

Joint Review 2006 –

Working Group Report Procurement Reform

Content:

1. Assessment of 2005 (mainly based on the Balanço do PES existing relevant sector/reform review documents)
2. Key lessons learnt concerning procurement reform in 2005 with bearing on 2006 and the planning and budget process 2007
3. Agreement on the indicative PAF indicators 2007-2009 relevant to your sector as (to be) proposed in the Strategic Matrix of the PARPA II

Assessment of 2005

1. Executive summary

In **Procurement**, the 2005 PES/PAF indicator to approve a new procurement regulation based on international recognized principles on the regulation of contracts for public works, commodities, services and concessions was met. This is reflected in the Balanço do PES 2005. The publication of the respective Decree 54/2005 was the result of intensive consultations with the different stakeholders including sector ministries, private sector and the international cooperation partners. The new procurement code now allows Mozambique to establish a procurement system in line with international recognized principles. It was agreed that the practical application of two specific areas: the preference of national suppliers for goods and the appeal mechanism shall be thoroughly monitored with regard to the efficiency and the costs and benefits of its application. The dissemination of the new regulation, training of procurement officials and implementation of the new system are now of utmost importance as the new regulation enters into force in June 2006. The Supervision Unit for the Procurement Function (UFSA, formerly USAP) has a central role with regard to the integrity and the efficiency of the public procurement function in Mozambique. The formal creation, capacity building and empowerment of UFSA are therefore of utmost importance and urgency. GoM has already decided on the necessary action to create UFSA and the implementation without delays is now crucial. The “quick win” measures agreed during the JR 2004 and reiterated in 2005 to ensure that the implementation of a transparent and efficient procurement system is not further delayed were completed and follow-up activities have been initiated. In general, progress in the procurement reform area in 2005 was good.

2. More detailed evaluation of the performance in 2005

The elaboration and publication of the new procurement regulation was certainly the main step forward towards a credible procurement reform. After considerable delays the key factor for success was the intense stakeholder participation in the discussion of a total of 9 drafts, the leadership of the Ministry of Finance (esp. UTRAFE) and the constant support of the development partners. The new regulation is broadly in line with international recognized principles. However there are doubts regarding the application of two stipulations:

- Concerning the procurement of goods the regulation defines that the procuring entity can define that the supplier shall be a national company and that the goods to be procured shall have an incorporation of factors of Mozambican origin of at least 30%. Whilst the incorporation of national factors is fully in accordance with international recognized principles the nationality of the supplier should not be a decision criteria. GoM took this strategic decision as it expects a promotional effect for the national private sector and positive developmental effects. It was agreed that the application of this clause shall be monitored with regard to its costs and benefits for Mozambique and corrective measures shall be applied in case the results of this monitoring process show a need.
- For the appeal mechanisms concerns were raised with regard to the lack of an arbitration mechanism. Though anybody not satisfied with the decision of the first two stages of appeal can file a complaint with Tribunal Administrativo this might not be the most effective way to deal with complaints. UFSA will have a decisive role in providing technical advice to the procuring entities in case of appeals. UFSA should therefore acquire the necessary capacities and the procuring entities shall be encouraged to consult with UFSA in case of appeals as this is not mandatory. The Standard Bidding Documents also provide for some more clarity and detail concerning the efficient dealing with appeals. Again it was agreed that the effectiveness, practicability and the efficiency of the appeal mechanism shall be monitored. Corrective measures will be discussed and agreed on the basis of concrete results if found necessary.

Besides the publication of the new procurement regulation other important preparations have been made to implement the reform:

- The procurement reform action plan has been constantly updated and is controlled by UTRAFE;
- procurement audits in a sample of ministries have been conducted by IGF;
- the standard bidding documents have been elaborated and have been approved by joint ministerial diplomas of December 30, 2005 by the Ministers of Education and Culture, Minister of Public Works and Housing, Minister of Finance, Minister of Health; Minister of Industry and Commerce

- A Code of Ethics has been incorporated into the new procurement regulation.
- terms of reference for a capacity building and training programme for civil servants and suppliers have been approved and the training programme is currently in the tendering stage
- this comprehensive training programme will be preceded by a “quick start” basic training programme for procurement officials at the central and provincial level
- terms of reference for the design and function of the normative body UFSA have been developed and approved by GoM, an action plan for the implementation of UFSA was drafted
- A Technical working group (Gabinete Tecnico) for the creation of UFSA and the UGEs in the ministries, the dissemination of the new procurement regulation and the realization of the training programmes will be established soon involving various institutions like UTRAFE, UTRESP and DNPE.

3. Key lessons learnt

1. Implementation of the new regulation is now crucial. The creation and capacity building of key institutions like UFSA and the UGEs will be a priority and receive strong support by GoM and the development partners alike. DNPE will have to play a pro-active role in the formal creation and the capacity building for UFSA.
2. For the sector ministries and other procuring entities the UGEs will be core units for the procurement function. They should therefore have the main attention from the sectors concerning the implementation of the procurement reform at sector level.
3. Whilst the establishment and functioning of UFSA will still be financed by funds from UTRESP in 2006 it is necessary to include UFSA in the state budget for 2007.
4. The inclusion of IGF and Tribunal Administrativo in dissemination, training and capacity building measures aiming at the implementation of the new procurement regulation is very important for the integrity of the new system from the beginning.
5. The development partners shall actively accompany the implementation of the procurement reform and strive for the substitution of their own systems by the Mozambican procurement regulations. This shall be reflected in future independent consultant's report on donor performance.
6. The inclusion of objectives, actions and indicators reflecting the progress of the procurement reform into the strategic PARPA matrix is very important. Ministry of Finance together with UTRAFE participated in the respective discussions within GoM and actively pursued that the procurement reform is adequately reflected in the PARPA and the respective strategic matrix.

7. The gradual integration of the procurement processes into the system of e-SISTAFE remains an important point of the procurement reform as an integral part of SISTAFE reform..

4. Agreement of the PAF indicators (2007-09)

It will be difficult to keep the same indicator until 2009 for the procurement reform as it is still at an early stage of implementation. Therefore a mixture of indicators is needed starting with indicators showing the establishment of the system and the capacity respective development. Later on indicators to measure the efficiency and effectiveness of the new system shall be used.

Proposal elaborated:

2007: indicator for system depth (institutional) – number of procurement units (UGEs) established and number of people trained with focus on key ministries (MEC, MISAU, MOPH, MINAG)

2008: % of total contracts (numbers and amounts) not using the regime especial of the procurement regulation

2009: savings for GOM deriving from use of improved system

The respective baselines would have to be established in 2006/07.

These indicators should ideally be proposed in the Strategic Matrix of the PARPA II. The above mentioned were indicatively discussed and agreed with UTRAFE, UTRESP and DNPE during the Joint Review. UTRAFE and DNPE assured that the procurement function is adequately reflected and integrated into the strategic PARPA matrix.

5. Complete the attached Table (Annex 5: PAF matrix 2005) in your relevant area, indicating whether targets have been met or not.

To be completed after availability of strategic PARPA Matrix

6. Optional: Provide comments reflecting sector views on donor performance, on the basis of the independent consultant's report which will be available on 20 March. These comments will feed into the discussion between GoM National Directors and HoCs scheduled for 24 March.

To be provided if relevant after March 20