



NEW ANTI-CORRUPTION GOVERNMENTS: THE CHALLENGE OF DELIVERY

TACKLING GOVERNMENT PROCUREMENT

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I WISH TO REITERATE MY APPRECIATION TO THE ORGANIZERS OF THIS FORUM FOR THE OPPORTUNITY TO SHARE WITH YOU THE EFFORTS THAT HAVE BEEN UNDERTAKEN IN MEXICO TO GIVE TRANSPARENCY TO PUBLIC PROCUREMENT, COMBAT CORRUPTION AND MAKE PUBLIC SPENDING MORE EFFICIENT AND EFFECTIVE, AS WELL AS THE LESSONS LEARNED FROM THIS PROCESS.

MEXICO'S PREVIOUS ADMINISTRATION INTRODUCED SOME ELEMENTS OF TRANSPARENCY INTO THE SYSTEM WITH THE LAUNCHING OF COMPRANET, A WEB SITE DESIGNED TO DISPLAY INFORMATION ABOUT GOVERNMENT PROCUREMENT.

HOWEVER, WHEN PRESIDENT FOX CAME INTO OFFICE AND WE CHARTERED AN INITIAL DIAGNOSIS OF AREAS CRITICAL TO CORRUPTION, RESULTS POINTED HEAVILY TO PURCHASING AS A MOST CRITICAL AREA, INSIDE AND OUTSIDE OF GOVERNMENT.

THAT IS WHY PRESIDENT FOX'S ADMINISTRATION HAD THE ISSUE OF GOVERNMENT PROCUREMENT AS A CRITICAL ISSUE TO RESOLVE WITHIN ITS REFORM AGENDA AND AS A MAJOR COMPONENT OF ITS PROGRAM TO FIGHT CORRUPTION AND BUILD A CULTURE OF INTEGRITY AND TRANSPARENCY IN MEXICO.

IN THESE 3 YEARS, WE HAVE CONSOLIDATED COMPRANET BUT WE HAVE ALSO WORKED TO MAKE THE WHOLE GOVERNMENT'S PURCHASING SYSTEM MORE TRANSPARENT AND MORE EFFICIENT.

ONE OF THE LESSONS LEARNED FROM WORKING WITH COMPRANET IS THAT MORE TRANSPARENT INFORMATION DOES NOT, BY ITSELF, GUARANTEE THE TRANSPARENCY OF THE PURCHASING PROCESS.

DO NOT TAKE ME WRONG: WE ARE CONVINCED THAT TRANSPARENCY IN ITSELF IS THE SINGLE MOST IMPORTANT TOOL TO DETER CORRUPTION, BUT IT IS NOT ENOUGH. IN ORDER TO CHANGE A SYSTEM WE NEED TO TAKE A LOOK AT THE WHOLE PROCESS, REVISE EXISTING LEGISLATION AND STRENGTHEN ETHICAL GUIDELINES AND CONTROLS FOR THOSE WHO MANAGE THE SYSTEM.

WHERE DO WE STAND TODAY?

THANKS TO THE USE OF INFORMATION TECHNOLOGIES, THE SYSTEM TODAY IS MORE USER FRIENDLY; ANYONE CAN ACCESS COMPRANET AND OBTAIN INFORMATION ON WHAT, WHEN, WHERE AND HOW MUCH IS CONTRACTED FOR BY FEDERAL GOVERNMENT INSTITUTIONS AND TO WHOM THE CONTRACTS ARE AWARDED.

COMPRANET RECEIVES EVERY DAY 20,000 ENTRIES, AND 7,000 TERMS OF TENDER ARE SOLICITED AND OBTAINED THROUGH THIS SYSTEM.

TODAY IT IS POSSIBLE TO USE THIS WEB SITE TO PARTICIPATE AND FOLLOW UP ON PUBLIC BIDDINGS WITHOUT LEAVING ONE'S PLACE OF ORIGIN OR ONE'S OFFICE.

BIDS REPRESENTING 60% OF THE GOVERNMENT'S PURCHASING BUDGET ARE SUBMITTED ELECTRONICALLY VIA COMPRANET. ELECTRONIC SUBMISSION WILL BE APPLICABLE TO 100% OF TENDERS BY THE END OF 2005.

THE SYSTEM HAS ALSO BEEN IMPROVED IN AS FAR AS THE EVALUATION OF BIDS, FORMALIZATION AND ADMINISTRATION OF CONTRACTS, AND ON SITE DELIVERY OF GOODS AND SERVICES.

IN ORDER TO PREVENT WIDE PRICE VARIATION IN FEDERAL GOVERNMENT PURCHASING WE HAVE FACILITATED PRICE CONSULTATIONS.

WE HAVE BROUGHT INTO EFFECT MEASURES TO PREVENT COLLUSION BETWEEN AUTHORITIES AND USERS.

WE HAVE INCREASED PARTICIPATION BY THE PUBLIC IN OVERSEEING THE TRANSPARENCY OF GOVERNMENT PROCUREMENT. WE HAVE SIGNED COOPERATION AGREEMENTS WITH UNIVERSITIES, REPRESENTATIVES OF CHAMBERS OF COMMERCE, BUSINESS ORGANIZATIONS AND NGO'S TO ENSURE THEIR PARTICIPATION IN VARIOUS STAGES OF THE PROCUREMENT PROCESS. AT SOME POINT, HOWEVER, WE EXPECT THAT REVISED LEGISLATION WILL NO LONGER MAKE IT NECESSARY TO HAVE PUBLIC OBSERVERS IN ORDER TO GUARANTEE TRANSPARENCY OF THE BIDDING PROCESSES.

AS WE CAME INTO OFFICE, WE HEARD FREQUENT COMPLAINTS ABOUT THE RIGIDITY, DISCRETIONALITY AND OPACITY OF THE EXISTING LAWS ON PROCUREMENT AND PUBLIC WORKS.

IN THE YEAR 2002 WE SET OURSELVES TO THE TASK OF REVISING THESE LAWS.

WE ASKED A HIGHLY RECOGNIZED ACADEMIC INSTITUTION TO IDENTIFY BEST PRACTICES IN GOVERNMENT PROCUREMENT INTERNATIONALLY AND TO MAKE A COMPARATIVE STUDY AGAINST EXISTING PROCUREMENT LEGISLATION IN MEXICO.

WE UNDERTOOK AN AMPLE CONSULTATION PROCESS WITH FEDERAL AGENCIES; CHAMBERS OF COMMERCE AND BUSINESS ASSOCIATIONS REPRESENTING GOVERNMENT SUPPLIERS; PROFESSIONAL ASSOCIATIONS; EXPERTS IN TRANSPARENCY, ACCOUNTING AND ELECTRONIC SYSTEMS; THE STATE GOVERNMENTS AND THE PUBLIC IN GENERAL.

THE FACT THAT CONFLICT OF INTEREST BETWEEN PURCHASERS AND VENDORS IS INEVITABLE IN EVERY CONSULTATION PROCESS IS ALSO A LESSON NOT TO BE FORGOTTEN. CONSENSUS ON PURCHASING ISSUES ARE VERY FRAGILE BECAUSE NO REFORM CAN FULLY SATISFY ALL ACTORS INVOLVED

THESE BEST PRACTICES AND OPINIONS BECAME THE RAW MATERIAL FOR THE DRAFT REFORM BILL WHICH WE PRESENTED TO CONGRESS, WAS APPROVED IN DECEMBER 2002 BY THE CHAMBER OF DEPUTIES AND WAS SENT TO THE SENATE FOR ITS REVIEW AND APPROVAL. TO THIS DATE, THE REFORM IS STILL BEING DISCUSSED, BUT HAS NOT YET BEEN APPROVED.

EVERY PROMOTER OF A REFORM KNOWS THAT HE WILL ENCOUNTER RESISTANCE AND OPPOSITION TO CHANGE; THIS REFORM WAS NO EXCEPTION.

ONE OF THE LESSONS DRAWN FROM THIS EXPERIENCE HOWEVER IS THAT REFORMERS SHOULD ABSTAIN FROM INTRODUCING ISSUES THAT CAN LAUNCH IDEOLOGICAL DEBATES. MULTIPLE SERVICE CONTRACTS FOR THE GAS AND OIL STATE CONTROLLED INDUSTRY WAS SUCH AN ISSUE AND IT CONTAMINATED THE LOBBYING PROCESS. IF I WERE TO START ANEW, THIS ISSUE WOULD HAVE NOT BEEN INCLUDED IN THE DRAFT BILL.

HALF OF THE REFORMS INCLUDED IN THE ORIGINAL DRAFT BILL WERE ELIMINATED BY THE SENATE INCLUDING REVERSE AUCTIONS AND THE CREATION OF AN AUTONOMOUS REGULATORY BODY FOR GOVERNMENT PROCUREMENT.

HOWEVER, THE REFORM BILL AS IT NOW STANDS CONTAINS NOTEWORTHY BENEFITS:

- BIDS WILL BE SIMPLIFIED WITH A SINGLE ENVELOPE - ONE STAGE PROCEDURE.
- THE PARTICIPATION OF MICRO, SMALL AND MEDIUM-SIZED COMPANIES IS BEING ENCOURAGED AT NO DETRIMENT TO INTERNATIONAL COMMITMENTS AND TO THE EFFECTIVENESS AND EFFICIENCY OF PUBLIC FUNDS MANAGEMENT.
- THE USE OF NATIONAL INPUTS IN PUBLIC WORKS IS ALSO BEING ENCOURAGED.
- THROUGH THE USE OF INFORMATION TECHNOLOGIES, DISCRETIONALITY OF PUBLIC OFFICIALS IN ESTABLISHING THE REQUIREMENTS OF PUBLIC TENDERS IS BEING ELIMINATED.
- MEASURES ARE BEING ADOPTED TO PREVENT COMPANIES OR INDIVIDUALS THAT ARE INELIGIBLE UNDER THE LAW FROM PARTICIPATING IN GOVERNMENT CONTRACTS.

WHILE WE CONTINUE TO LOBBY FOR THE APPROVAL OF THE REFORM BILL AS IT NOW STANDS, WE HAVE ALSO PUSHED FOR ADDITIONAL MEASURES TO STRENGTHEN TRANSPARENCY AND EFFICIENCY OF THE PROCUREMENT PROCESS. OUTSTANDING AMONG THESE ARE:

1. A WORLD BANK RULING STIPULATING FIRST, THAT ALL WORLD BANK FINANCED TENDERS ARE TO BE CONDUCTED THROUGH COMPRANET AND SECOND THAT, IN THE NEAR FUTURE, ALL THESE TENDERS WILL NEED TO COMPLY ONLY WITH MEXICAN LEGISLATION AND NOT ANYMORE WITH REGULATIONS ISSUED BY THE BANK.

INFLUENCING THE BANKS DECISION TO CERTIFY COMPRANET FOR ALL THEIR BIDDING PROCESSES WAS ALSO A CHANGE WE INSTITUTED IN THE PATTERN FOR HIRING OUTSIDE AUDITORS: WHEREAS IN THE PAST THEIR HIRING WAS DECIDED BY APPOINTMENT, TODAY THEY NEED TO PARTICIPATE IN A BID BY INVITATION. WE ARE HOPING TO EXTEND THIS MODALITY TO THE CONTRACTING OF OUTSIDE LAWYERS AS WELL.

2. THE REVIEW OF THE TERMS OF A TENDER PRIOR TO THEIR ISSUANCE, WITH THE PARTICIPATION OF EXPERTS, CHAMBERS OF COMMERCE AND BUSINESS ASSOCIATIONS AND OTHER INTERESTED PARTIES, IN ORDER TO PREVENT DIRECTIONING IN CONTRACTING.
3. FORMULATION OF STANDARD TERMS OF TENDER.
4. FORMULATION OF RISK MAPS IN GOVERNMENT CONTRACTING AND THE ESTABLISHMENT OF CONTROL MEASURES.
5. THE PROMOTION OF CODES OF CONDUCT AND INTEGRITY PROGRAMS WITHIN GOVERNMENT INSTITUTIONS AND AMONGST GOVERNMENT SUPPLIERS
6. THE MINISTRY OF PUBLIC ADMINISTRATION HAS ORDERED THAT TERMS OF TENDER INCLUDE A CLAUSE ON THE PRINCIPAL GUIDELINES OF THE OECD ANTIBRIBERY CONVENTION.

THIS IS PART OF A WIDER CAMPAIGN, IN COMPLYING WITH THE OECD CONVENTION, TO MAKE SUPPLIERS AWARE OF THE IMPLICATIONS OF BRIBING PUBLIC OFFICIALS, TO

INFORM THEM THAT BRIBERY IS PROHIBITED AND PENALIZED BY MEXICAN LAW, AND TO PROMPT THEIR AWARENESS TOWARDS THE EXISTENCE OF PREVENTIVE TOOLS AGAINST CORRUPTION, SUCH AS INTEGRITY PROGRAMS AND CODES OF CONDUCT.

7. THE SIGNING OF ALL INTERNATIONAL ANTICORRUPTION CONVENTIONS - OAS, OECD, UN
- AND A STRONG COMMITMENT TO LEAD THE WAY IN THEIR COMPLIANCE

ALLOW ME TO REFER TO A FINAL, SUMMARIZING LESSON: FOR PURCHASING REFORM TO BE SUCCESSFUL YOU NEED TO EVALUATE IT CONTINUOUSLY; NO REFORM WILL BE COMPLETE IF YOU DO NOT CONTEMPLATE PERSONNEL CONTROL SYSTEMS THAT ELIMINATE CONFLICT OF INTERESTS, THAT SURVEIL WEALTH EVOLUTION OF PUBLIC EMPLOYEES AND THAT GIVE GOVERNMENT SUFFICIENT AUTHORITY TO ACT UPON FINDINGS OF UNACCOUNTABLE WEALTH OR IF IT DOES NOT CONTEMPLATE AMPLE WITNESS PROTECTION SCHEMES AN ISSUE THAT MEXICO IS ONLY BEGINNING TO TACKLE NOW.

ANOTHER MAJOR CHALLENGE FACING US ALL IS THE NEED TO OPEN THE INTERNATIONAL BANKING SYSTEM, TO MAKE IT MORE FLEXIBLE, IN ORDER TO FACILITATE BRIBERY INVESTIGATIONS IN PUBLIC PROCUREMENT

EVEN THE MOST PERFECT OF SYSTEMS WILL FAIL IF BRIBERY MONEY FINDS ITS WAY INTO FOREIGN ACCOUNTS.

I TRUST THIS INTRODUCTION WILL LEAD THE WAY TO A VERY FRUITFUL AND PARTICIPATIVE DISCUSSION. I TRULY APPRECIATE YOUR ATTENTION.