



U.N. REFORM WATCH no. 21

Analyses from Associates of CENTER FOR U.N. REFORM EDUCATION

The Center does not endorse any particular reform proposal and has no affiliation with any governments. All expressions of opinion contained in its publications are the sole responsibility of the author or authors.

5TH COMMITTEE CONSIDERS PROGRESS ON PROCUREMENT REFORM

by Lydia Swart
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The Center for UN Reform Education is currently producing weekly reports on meetings held by the Fifth (Budget and Administrative) Committee. These reports are intended to provide neutral and accurate accounts of the meetings in an effort to make the work of the Committee more transparent to civil society, especially with regard to the reform proposals being discussed. Separately, the Center also provides insightful analysis in its UN Reform Watches. This analysis explores the need and calls for procurement reform, current trends in the Fifth Committee and some of the more complex issues involved.

It is now generally accepted that the United Nations' procurement process has been suffering from insufficient internal control measures. For instance, deficiencies have been pointed out by the UN's own oversight bodies as well as by an outside consultant contracted by the Secretary General (Deloitte Development LLC)¹ and the United States Government Accountability Office (GAO).² Allegations of impropriety and a small number of criminal investigations involving UN staff members and officials during the last two years have made the need for implementation of strengthened internal control measures a matter of immediate concern.

In June 2006, the Secretary General presented a comprehensive report³ detailing the Secretariat's procurement reform measures to be put in place within 18 months depending on the allocation of the additional resources needed. The General Assembly's Fifth Committee has been considering this report during the last two months. Question and Answer sessions of the Fifth Committee have been held so that its members could grill relevant staff from the Secretariat on these proposed, and to some extent, recently implemented measures. In the next few weeks, the Fifth Committee will work on a draft resolution to send to the General Assembly for approval. In spite of the urgent need to strengthen internal control measures, it appears quite possible that the Fifth Committee will not fully grant the Secretariat's request for additional resources and will challenge some of the proposals.

Procurement reform is just one of the many reform proposals that the Fifth Committee has to evaluate this year in addition to its usual oversight responsibilities. Some Member States have apparently expressed the opinion that they are being 'force-fed' UN reform proposals by the Secretariat. Certainly the amount of reports delegates have to digest and respond to is mind-boggling, but the production of these reports must be even more taxing for the staff of the Secretariat. And it is important to remember that the Secretariat's measures and proposals form a response to strong calls for reform from the heads of States and Governments at the 2005 World Summit and various resolutions⁴ from the General Assembly.

¹ *Assessment of Internal Controls in the UN Secretariat Procurement Operations*, November 2005

² *United Nations – Procurement Internal Controls Are Weak*, April 2006

³ A/60/846/Add.5

⁴ A/RES/59/288 & A/RES/60/260



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One often hears complaints that allowing each of the 192 Member States to be represented on the fifth committee makes it an inefficient governing body that is hampered by too many interventions that slow down its decision process. At the procurement reform Question and Answer meetings, however, the number of interventions made did not appear excessive because most comments and questions came from the various groupings. The EU, for instance, kept its comments short and its questions seemed very proportionate to the number of Member States it represents. Australia and Japan often aligned themselves with the US position. Rather than delving deeply into details, the US predominantly wanted to know what can be done sooner rather than later and without any additional cost⁵. The delegation of the Russian Federation appeared to cause some delays by dwelling on procedural matters.⁶

Of the 131 Member States who form the G77 and China, only a handful made interventions and most of these seemed fairly well coordinated in advance. This group, which forms a decisive majority in the General Assembly, is the originator of most of the requests for additional information from the Secretariat and they have reportedly been accused of doing this to flex their political muscle rather than to provide solid and thoughtful oversight. However, it seems quite possible that many of these requests originate from a need for more time as well as information to absorb and analyze the facts and reach consensus within their large grouping. An additional factor seems to be their mistrust of the Secretariat, which they tend to perceive to be overly influenced by the biggest contributors. But what the G77 unequivocally does do for political reasons whenever possible, is to stress development aspects of current proposals and existing policies.

During the current negotiations, much time was spent on the issue of increasing procurement from developing countries where prices are typically lower. The Secretariat instituted a seminar program with the aim of increasing the vendor roster in developing countries. The G77 does not consider this sufficient and is insisting that additional methods of capacity building to increase procurement from developing countries should be developed. Meanwhile, it is also questioning the accuracy of statistics provided by the Secretariat on procurement from developing countries. The Advisory Committee on Administrative and Budgetary Questions had made similar observations in June 2006⁷. Some developed countries, on the other hand, feel that procurement should not be a tool for development and are also, reportedly, not in favor of facilitating procurement from companies in the developing world by considering such measures as lowering stringent requirements regarding a company's financial statements.

Some of the more complex aspects of UN procurement that seem to make the Fifth Committee as a governing body somewhat concerned are: Delegation of Authority, the Lead Agency principle and the Best Value for Money concept.

Delegation of Authority: Because an increasing amount of procurement is taking place in the field, the UN Department of Management delegated peacekeeping procurement authority to the Peacekeeping Department in 2005 for core requirements of up to one million dollars per contract and \$200,000 for non-

⁵ According to one NGO insider, the US probably has had an opportunity to provide comments in the drafting stage of the report.

⁶ One close observer believes that this dwelling on procedural matters may be due to the fact that they are very overrepresented in the Secretariat's staff and that they are working hard to fend off threats of enforcement of equitable regional hiring.



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core requirements. While the urgent nature of procurement in start-up and suddenly expanding field offices, as well as the complexities of procurement in ‘failed’ or ‘failing’ States, would seem to warrant more flexible local procurement arrangements, it apparently has thus far resulted in key regulations not being followed. This is because field procurement staff is not necessarily aware of the most recent or all the rules and regulations or may not know how to interpret some of these. There is also concern that with the delegation of authority, the allocation of responsibility becomes fuzzier. Procurement field staff report to the Peacekeeping Department in New York through the chief administrative officer of the field mission, but the Peacekeeping Department apparently does not have enough procurement staff to provide proper internal oversight both locally and in New York.

The Lead Agency principle: This principle involves more inter-agency cooperation in procurement. An analysis is underway to determine which organization has the most expertise and best competitive advantage in regard to certain goods and services. Simply put, the agency with the most favorable contracts would become the lead agency that the other agencies could then piggyback on. Furthermore, improved information sharing and coordination between agencies could help eliminate duplication of work. Though the Lead Agency principle makes a lot of sense, it also raises concerns. The most obvious concern with more centralized procurement is that if any mistakes are made or impropriety occurs, the consequences of these are going to be immensely higher. The risk of impropriety occurring might also be greater due to the greater profitability involved.

Best Value for Money: At the informal meetings of the Fifth Committee, many questions from Member States concerned this concept, which is part of the financial regulations and was approved by the General Assembly. It provides that the lowest price should not be the only factor in determining which bid to accept; quality should matter as well. Best Value for Money involves deciding how much weight to attach to technical requirements as well as pricing. Percentages varying between 30 – 70 % for either technical evaluation and price are possible. Other considerations such as environmental impact, disposal costs, and risk assessment can be taken into account as well. Member States questioned who decides the weights and wondered if the vendors are informed about the weights up front. They were informed that the weights are decided by the person authorized to make the requisition in consultation with the relevant procurement officers in accordance with rules set out in the Procurement Manual and are not relayed to the vendors. At its resumed session in 2007, the Fifth Committee will consider Best Value for Money further in response to a report from the Office of Internal Oversight Services which is pending.

Many internal control measures have been implemented recently and action on many other proposals is forthcoming, including: financial disclosure of procurement staff; a “whistle-blower” protection policy; ethics and client service training, certification of procurement staff, promulgation of a Supplier Code of Conduct; and an updated Procurement Manual which was posted on the website. On-going are the establishment of an independent bid protest system; promulgation of rules governing the conduct of procurement staff; formulation of policies on staff rotation; the development of terms of reference for the Vendor Review Committee; and a review of the vendor registration system, among others. The planned replacement of the Integrated Management Information System by an Enterprise Resource Planning system is expected to solve the problem of not being able to retrieve procurement data on a real-time basis across the organization.



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To ensure an efficient and accountable procurement process, enough human resources have to be allocated. Due to an increase in peacekeeping activities, procurement has increased from approximately one billion to 1.8 billion in the last two years. Staff increases have not been proportionate to the increase in work and this has caused backlogs and made procurement more vulnerable to errors. Apart from additional posts, the Secretariat has requested the conversion of General Temporary Assistance funds into funding for permanent posts as short-term contracts do not attract the most qualified candidates. Another valid reason for permanent staff is that intensive training and expertise is lost when people leave after a short contract, causing new delays and greater expense in the long term.

In an effort to make it very clear that the UN will not hinder criminal investigations concerning its staff and officials, the Secretary General has used his prerogative allowed by the Convention on Privileges and Immunities to waive immunity when requested to do so by the Swiss and US authorities. Two such pending cases involve a former inspector of the Joint Inspection Unit and the former Chairman of the Advisory Committee on Administrative and Budgetary Questions. Similarly, the Member States from which the relevant staff and officials originate should support efforts to root out impropriety, corruption and fraud by refraining from questioning procedures while the investigations are ongoing.

At a recent workshop organized by the G77, Jon Lukomnik, one of the independent experts asked to comment on oversight and governance, noted that excellent, well-intentioned people can often overcome bad structures while people with baser instincts can often circumvent good ones. Nevertheless, the UN cannot afford to tolerate or be seen as irresponsive to any existing, serious deficiencies in its current procurement practices. The Secretariat's intensive efforts to correct these by implementing the best possible current day practices deserve to be considered in good faith and acted upon swiftly. To enable the UN system to implement such reform, adequate resources including funds for additional staff must be made available.