World Bank Alternative Procurement Arrangements (APA) in Latin America

Public Procurement: Global Revolution IX
University of Nottingham -- June 2019

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A Non-Topic? Or open ground for growth?

- WB Alternative Procurement Arrangements (APA) in force since July 2016: no application in Latin America to date
- No recent OECD/WTO country assessments regarding Latin America
- Restrictions in the existing ones
- Important shift in public procurement, anticorruption and compliance laws and practices in the past ten years
- Lack of uniformity in national procurement systems
  - MERCOSUR government procurement agreement signed in 2017 is pending country approvals
  - Shared legal background but variation of systems within the region
  - Limited exposure to the GPA and OECD
What and Why? Some background

- Purpose to help develop and promote uniformization of country systems: link with aid effectiveness
- Past experience with the Use of Country Systems (piloting program until 2011)
- Core principles
  - Value for Money, Economy, Integrity, Fit for Purpose, Efficiency, Transparency and Fairness
- APA as a means to promote (i) procurement development at the national or regional level based on the WB standards and (ii) uniformization of national country systems
- Key concept: APA justification (Draft Guidance 2015)
National Procurement Procedures

5.3 When approaching the national market, as agreed in the Procurement Plan, the country’s own procurement procedures may be used. These procurement procedures shall be consistent with the Bank’s Core Procurement Principles and ensure that the Bank’s Anti-Corruption Guidelines and Sanctions Framework and contractual remedies set out in its Legal Agreement apply.

Alternative Procurement Arrangements

2.4 At the Borrower’s request, the Bank (subject to its policies and rules, and applicable fiduciary and operational requirements), may agree to:

   a. rely on and apply the procurement rules and procedures of another multilateral or bilateral agency or organization, and may agree to such a party taking a leading role in providing the implementation support and monitoring of procurement activities; and

   b. rely on and apply the procurement rules and procedures of an agency or entity of the Borrower.
Purposes and possible shortcomings

- **Capacity building and harmonization**
  - Efforts in the assessment and meaningful feedback to countries
  - A “seal” of good procurement practices

- **Possible risks**
  - Is it a mere search for less complicated procurement rules?
  - Inadequate country systems (fraud, corruption and reduced international competition): *equivalence v. acceptability*
  - Undue blending of capacity building and procurement policy
  - Multiplicity of procurement rules: lack of simplification
  - Additional efforts for international bidders to comply with local rules
  - Difficulties with local personnel, especially with negotiations
  - Application of other multilateral ou bilateral agencies anti-corruption policies: risk of inconsistency in anti-corruption efforts
Avenues for the application of APA

- Procurement arrangements of other development banks, agencies or organizations
  - New practice through the assignment of supporting and monitoring activities to other multilateral agencies

- Procurement arrangements of full members of the GPA
  - Purpose to avoid double assessment
  - Compliance with internationally accepted procurement framework is part of the GPA accession process

- Procurement arrangements of a Borrower’s implementing agency that complies with the WB’s assessment framework
  - Evolution of the Use of Country Assessments through the assessment and approval and further continuous review of specific implementing agencies
Lessons from the existing cases

- **Bhutan Timphu Thromde (Municipality):** November 2016
  - Major implementing agency for WB projects in the past
  - Bhutan is not a party or an observer to the GPA
  - Main factors: (1) complaints management, (2) publicly available information (rules, opportunities, contract awards and resolution of complaints), (3) independent anti-corruption commission, (4) external audit and (5) national capacity building program.

- **India PowerGrid:** June 2017
  - One of the largest transmission utility companies in the world
  - India is a GPA observer, but with no negotiation toward accession

- **Asia Development Bank:** December 2018
  - Multilateral development bank
  - Commitment to expand co-financed projects with other agencies
## Latin America and the GPA/WTO

<table>
<thead>
<tr>
<th>Observer government</th>
<th>Date of acceptance by Committee as observers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Argentina</td>
<td>24 February 1997</td>
</tr>
<tr>
<td>Brazil</td>
<td>18 October 2017</td>
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<tr>
<td>Chile</td>
<td>29 September 1997</td>
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<tr>
<td>Colombia</td>
<td>27 February 1996</td>
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<td>Costa Rica</td>
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<tr>
<td>Panama</td>
<td>29 September 1997</td>
</tr>
<tr>
<td>Paraguay</td>
<td>27 February 2019</td>
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</tbody>
</table>

* Negotiating accession.

Source: WTO
INTRODUCTION

Within the area of public financial management (PFM), procurement relates to the acquisition by the public sector of goods and services. This includes routine purchases of supplies (e.g., printer ink, paper, and fuel) to more complex contracts for large infrastructure projects, such as government constructions, subways, and bridges. Public procurement usually includes different stages: planning, selection, and contract management.

Procurement is one of the largest government spending activities and is estimated to account for up to 10 to 15 percent of global gross domestic product (GDP) (OECD, 2007). Depending on the institutional arrangements in place and the level of decentralization within each country, procurement regulation takes effect at the central, state, and local levels. Public procurement is a government’s most vulnerable activity to waste and corruption (OECD, 2007) due to the volume of financial flows it can generate, the close interaction with the private sector, and the complexity. Public procurement, therefore, should be based on a set of three main principles—efficiency, efficacy (value for money), and transparency (Schapper, Veiga Malta, and Gilbert, 2006)—and regulated by way of well-defined procedures, as well as standards that are enforced to achieve transparency and efficacy. At the
Update on Brazil: legal environment and the WB

- GPA Observer status since October 2017
- Recent engagements to join the OECD
- Well tested system of e-procurement, including for large infrastructure projects
- Flexible procurement framework for State companies since 2016-2018
- Sophisticated government accountability system (Courts of Accounts), with specialized bodies and detailed case law
- Anticorruption/compliance laws, regulations and practice
- Strong experience with MDB, especially WB and IDB
  - Use of Brazil’s procurement framework in MDB projects
  - Legal requirement for compliance of MDB framework with local law
Update on Brazil: open possibilities (WB 2019)

Source: World Bank
## Update on Brazil: new WB projects since APA

<table>
<thead>
<tr>
<th>Project Title</th>
<th>Country</th>
<th>Project ID</th>
<th>Commitment Amount</th>
<th>Status</th>
<th>Approval Date</th>
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<tbody>
<tr>
<td>Mato Grosso Fiscal Adjustment and Environmental Sustainability DPL</td>
<td>Brazil</td>
<td>P164588</td>
<td>250.0</td>
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<td>Paraiba Improving Water Resources Management and Services Provision</td>
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<td>P165683</td>
<td>126.89</td>
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<td>SABESP - IMPROVING WATER SERVICE ACCESS AND SECURITY IN THE METROPOLITAN</td>
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<td>250.0</td>
<td>Active</td>
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<tr>
<td>REGION OF S&amp;UP#195;O PAULO PROJECT</td>
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<td>Integrated Landscape Management in the Cerrado Biome Project</td>
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<td>Financial Instruments for Brazil Energy Efficient Cities - FinBRAZEEC</td>
<td>Brazil</td>
<td>P162455</td>
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<td>Salvador Social Multi-Sector Service Delivery Project</td>
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<td>Amazon Sustainable Landscapes Project</td>
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<td>P158000</td>
<td>60.33</td>
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<td>Support to Upper Secondary Reform in Brazil Operation</td>
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<td>Paraiba Sustainable Rural Development</td>
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<td>Fortaleza Sustainable Urban Development Project</td>
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Source: World Bank
The SABESP case: ongoing project

**PROJECT AT-A-GLANCE**

<table>
<thead>
<tr>
<th>Project ID</th>
<th>P165695</th>
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</thead>
<tbody>
<tr>
<td>Country</td>
<td>Brazil</td>
</tr>
<tr>
<td>Region</td>
<td>Latin America and Caribbean</td>
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<tr>
<td>Status</td>
<td>Active</td>
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<tr>
<td>Approval Date (as of board presentation)</td>
<td>December 18, 2018</td>
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<td>Closing Date</td>
<td>June 16, 2025</td>
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<td>Total Project Cost**</td>
<td>US$ 350.00 million</td>
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<td>Commitment Amount</td>
<td>US$ 250.00 million</td>
</tr>
<tr>
<td>Team Leader</td>
<td>Juliana Menezes Garrido, Marcos T. Abicalil</td>
</tr>
</tbody>
</table>

**MISSION**
To provide water and sanitation services, contributing to improving the quality of life and the environment.

**VISION**
To be a global benchmark in the provision of water and sanitation services in a sustainable, competitive and innovative manner, focused on customers.

**LATEST PROJECT DOCUMENTS**

Disclosable Version of the ISR - SABESP - IMPROVING WATER SERVICE ACCESS AND SECURITY IN THE METROPOLITAN REGION OF S?O PAULO PROJECT - P165695 - Sequence No : 01 (English)


March 22, 2019

Brazil - LATIN AMERICA AND CARIBBEAN- P165695- SABESP - IMPROVING WATER SERVICE ACCESS AND SECURITY IN THE METROPOLITAN REGION OF S?O PAULO PROJECT - Procurement Plan (English)

January 24, 2019

Source: World Bank
The way forward for APA in Latin America

- Identification of sophisticated Latin American implementing agencies fit for APA assessment, such as Brazilian internationally active state-owned companies
- Update of country assessments
- Participation of WB in the legislative reform efforts to ensure future compliance of country systems with the GPA, WB core principles and international standards
- Identification and assessment of regional development banks and agencies
- Efforts to raise awareness and incentivize greater involvement and possible accession of Latin American countries to the GPA
Thank you

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