



Transparency International's Input to the WB Consultation Process on the Draft P4R Operational Policy, Bank Procedures and Anticorruption Guidelines¹

The World Bank is about to launch a new lending instrument, called Program-for-Results (P4R), which would “disburse upon achievement of results and performance indicators” and focus on strengthening institutional capacity.² The reform was initially described in a Concept Note dated February 23, 2011. Following comments and submissions by numerous stakeholders, including Transparency International, the concept note has been translated into an Operational Policy (OP) and Bank Procedure (BP) accompanied by specific Anticorruption Guidelines, made publicly available by the Bank for comments on July 18, 2011.

Transparency International (TI) has a long-standing interest in assuring that the Bank, as the premier public provider of development assistance globally, takes adequate precautions against corruption in its lending operations and all its other activities, effectively monitors compliance with the relevant rules and provisions, and applies appropriate sanctions where corruption takes place.

TI recognizes the importance of the current debate on results in the development community and believes the proposed new lending instrument, is consistent with the Paris Declaration on Aid Effectiveness and the Accra Agenda for Action.

At the same time, TI believes the OP/BP still fails to address some significant questions as to how P4R operations will deal with corruption, procurement, social and environmental issues. Below are some specific concerns and recommendations.

Procurement

Bank procurement policies will not apply to P4R.³ While the Bank commits to undertaking Fiduciary Assessments prior to approving P4R operations, the statement that budgeting and planning arrangements, procurement rules, contract administration, complaint mechanisms and oversight should be “reasonable” does not provide any benchmarks nor sufficient protection against abuses.⁴ Concerns also stem from the lack of recourse to the Bank for bidders who encounter corruption, when national authorities are unable or unwilling to take action.⁵ This is all the more important when considering that the procurement thresholds set for exclusion from P4R appear extremely high, particularly for goods and consulting services.⁶

- The Bank needs to formulate more clearly the specific procurement attributes it will require for countries and operations to be approved for P4R. These attributes should include a very high level of transparency, easy access to relevant documents, including award decisions, for all bidders, as well as competitive procurement.
- While understanding that the Bank has no competence to question the application of national procurement rules, TI believes the Bank should guarantee some form of recourse for bidders

¹ Transparency International acknowledges the substantial contribution of Transparency International – USA to the preparation of this document.

² “A New Instrument to Advance Development Effectiveness: Program-for-Results Financing”, 7/18/2011, p. iv, par. 4.b.

³ Ivi, p. 63.

⁴ Ivi, p. 75, par. 25.a.

⁵ The INT itself [recently noted](#) in its [annual report](#) difficulties in getting countries to follow up on referrals.

⁶ Ivi, p. 12, par. 21.

who encounter biased specifications or other forms of corruption that have not been satisfactorily addressed by national authorities.

Anti-corruption

TI welcomes the Bank's inclusion of an ad-hoc anti-corruption policy in the P4R OP/BP. This policy addresses some of the corruption risks that TI underscored in our previous submission and aims at extending anti-corruption controls beyond the portion of a program funded by the Bank.⁷

TI understands that under P4R the preferred approach will be for countries to have the initiative in investigating fraud and corruption,⁸ and welcomes the statement that the Bank will "have the right to conduct an investigation of [...] allegations [...], independently or in collaboration with the borrower"⁹ and to "inspect the relevant books and records [...]"¹⁰, thus preserving the Integrity Vice Presidency's (INT) traditional role.

TI also welcomes the Bank's effort to hold borrowers accountable by requiring that they: 1) inform the Bank of allegations of fraud and corruption received; 2) take action to investigate such allegations and report to the Bank investigative findings and 3) take action against those who have engaged in fraud or corruption.¹¹ However, TI does caution that this kind of cooperation and interaction between the Bank and country-level anti-corruption agencies or judicial power can prove difficult and controversial,¹² and should be carefully tested during the pilot phase.

Leaving the initiative for investigating fraud and corruption to borrowing countries implies some significant risks. For instance, in TI's experience many countries fall short of providing adequate whistleblower protection, which can discourage the reporting of fraud and corruption. Additionally, in countries with weak institutions, evidence may be lost or tampered with, jeopardizing INT's ability to intervene and conduct its own investigation. Because of these risks, TI believes thorough assessments of country anti-corruption capacity will be essential.¹³

TI welcomes the applicability of the Bank's sanctions list to programs funded under P4R, but is concerned about the Bank's plan to exempt certain contracts from this requirement, particularly as the criteria for this exemption and the possible impact on the Agreement for the Mutual Enforcement of Debarment Decisions (Cross-Debarment) are unclear.¹⁴

- The Bank should strengthen INT's ability to conduct preventive anti-corruption reviews at the country level, and should incorporate these reviews in its Fiduciary Systems Assessments when determining which countries are eligible for P4R lending. Anti-corruption reviews should include an assessment of the relevant anticorruption authority's capacity to investigate and prosecute cases of fraud and corruption, as well as the country's anticorruption legal framework, including its whistleblower policy.
- The Bank should establish clear procedures for the exchange of information on allegations, investigations and sanctions between the INT and the competent national authorities.
- The Bank should clarify which contracts and under what circumstances would be exempted from the applicability of its sanctions list and provide a rationale for this exemption.

Institution Strengthening and GAC

Institution strengthening will be one of the key features of P4R. TI believes the OP/BP does not address in sufficient detail the relationship between P4R and the GAC strategy, which is one of the main pillars of the Bank's institution building effort.

⁷ Ivi, p. vii, par. 11.

⁸ Ivi, p. 29, par. 77.

⁹ Ivi, p. 84, par 7.b.

¹⁰ Ivi, p. 83, par. 6.f.

¹¹ Ivi, p. 83, par. 6.c, 6.d, 6.e.

¹² See footnote 5.

¹³ Ivi, p. 75, par. 27. Transparency International's [National Integrity System \(NIS\)](#) assessments could provide helpful input to this process.

¹⁴ Ivi, p. 29, par. 76 and p. 79, par. 43.

- The Bank should incorporate in P4R lessons learned from the implementation of GAC phase 1, recently reviewed by the IEG, and closely coordinate with Bank departments working on the design of Phase 2 of GAC implementation. The Bank should also ensure that P4R is fully aligned with the GAC strategy.

Measuring Results

The definition of “results” is critical, since it will be steering the disbursement pace. The definition of results and disbursement-linked indicators in the OP/BP needs further clarification. Will the “results” be physical, administrative, time-bound, and impact-related? Will the Bank’s reaction to unsatisfactory “results” allow effective disbursement management (including prompt suspension)? Will the rules be transparent and allow verification by civil society?¹⁵ While the OP/BP document states that “Stakeholders may be involved in the Bank’s [...] monitoring and evaluation of programs and their results”¹⁶, TI believes CSO involvement should be made a mandatory requirement.

- A robust and transparent M&E program should be one of the main pillars of P4R. The M&E framework should require independent, third party monitoring and an active involvement of civil society through a formalized process, not only in measuring and reporting on results, but also in selecting and defining indicators in the design phase.

Transparency and CSO involvement in the Selection of P4R Projects

While P4R can have the effect of increasing country ownership of projects, there is a legitimate concern that country ownership may translate exclusively into Government ownership, thus excluding the civil society. From an anti-corruption, procurement, environmental and social perspective, there are concerns that governments may push to borrow under P4R for certain projects to reduce Bank oversight and safeguards. Particularly on the social and environmental side, the exclusion of category A projects from the program does not seem to offer sufficient assurance that the program will prevent harm to the environment and local communities.

- The Bank should allow for civil society organizations to provide extensive feedback on the process of selection and approval of P4R projects, so that the final decision does not rest solely on Bank officials and borrowing governments. The process should be mandatory and formalized.
- The Bank should put in place enhanced transparency requirements to ensure that all relevant documents related to P4R are made available to the public in a timely manner and are easily accessible. The rigor of the Bank’s Access to Information policy should be maintained, regardless of the decentralized nature of the process.

Pilot Program

As noted above, the OP/BP leaves unanswered many questions as to whether P4R is going to offer adequate guarantees in terms of anti-corruption, procurement, transparency, social and environmental issues. Because of this uncertainty, TI believes that a P4R pilot would be the best approach to adequately assess and remedy the weaknesses and risks of the program.

- The Bank should address pending concerns stemming from the consultation process and implement a broad pilot program, before P4R is launched as a full-fledged initiative. The pilot program should include the participation of an independent external advisory group to conduct an in-depth study of its implementation and results. The advisory group should be provided with a clear mandate, independent staff, and sufficient resources so as to carry out its review effectively.

¹⁵ Some of these concerns stem from IEG reviews showing that the Bank has a mixed record in terms of its ability to effectively monitor and evaluate results.

¹⁶ Ivi, p. 31, par. 86.