If yes, please explain the criteria for a company to be included in or excluded from this list, and what use is made of such lists.

Procuring departments may establish lists of prequalified contractors/suppliers for particular services or articles, where there is a frequent need to invite tenders for such services or articles but not all contractors/suppliers in the market are capable of providing the required services or articles. Tenders for the provision of concerned services or articles will be invited from only those qualified suppliers/contractors in the relevant approved lists. The qualification criteria and assessment method shall not discriminate among foreign contractors/suppliers or between domestic and foreign contractors/suppliers. For procurement covered by WTO GPA, the qualification criteria are limited to those which are essential to ensure the ability of the contractors/suppliers to provide the required services or articles. Departments maintaining approved lists of qualified contractors/suppliers for selective tendering shall publish the up-to-date lists, the period of validity of the lists, the method of application and assessment and the method for renewal, where applicable, in the Government Gazette annually. Approved lists should be reviewed regularly to ensure that new applications are processed promptly and that contractors/suppliers who cease to be qualified are deleted from the lists. In addition, new applications from suppliers/contractors for admission to the approved lists should be allowed at any time and should be dealt with expeditiously.

12. Is a bid security and/or a performance guarantee required from the bidder? What are the procedures for advertisement of procurement opportunities?

A tender deposit is not normally required. Where a tender deposit is required as a pledge of the tenderer’s good faith (as in the case of revenue tenders), the tender documents shall specify the amount of the deposit and the methods of payment (whether by cheque, cashier order and/or presentation of original receipts along with the tender) and refund. Tender deposits will be refunded to unsuccessful tenderers without interest.

Successful tenderers may be required to pay a contract deposit (in the form of cash) or submit a performance bond to the Government within a specified period before contract signing (rather than at the time of tender submission) as security for the due and faithful performance of the contract. A performance bond may be in the form of a guarantee arranged by a bank, insurance company, or the parent company of the tenderer.

Detailed requirements are given in the Stores and Procurement Regulations.

Procuring departments are responsible for advertising the procurement opportunities after they have finalized the tender documents. Key information on all tenders is published in the Government Gazette and if necessary, in the local press, on the Internet and selected overseas journals for the particular trade/product. SPR contains guidelines for advertising in the Government Gazette and local newspapers.

#### *Transparency of procurement opportunities:*

13. Describe where and how tender opportunities are published, including if their publication is mandatory or depends on certain criteria (if so, please list)? Please state if a fee has to be paid to receive tendering documents and – if yes – how this fee is fixed and whether other processing fees apply. Please briefly explain whether your country allows adequate and reasonable time for interested suppliers to prepare and submit responsive bids.

Tenders may be invited in the following ways –

Open tendering—tender invitations are published in the Government Gazette and, if necessary, in the local press, on the Internet and in selected overseas journals for the particular trade/product. All interested contractors/suppliers are free to submit their tenders. For procurements covered by WTO GPA, procuring departments should publish the tender invitations in the Government Gazette and local press. They should also consider notifying consulates and overseas trade commissions of the tender invitations, where appropriate.

Selective tendering—tender invitations are published in the Government Gazette, or are sent by letter to all contractors/suppliers on the relevant approved lists of qualified contractors/suppliers established for the purpose of selective tendering. For procurements covered by WTO GPA, procuring departments are required to publish the tender invitations in the Government Gazette and local press. They should also consider notifying consulates and overseas trade commissions of the tender invitations, where appropriate. Tenders received from contractors/suppliers not yet on the approved lists should also be considered, provided that there is sufficient time to complete the qualification procedure.

Single and restricted tendering—tender invitations are sent by letter to only one or a number of approved contractors/suppliers, upon the originating department's recommendation.

Prequalified tendering—tender invitations are sent by letter to contractors/suppliers on the approved list of prequalified contractors/suppliers. Invitations for prequalification may follow open or selective tendering procedures.

Tender notices should generally appear in two consecutive issues of the Government Gazette but if it is considered desirable to publish a particular notice in more than two issues, the originating department should recommend accordingly. If necessary, public tender notices may also be advertised in the local and/or international press in addition to the Government Gazette.

Tender invitations should indicate clearly the address, telephone number and faxline of the office from which forms of tender and further particulars may be obtained, the exact location of the tender box in which tenders are to be deposited, and the closing date and time for the receipt of tenders. For procurements covered by WTO GPA, departments will have to send to any interested tenderer a set of the tender documents upon receipt of a written request and may charge the tenderer for the cost of the delivery. Tender notices should specify whether the intended procurement is covered by WTO GPA. Tenderers should be advised to submit their bids early as late tenders will not be accepted. They should also be informed of the alternative tender closing date/time as advised by the controlling authority of the respective tender box in the event of a rainstorm black warning or typhoon signal No. 8 or above being hoisted at the original tender closing date/time.

Procuring departments may decide whether a non-refundable sum should be levied from tenderers to cover the cost of the tender documents. In practice, it is very rare that a procuring department would charge a fee for the issue of the tender documents. We charge no other fees for the processing of the tenders received.

Our procurement regulations require that adequate time should be provided to allow both overseas and local tenderers to prepare and submit tenders. A minimum of three weeks is normally required. As an exception, for works contracts under \$50 million and not subject to WTO GPA, procuring departments may allow less than three weeks for the preparation and submission of tenders. For procurements covered by WTO GPA, at least 40 days should normally be allowed for receipt of tenders and no less than 25 days for applications to be prequalified to tender. In the case of extreme urgency, departments will have to seek the prior approval of the relevant authority.

14. Are selection and award criteria prescribed by law? If yes, are they prescribed in an exclusive manner? Please name these criteria a) for procurement of goods, and b) for procurement of services (e.g. technical requirements, qualification of the bidder, evaluated price, expertise/experience, etc.) and those that are explicitly excluded (e.g. nationality of the bidder or other affinity, etc.). Is the description of these criteria in the tender documentation mandatory?

Under the SPR, tenders are examined against the tender specifications and evaluated against the assessment criteria laid down in the tender documents. Award of contracts is based on the result of the evaluation process. The selection criteria may vary depending on the requirements of each particular tender. In case a marking scheme is to be used for evaluation of a tender, prior approval from the relevant tender board will be required. Value for money is one of the Government's key procurement principles. To achieve the best value for money, we take into account such factors as price, whole-life costs, performance reliability, quality and after sale support, where appropriate in the selection of supplier.

#### *Transparency of contract evaluation and award procedures:*

15. What is the procedure if none of the bids or too few – relative to a prescribed limit – fulfill the technical requirements as defined in the call for tender (e.g. reopening of the bid, negotiations, etc.)? Do you keep a register of all bids received?

Normally if none of the bids fulfill the technical requirements as laid down in the tender document, the tender exercise will be cancelled and a fresh tender exercise may be initiated.

Procuring departments keep a register of all bids received. They are required to retain the tender document for a specified period.

16. Where and how are actions and decisions in the procurement process recorded? How long and where are these records preserved, and who can access this information?

Departments should keep a record of all contracts awarded. In respect of procurements covered by WTO GPA, departments should separately (or additionally) keep a record of each contract awarded under single or restricted tendering (referred to as limited tendering in the WTO GPA and for which they have been given authority to adopt) for the purpose of meeting the specific statistical reporting requirements of the WTO Committee on Government Procurement on limited tendering.

Departments should retain the original copy of an executed contract, and the related original security bond, bank guarantee and insurance policy, if any. A certified true copy of the executed contract should be forwarded to the Director of Audit for audit purposes. Departments should not keep the original documents in files required for working purposes or with working copies. The documents must be stored in a safe or strongroom if available; otherwise they should be kept in a locked cabinet or cupboard. The officer responsible for the safe custody of the documents should keep the cabinet or cupboard key. Departments may destroy documents submitted by unsuccessful firms in a tender or consultants selection exercise three months after the date the relevant contract has been executed. However, for procurements covered by WTO GPA, departments shall retain the tender documents and all documents submitted by the tenderers for a period of not less than three years after the relevant contract has been executed. Controlling Officers and Chairmen of tender boards shall appoint officers to open and handle classified correspondence relating to tenders and contracts on a need-to-know basis. Detailed instructions on the procedures for handling such correspondence shall be made in accordance with the provisions of the Security Regulations.

17. How and to whom is the final decision on awarding the tender disclosed? Do reasons for the selection of the winning bidder have to be stated? Are post-awarding negotiations allowed and, if yes, under what conditions?

We notify tenderers of the tender result and publish the outcome of the tender including the name of the successful supplier or contractor, the accepted tender sum and the date of award of the contract in the Government Gazette and on the Internet.

We also inform the unsuccessful tenderers of the outcome of the bid evaluation. The reason for selection of the winning bidder will not be stated but may be given upon request.

Post-award negotiations amount to contract variations. Contract variations are allowed under specified circumstances, i.e. they are inevitable and that all relevant factors, including rates are no less favourable. Exceptions have to be approved by Secretary for Financial Services and the Treasury.

18. Are framework contracts allowed? If yes, what measures are taken to control against corrupt or unnecessary demands?

We have term contracts and standing offer agreements which allow departments to place order for stores/services with the selected contractor during a specified period. Before placing orders under the term contracts/standard agreements, officers concerned are required to seek approval from the appropriate authority according to the established procedures to ensure the requirements are genuine and funds are available to meet the costs involved.

## C. Integrity

### *Integrity of procurement personnel:*

19. Do codes of ethics or similar instruments exist that explicitly apply to procurement personnel and entities? If yes, do they specifically address corruption risks, and do they contain conflict of interest provisions (e.g. provisions making mandatory the declaration of personal interests by agents and buyers)?

We have a chapter on “Avoiding conflict of interest in Government procurement” in the SPR (please also see Q 10). Government procurement personnel are required to observe and comply with the Civil Service Regulations and the Civil Service Bureau Circulars and Circular Memoranda which lay down stringent provisions preventing conflict of interest and acceptance of advantage.

20. Does your country provide for specific training for procurement personnel that include integrity issues? Please list manuals or policy guidelines that might exist to clarify procurement procedures and principles to procurement personnel (if existing please attach a copy or internet-address for download).

We have specific training conducted by ICAC for procurement personnel on general issues on integrity and corruption prevention.

The procedures and guidelines on procurement are primarily set out in Stores and Procurement Regulations and Civil Service Regulations and supplemented by circulars issued by the relevant issuing authorities.

21. Is procurement personnel required – and if yes by what regulation and to what institution – to report attempts by suppliers to undermine the impartiality and independence of action by offering bribes, benefits or other forms of inducement?

The Independent Commission Against Corruption (ICAC) fights corruption and eliminates opportunities for corruption by introducing corruption resistant practices for compliance by, among others, government procurement personnel. Procurement personnel are required to report to ICAC in accordance with the corruption resistant practices and the relevant Civil Service Regulations and Civil Service Bureau Circulars.

22. Which penal and/or administrative sanctions are applicable to procurement personnel for accepting or soliciting bribes? Are public officials liable for the economic damage that the procuring entity suffers? What is the policy that applies to procurement personnel for accepting or soliciting small facilitation payments such as gifts, benefits, hospitality (e.g. outright forbidden, accepted under certain circumstances, etc.; please explain).

The Prevention of Bribery Ordinance (PBO) prohibits bribery in the civil service and sets out the minimum standard of behaviour for a government officer. The PBO covers accepting advantage in general without permission, accepting advantage with abuse of office and maintaining a standard of living beyond one’s means. An Officer found to have committed an offence under PBO may be subject to dismissal, a fine and imprisonment and to pay any part of the advantage received as specified by the court.

*Integrity of bidders and suppliers:*

23. Which penal sanctions are applied to a bidding company as a legal person and to its employees if it is found guilty of corruption related to the bidding procedure? Is the company liable for the economic damage that the procuring entity suffers?

Employees of a bidding company are also subject to the PBO. If the company found to have committed an offence under the PBO, the Government may terminate the contract with the company and the company shall be liable for all the losses and expenses necessarily incurred as the result of the termination of the contract.

24. Do your country's laws and regulations permit authorities to suspend, temporarily or permanently, from competition for public contracts and/or from other commercial activities an enterprise determined to have bribed a public official? If yes, is such disqualification mandatory or optional and which body decides on the disqualification and its exact terms? Which means are employed to implement the disqualification (e.g. publicly available list, declaration in the bidding process...)?

It is the established administrative practice that a company found to have committed offences under PBO will be removed from the list of the contractors and be temporarily suspended from bidding for future tenders. The policy is made know to the companies applying for inclusion into the contractors' lists.

25. Do bidders have to explicitly declare their abstention from any means that could improperly influence the procurement process or decision and, if yes, do such declarations also cover such unlawful practices by subcontractors or other third parties?

Bidders are required to make declaration on conviction records under the Ordinance(s) specified in the tender documents. Contractor must seek approval from the procuring department for subcontracting. The procuring department will consider the relevant conviction records and past performance of the recommended sub-contractor before giving the approval.

26. Do bidders have to disclose commissions, gratuities, or fees that have been or have to be legally paid to individuals or sub-contractors for their services provided for instance in the preparation of a bid or the execution of the contract?

As far as government procurement is concerned, bidders are not allowed to make such payments.

## **D. Accountability**

*Separation of responsibilities and independent scrutiny:*

27. Which means are employed to avoid insulation of procurement staff and to ensure mutual control? (e.g. rotation of officers, decisions taken/validated by more than one actor, etc.)?

The roles of the various parties to the procurement process are specified and kept separate. Moreover officers responsible for procurement are subject to periodic postings.

28. Are there regular and systematic internal and external audits of procuring entities/PPOs? If yes, are they mandatory; which bodies are in charge of this audit; are the audit reports publicly available? Are independent actors/NGOs invited to monitor the procurement procedures and what is the setting prescribed by law?

We have mechanisms to ensure accountability and due process. These include the Audit Commission headed by the Director of Audit, the Office of Ombudsman, the Independent Commission Against Corruption and the Legislative Council. In addition, the Government Logistics Department has an independent section which functions as an internal audit.

*Review and complaint mechanisms:*

29. Do your laws and regulations provide for review and complaints procedures? If yes, are they at administrative and/or judicial levels; what is the time limit for complaint/appeal, if any? How many complaint cases related to procurement are handled per year?

The procedures to handle general complaints on procurement matters are set out in the SPR. There is no time limit for a supplier to make a complainant (see also Q 30). On receipt of a complaint or the referral of a complaint, the department responsible for the procurement exercise in question should deal with the complaint in an impartial and timely manner, and provide an early and substantive reply to the complainant direct or through the referral office. An interim reply should be sent to the complainant if a substantive reply cannot be issued shortly. The Review Body on Bid Challenges has been established to handle bid challenges for procurements covered by WTOGPA. According to the guide to Review Body, a challenge shall be lodged with the Review Body within 10 days after the supplier knew or reasonably should have known the basis of the challenge. The guide to the Review Body can be browsed at web-site <<http://www.info.gov.hk/reviewbody-gpa/guide/index.htm>>.

According to the records kept by the Financial Services and the Treasury Bureau, the number of complaints related to procurement (including those handled by the Review Body) for the years from 2000 to 2004 are as follows:

2000 – 3  
2001 – 2  
2002 – 9  
2003 – 6  
2004 – 2

30. Who is entitled to initiate a complaint procedure (e.g. competing bidders, any citizen, etc.) and how are potential informants protected against retaliation (e.g. confidentiality, anonymity)? Are the decisions of the body handling complaints binding? What are the consequences if a complaint is proven valid (e.g. reopening of the bidding, liquidation of damages, etc.)?

The contractors, suppliers, firms or organizations may lodge complaints about the process or result of a tender/consultant selection exercise to the procurement department direct or to the relevant tender/consultant selection board, Independent Commission Against Corruption or the Office of the Ombudsman. Complaints are given a security grading (confidential or restricted) appropriate to their seriousness and sensitivity. All complaints are handled in an impartial manner. The result of the complaint may lead to a change in the procurement policy/system if there is scope for doing so, and/or the officer(s) handling the procurement exercise being subject to sanctions should they be found to be at fault.

For procurement covered by WTOGPA, contractors/suppliers may make a challenge to the Review Body on Bid Challenges which is established to deal with alleged breaches of the WTOGPA. According to the Guide to the Review Body on bid Challenges, the Review Body may determine the validity of a challenge and the recommended corrective measures or compensation which will be limited to the cost for tender preparation or protest.