

## Malawi

### **Poverty Reduction Support Credit**

#### **Trigger for PRSC III- Procurement Review of the 2009/10 Input Subsidy Program (ISP) Procurement**

##### **1.0 Executive Summary**

The procurement and contracting process for Fertilizer and Transport services for 2009/10 ISP substantially improved when compared to 2008/09 process based planning and budgeting and improved transparency in tendering procedures with only one contract addendum and no direct contracting. However improvements are required in the following key areas (i) the basis of allocation of final quantities for award to bidders remain weak. Bidding documents should clearly specify how quantities will be allocated to bidders who have been determined to have the required technical experience, financial and logistical capabilities in the evaluation exercise but offering different unit prices. This is very critical in order to achieve economical use of financial resources in the contract award process (ii) procurement of transport services should follow procedures for non- consulting services. Bidding documents for non consulting services should be used. Post qualification criteria should be strengthened to include number of years in transport business, experience to have successfully undertaken similar contracts, logistical capacity to transport fertilizers such as ownership of appropriate vehicles or plans to hire the same, availability of appropriate insurance and availability of specified liquid assets and or lines of credit among others and (iii) The collaboration between Procurement, ISP and Logistics Unit needs strengthening at all times during the process to include planning, budgeting, bidding process, evaluation, delivery and supplier performance assessment. Procurement unit should keep all documents relating to procurement on file from initiation of procurement to final delivery. The documents were scattered between Logistics Unit, Finance Dept and Procurement and making it difficult to assess the performance of suppliers in terms of timeliness of delivery and payments against the contracts

##### **2.0 Background**

The World Bank is proposing to extend to the Government of Malawi a Poverty Reduction Support Credit in the amount of US\$54million. As part of the conclusion of PRSCII, the Government agreed with Bank PRSC triggers which have to be fulfilled before appraisal of PRSCIII. Among the triggers agreed was the undertaking by Government of the 2008/09 procurement audit of the Input Subsidy Program (ISP) and commencing implementation of

the agreed key recommendations in a time bound action plan. At the time of agreement it was envisaged that Government would engage an independent procurement auditor to undertake the audit

Progress on the trigger as at February 2010 showed that the audit had not been undertaken. The Bank and Government therefore agreed to jointly undertake a procurement review of the 2009/10 ISP to ascertain if the procurement and contracting process for the 2009/10 had taken into account lessons in the 2008/09 procurement and that improvements had been achieved despite not having the audit undertaken

The findings from the 2008/09 procurement review by the Bank as part of the appraisal for PRSC II were as follows:

- **Planning and assessment of the requirements was inadequate.** Ministry appeared not to have undertaken a comprehensive needs analysis for the fertilizer and its related transportation services. This resulted in adhoc procurement of fertilizers without adequate consideration of the quantities required, budget and timing for the deliveries with some procurements being made very late in the planting season. Additionally inadequate planning led to the use of less competitive procurement methods such as direct contracting for fertilizers and restricted tendering for procurement of transportation services and chemicals with 15 days bidding period in the case of chemicals.
- **Overall transparency for the procurement of fertilizers was inadequate.** The initial tender was made in advertised in the press in April 2008 for 170,000 metric tonnes and evaluation undertaken by a committee of sixteen people. Within limitations of the bidding documents issued, the initial award was reasonably transparent. However, there were observed inadequacies with award criteria in the bidding documents and as used during evaluation. Whilst the tender documents required bidders to submit bids in multiples of 1300MT within a lot, it also required bidders to bid for complete quantities for a selected lot per delivery site and that award will be on lot basis. During evaluation however award was *“not based on winner takes it all basis for a lot for a delivery site” nor on the stated multiples nor unit price offered. All responsive bidders were allocated some quantities regardless of their unit price and the final allocation of quantities was not strictly based on unit price offered neither.* Of the 210,210 MT contracted, **84,882** metric tonnes was procured through extension of existing contracts and direct contracting with a few suppliers
- **Most of the fertilizer contracted had ODPP No Objection which was based on inadequate information:** Though most of the Procurement had ODPP review, it was noted that the review by ODPP was quick but not based on adequate justification for contract extensions and direct contracting and there was no evidence that the Ministry Internal Procurement Committee had deliberated and approved the procurement as required by Law.

- **Method of procurement and bidding documents used in procurement of transport services were flawed:** The Ministry used Restricted Tendering to procure transportation services after it obtained No Objection from ODPP to use this method. The Ministry proposed a list of transporters to be used for the restricted tendering. The basis of selection of the list of transporters appeared not justified. Additionally a Request for Proposal with method of selection as Quality and Cost Based Selection (QCBS) was used for services that price and capability would be major determining factors. (QCBS is applicable to selection of consultants for provision of intellectual services) Despite the evaluation committee observation that some bidders did not present all the requested information, all the twenty bidders on the restricted list were awarded contracts and the transporters were allocated districts. No basis of the number of districts allocated to a transporter was provided in the report.

### **3.0 Objective of the assignment**

The objective of the assignment was to review the procurement process for 2009/10 ISP and compare the results with the findings of the 2008/09 ISP procurement. The ultimate objective was to ascertain if the Government had implemented the lessons learnt from the 2008/09 which resulted into improved procurement and contracting process

### **4.0 Composition of the Review Team**

The review team comprised Simon Chirwa (Senior Procurement Specialist-World Bank), Chester Gondwe (Procurement Specialist –ODPP), Christine Mtambo (ISP Coordinator – MoAFS), Betty Ngoma (MoF), Clementina Zimba (Chief Procurement Officer- MoAFS) and Ben Yekeson (Procurement Specialist – MoAFS)

### **5.0 Methodology and Timing of the review**

The review involved assessment of documentary evidence used to in the procurement process including procurement planning, bidding documents, advertisements, minutes of bid opening , evaluation reports , signed contract and implementation. Interviews were also made with key staff involved in the planning, evaluation and payment process. The review was undertaken from March 22- 25, 2010. The team discussed the draft report with the Secretary to the Treasury, Principal Secretary in the Ministry of Agriculture and Food Security and Director of Public Procurement and their comments have been incorporated in the final report

### **6.0 Main findings from the Review**

Overall the procurement and contracting process for 2009/10 ISP (fertilizer and Transportation Services) had **substantially improved**. This assessment is based on the observations and comparison between 2009/10 processes against the 2008/09 process as follows:

<b>2008/09 Observation</b>	<b>2009/10 Observations</b>	<b>Comments</b>
<p>Planning and assessment of requirements was inadequate. Procurement was adhoc without adequate consideration to quantities required, budget and timing of deliveries. Overall the quantities exceeded the original estimate by 84,882 MT</p>	<p>Quantities procured were limited within the quantities planned (77,000MT). Existing quantities in form of buy-back quantities (83,000 MT) were taken into account in the procurement process</p>	<p>There was overall improvement in the planning process. The process was initiated in an orderly manner with a request from ISP Coordinator to Principal Secretary to start procurement and then IPC considered the request and approved it</p>
<p>Overall transparency was inadequate. The initial quantity of 170,000 was advertised but additional quantities of 84,882 were procured through direct contracting and several contract addenda. There was inadequate rationale for selection of suppliers for direct contracting and addenda. Same Unit prices were maintained despite some procurement taking place six months after the initial process and prices had gone down.</p> <p>The basis of final allocation of quantities to suppliers was inadequate. Some suppliers offering relatively higher unit prices were awarded larger quantities relative to suppliers who offered lower unit prices after both categories of suppliers had been determined to have the required experience and capabilities</p>	<p>Quantities were procured through open tender. One addendum was made after two suppliers had failed to deliver within the stipulated time and the quantities were given to other suppliers who had completed their deliveries</p> <p>As was the case in the previous year, the basis of final allocation of quantities to suppliers was inadequate. Some suppliers offering relatively higher unit prices were awarded larger quantities relative to suppliers who offered lower unit prices after both categories of suppliers had been determined to have the required experience and capabilities</p>	<p>Final allocation of quantities at award to particular bidders remains an issue which needs to be strengthened in the bidding documents. The documents should be clear on how unit prices offered will be used as basis of allocation of quantities such that bidders offering lower prices are awarded higher quantities</p>
<p>Inadequate information was provided to the office of Director of Public Procurement and the No Objection was based on inadequate information</p>	<p>Adequate information was provided to ODPP as basis of a No Objection.</p>	<p>None</p>

Method of procurement and bidding documents for transportation services were flawed. Used restricted tendering with inadequate basis of the restricted list	Used open tendering procedures. Method of procurement and bidding documents used were for consulting services (used subjective rating system) which is not suitable to non – consulting services such as transport services. Post qualification requirements were weak to the extent that almost all bidders qualified. The basis of award was not clear	The move to open tendering was an improvement from last year but the bid documents used and the method of procurement using point system was not suitable for non consulting services. ODPP have developed documents for non – consulting services which were not available at the time of this tender and it was expected future procurement would improve
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## 7.0 Recommendations for future Procurements

The review team made the following recommendations for consideration in future procurements

- i. Improve the quality of the bidding documents focusing on evaluation and post qualification criteria. All criteria to be used in the evaluation should be in the bidding documents. Evaluation criteria could include quantity allocation criteria based on unit prices and delivery period since the contracts are time sensitive in addition to price. A responsive bidder should be guaranteed a minimum quantity for award specified in the bidding documents (say 5,000MT) and thereafter quantities could be distributed based on an inverse proportion relative to unit prices. Post qualification criteria could include number of years as supplier for similar goods, evidence of having successfully performed similar contracts in the past, availability of stock, liquid assets and or lines of credit to finance the contract, specified turnover relative to the contract and logistical capacity to perform the contract
- ii. Bidding documents should clearly stipulate how unit prices offered will be used as basis of allocation of quantities such that bidders offering lower prices are awarded higher quantities. In addition consideration could be given to cut off point beyond which award would not be economical based on market prices and unit prices offered. This would ensure economic basis of allocation of quantities
- iii. Currency of bid and payment should be clear in the bidding documents. The Malawi Public Procurement Law and associated Regulations allow bidders to quote and be paid in forex or equivalent at prevailing prices for goods supplied from outside the country for bidding based on International Competitive Bidding (ICB). This provision is consistent with international trade practices and allows bidders to offer firm prices in any freely convertible currencies of their choice. When bidding documents call for fixed prices, the prices are fixed in the currency of the bid and not converted to another currency and fixed. ODPP should review the requirements for currency of bid and payment such that it

is in line with provisions of ICB in the Procurement Regulations. This would also minimize complaints from suppliers on exchange losses which were experienced in the last tender

- iv. Adopt the use of the bidding documents for non consulting services for procurement of transport services. Specify stringent post qualification criteria for transporters for objective award. Post qualification criteria could include number of years in transport business, experience to have successfully undertaken similar contracts, logistical capacity to transport fertilizers such as ownership of appropriate vehicles or plans to hire the same, availability of appropriate insurance and availability of specified liquid assets and or lines of credit. The number of geographical areas awarded could also be linked to logistical capacity. The Government could also consider adopting uniform rate for geographical areas for transporters such as those by the Road Transporters Association of Malawi to be used for all transporters
- v. The collaboration between Procurement, ISP and Logistics Unit needs strengthening at all times during the process to include planning, budgeting, bidding process, evaluation, and delivery and supplier performance assessment. Procurement unit should keep all documents relating to procurement on file from initiation of procurement to final delivery. The documents were scattered between Logistics Unit, Finance Dept and Procurement and making it difficult to assess the performance of suppliers in terms of timeliness of delivery and payments against the contracts
- vi. The tender for 2010/2011 ISP has been floated and the same documents as per 2009/10 tender have been issued. The review team agreed that the documents require some revisions to take into account issues observed during the review. It was also agreed that the Ministry would submit the revised documents to the Director of Public Procurement for final review and all changes from the revision will be communicated to all bidders at least three weeks before closure of bidding period.
- vii. Awards for 2009/10 were not published. Awards should be published within two weeks after contract signature consistent with the requirements of the Procurement Law (Part IV section 26) and should be done for 2010/11 tender. This is necessary to improve both transparency and accountability.

## 8.0 Proposed Next Actions

The following actions are proposed to further strengthen the procurement process for the 2010/11 Input Subsidy Program. The objective of these actions is to strengthen transparency of the budget execution as it relates to procurement of goods, works and services

### 8.1 Actions for the 2010/11 ISP

No	Proposed Action	Responsibility	Due Date
1	Review bidding documents for 2010/11 ISP procurement to strengthen evaluation and qualification criteria and share the revised documents with the Bank	Office of Director of Public Procurement	April 10, 2010 (prior to closure of bidding process)
2	Review the 2010/11 ISP Procurement process	Bank/GoM	December 2010
3	Publish contract award results in at least two print media of wide circulation and on ODPP website	Ministry of Agriculture and Food Security	Within two weeks after contracts signature

### 8.2 Additional Proposed Actions for 2010/11 Poverty Reduction Support Credit (PRSCIII)

No	Proposed Action	Responsibility	Due Date
1	Prepare procurement plans alongside budget for 2010/11 budget for key Ministries of Health, Agriculture, Education and Transport and Public Works (including Roads Authority) as agreed with CABS group)	Key Ministries as mentioned and ODPP	August 31, 2010
4	Publish tender results for all contracts above <b>US\$300,000</b> equivalent for all key Ministries of Health, Agriculture, Education and Transport and Public Works (including Roads Authority). Publication should be made in two newspaper of wide circulation and ODPP website	ODPP/Key Ministries	Within two weeks after contract signature

**Malawi-Post Review of Procurement Processes and Contract Administration of Input Subsidy Program (ISP)  
(Fertilizers and Transportation Services) - Government financed for 2009/2010 Fiscal Year**

<b>Date of Review: March 24, 2010</b>	<b>Name of Reviewer: Simon Chirwa</b>
<b>Contract Name/No/Date: Procurement of Fertilizers for 2009/10 ISP</b>	<b>Contract Amount USD:</b>

**Contractor's Name and Address:**

1. Sealand Investments – 5,000 MT with contract value of Mk478,252,326.47
2. Export Trading - 7,000 MT with contract value of MK642,609,055.00
3. Nyiombo Investments-10,406 MT with contract value of MK627,245,459.26
4. Farm-Chem - 500 MT with contract value of MK45,924,870.00 (Original award was 5,000MT)
5. Astro Chmicals - 500 MT with contract value of MK46,631,405.00 (Original award was 5,000 MT)
6. Farmers World - 7,000 MT with contract value of MK700,931,942.82 (Received an addendum)
7. Transgolbe - 4,998 MT with contract value of MK535,271,369.03
8. Mulli Brothers - 15,000 MT with contract value of MK1,550,581,585.21 (Received an addendum)
9. Coin Tech - 5,000 MT with contract value of MK577,947,569.17 (Received an addendum)
10. Simama - 9,000 MT with contract value of MK1,006,812,094.47
11. SFFRFM - 5,300 MT with contract value of MK585,732,905.00
12. Admarc - 2,700 MT with contract value of MK475,200,00.00
- Total - 76,699.00 with contract value of MK8,102,505,961.43**

**PROC. METHOD:**  ICB  NCB  LIB  Direct Contract  Others, specify: \_\_\_\_\_

**CATEGORY:**  Goods  Works  Services

Aspects	Comments and Findings
Applicable Law, Rules and Procedures	The applicable law for the procurement is the Malawi Public Procurement Act No. 8 of 2003 and its associated Regulations and Desk Instructions. The Ministry of Agriculture and Food Security has copies of applicable law, regulations and procedures. In addition, the MoAFS have detailed 26 steps to be followed in the procurement process for the procurement of fertilizers and transport services. The review was undertaken in this context

Statement of Need by the Ministry (Authority to proceed from ISP Coordinator)	Memo from ISP Coordinator to Principal Secretary (PS) dated March 31, 2009 explained that the Ministry needed 170,000 metric tones for the program. It was also explained that 81,000 metric tones was available under buy back arrangements with Small Holder Fertilizer Revolving Fund (SFRRFM) and that the Ministry should procure 100,000 metric tones which was approved by PS on March 31, 2010. This requirement was reduced further to 77,000 MT to be procured and 83,000 available under buy-back arrangements
Advertising	Date of Advertisement: <b>April 16, 2009. Advertised for 38,000 metric tones of Urea and 62,000 metric tones of NPK fertilizer</b>  Where was it advertised? <b>Malawi Nation, Guardian and Daily Times. It was also advertised on ODPP website and dgMarket through UNDP . Copies of physical adverts for Daily Times and Nation were seen.</b>
Pre/Post qualification	<b>Tender was offered on open competition, post qualification basis</b>
Time allowed for submission of bids	Closing date for Advertisement: <b>June 1, 2009</b>  Number of days to submit bids: <b>45</b>  Is the number of days sufficient? <b>Yes</b>  If no, how many days should have been given to the bidder: <b>Not applicable</b>
Quality of Bid Documents (Including evaluation and post qualification criteria)	Observations made on the quality of the documents were: (i) ITB 1.1 required bidders to bid for complete quantities in a lot and at the same time in multiples of 1,000 within lot which was a contradiction (advert put multiples at 1,300 MT which was different from bidding documents) (ii) delivery was specified for quantities to specific destinations and award was based on destinations but the bidding documents were not clear on destination as factor in award (iii) Post qualification requirements was inadequate as it did not include past performance and liquid assets , (iv) there was no criteria on how unit prices would be used as basis of award. and (v) Governing law for the contract was indicated as International Law as opposed to Laws of Malawi. <b>Improvements should be made to basis of bid, evaluation and award, post qualification requirements to include past performance in similar contracts, governing law to be Laws of Malawi and separate arbitration by type of Suppliers</b>
Bid opening & minutes of bid opening date(s)	Bid Opening Date: <b>June 1, 2009</b>  Minutes of Bid Opening on file: <b>Yes , minutes are on file and signed</b>  Who attended the Bid Opening? <b>Thirty two bidders bought the documents and thirty submitted their bids. Ministry officials and bidders attended the opening session. Each bidder signed their bid opening checklist</b>  Was price read out loud? <b>Yes, according to the records</b>
Bid security records: Is it as stated in the bidding document?	<b>Yes. All bidders submitted bid security to the value stated in the bidding documents</b>

BER, verify existence of bids and give Names of bidders, checking also their eligibility

Evaluation was conducted from 16-19<sup>th</sup> June , 2009 at Salima ADD. The evaluation team comprised nine (9) members . The members comprised technical and procurement staff. The Evaluation Team was informed that they should consider procurement of 77,000 metric (50,549 MT NPK and 26,450 Urea)tones from the 100,000 advertised because the Government had additional 23, 000 metric tons from buy-back arrangement .

Lot 1- Urea – 27 bidders submitted bids and twenty four were responsive. Reasons for rejection of the three are documented with two being bid security from Insurance firm and one had shorter bid validity

Lot 2- NPK – 23 bidders submitted their bids all from Malawi. Two were disqualified on account of bid security being from insurance firms. The average unit price offered by responsive bidders were as follows:

Bidder	Urea (USD)	NPK
1. 540.00	n/a	Agricultural Resources
2. 543.00	553.00	Lakeland
3. 574.00	579.00	Malawi Fertilizer Co
<b>4. 575.80</b>	<b>580.00</b>	<b>Export Trading</b>
<b>5. 581.00</b>	<b>553.00</b>	<b>Sealand Investments</b>
6. 585.60	590.00	Agora
<b>7. 588.00</b>	<b>593.00</b>	<b>Farmers World</b>
8. 600.00	610.00	Optichem
9. 601.00	n/a	Royal
<b>10. 625.00</b>	<b>630.00</b>	<b>Nyiombo</b>
11. 645.00	n/a	JF Investments
<b>12. 660.00</b>	<b>671.00</b>	<b>Mulli Brothers</b>
13. 670.00	680.00	Elvis Suppliers
<b>14. 670.00</b>	<b>678.00</b>	<b>Transglobe</b>
15. 670.00	680.00	Chiphaka
<b>16. 675.00</b>	<b>680.00</b>	<b>Simama</b>
<b>17. 683.00</b>	<b>688.00</b>	<b>Cointech</b>
18. 685.00	700.00	Gasom
19.		Mapeto

	4. Final quantities awarded were not based on unit price offered or relative to the unit price offered. Some responsive bidders were not awarded any quantities at all despite offering relatively lower prices. The basis of the final allocation should have been specified in the bid documents and should be relative to the unit price offered
Methods used in the evaluation of bids and awards of contracts objectives & made known in the bidding documents and not applied arbitrarily?	In addition to stated criteria, introductions were made in terms of post qualification criteria (past performance ) and use of Unit prices in final allocations. All criteria should be in the bidding documents and attention should be made on how final quantities to specific bidders are determined
Bid validity Extensions? How many days? Is the bid validity valid?	<b>None</b>
Publication of contract award	Date of Publication: <b>Not published</b> Where was it published? <b>Not published</b> <b>The Ministry wrote all unsuccessful bidders explaining the basis of allocation and results of their tender</b>
Contract document (same as for selected bid?)	
Reference to ODPP and “no objection,”	Date of NOB: <b>No objection was sought from ODPP on August 14, 2009. No Objection was provided on August 19, 2009 with observations that it could have been improved (what issues)</b>
Advance payment and guarantee: details and records:	<b>No records on file</b>
Performance Security details and records	Name of Bank: <b>As noted above</b> Amount:
Amendments and addendum to the contracts (Date, reasons for amendments , quantity and value of amendments)	<b>Addendum was made to Nyiombo, Mulli, Farmers World and Coin Tech after Astro and Farmchem failed to deliver on time especially that they were awarded NPK which is a basal dressing. No objection on the addendum was obtained from ODPP</b>
Complaints and related matters	If yes, date of complaint: <b>None</b> Name of complainant: <b>None</b> Date resolved: <b>Not applicable</b> Fairness and Treatment of bidder’s complaint: <b>Not applicable</b>

<p><b>Contractual</b> completion date (extended? amendments, variation orders acceptable?)</p>	<p>Plan date for end of contract as scheduled: <b>19<sup>th</sup> August to 12<sup>th</sup> November 2009</b></p> <p>Actual: <b>Not possible to determine as there are no data</b></p> <p>Date of Amendment, if any: <b>Only three contracts were amended</b></p> <p>Revised date for contract to end: <b>January 2010</b></p> <p>Actual: <b>January 2010</b></p> <p>Variation orders:: <b>Only to four suppliers</b></p> <p><b>The procurement files did not have delivery notes but there were monthly delivery reports from Logistics Unit which were inadequate for contract administration. Whilst payment is based on information from Logistics Unit to Finance, Procurement Unit did not get any returns to determine the end of the contract and hence it would be difficult to assess performance of Suppliers</b></p>
<p><b>Actual</b> completion date</p>	<p><b>Various but generally January 2010 (derived from Monthly reports from Logistics)</b></p>
<p>Contract payments same as contract?</p>	<p>Contract payments scheduled in the contract: <b>Not possible to determine as not all documents were on file</b></p> <p>Was it paid as scheduled? Any deviation? Why? <b>Bidders bid in United States Dollars, MoAFS accepted the bid in Kwacha (converted at evaluation) and payment was made in Kwacha. Suppliers asked for exchange losses which ODPP advised on positively but has not been paid. The challenge was that the MoAFS changed the currency of offer and fixed it for which suppliers countersigned signifying acceptance. Rationally the request from suppliers should have been considered because their offer was in US Dollars in accordance with bidding documents. The first payments were made from Ministry of Agriculture and Food Security and there after the payment shifted to Ministry of Finance on justification from MoAFS</b></p>
<p>Bill of lading, if any</p>	<p>None</p>
<p>Delivery receipt or like instrument</p>	<p><b>Delivery reports on file but delivery notes not on file</b></p>
<p>Liquidated damages, details and enforcement for delays.</p>	<p><b>Not done</b></p>
<p>Timeliness of payments</p>	<p>Invoice date:                      Payment date: <b>No</b></p> <p>Number of days to process payment: <b>Not possible</b></p> <p>Is this in accordance with the contract? : <b>Not known</b></p> <p><b>The Procurement Unit where contracts are processed and kept did not receive any invoices. Logistics Unit verifies the delivery against the contract and payment is based on this certification</b></p>
<p>Indication of possible fraud or corruption?</p>	<p><b>None</b></p>
<p>Other matters</p>	<p><b>The MoAFS knew the amount of fertilizer for buy-back arrangements (ex-stock) and hence these should have been fully considered at the time of advertising</b></p>

Justification for direct contract (if applicable)	Not applicable
Procurement Documentation (Filing)	<p>What was missing in the file? <b>Delivery notes and payment records</b></p> <p>Does the unit keep all procurement files in one location? <b>No</b></p> <p>Who handle the filing? <b>Secretary to the Procurement Unit for procurement issues and Logistics Unit for delivery information</b></p> <p>Are evidence of payment (e.g. payment vouchers, receipts) filed separately in the finance unit? <b>None, this handled by other units and not shared with Procurement Section</b></p>
Compliance with agreed provisions – Yes or No (explain)	Substantially compliant . However evaluation and award criteria need to be strengthened in the bidding documents to improve transparency in award and avoid arbitrary award of quantities
Specific Comment on potential misprocurement	None
Action points to be undertaken to improve procurement execution	<ol style="list-style-type: none"> <li>1. Improve the quality of the bidding documents focusing on evaluation and post qualification criteria . All criteria should be in the bidding documents.</li> <li>2. There should be a disclosed sound basis for final allocation of quantities. The criteria should be relative to the unit prices offered such that those offering lower prices should get higher quantities. This would ensure economic basis of allocation of quantities</li> <li>3. Currency of bid and payment should be clear in the bidding documents. For ICB procurement , bidders should be allowed to bid in forex for goods supplied from outside the country and payment should be in currency of contract or prevailing rate of exchange in accordance with Procurement Law</li> <li>4. Procurement should keep all documents from start of procurement to final delivery including payment of invoices</li> </ol>

**Malawi-Post Review of Procurement Processes and Contract Administration of Input Subsidy Program (ISP)  
(Fertilizers and Transportation Services) - Government financed for 2009/2010 Fiscal Year**

<b>Date of Review: March 24, 2010</b>	<b>Name of Reviewer: Chester Gondwe</b>
<b>Contract Name/No/Date:</b>	<b>Contract Amount USD: Various</b>
<b>Contractor's Name and Address: 30 Contracts signed as per Annex 1.</b>	

**PROC. METHOD:**  ICB  NCB  LIB  Direct Contract  Others, specify: \_\_\_\_\_

**CATEGORY:**  Goods  Works  Services

<b>Aspects</b>	<b>Comments and Findings</b>
Applicable Law, Rules and Procedures	The applicable law for the procurement is the Malawi Public Procurement Act No. 8 of 2003 and its associated Regulations and Desk Instructions. The Ministry of Agriculture and Food Security has copies of applicable law, regulations and procedures. In addition, the MoAFS have detailed 26 steps to be followed in the procurement process for the procurement of fertilizers and transport services. The review was undertaken in this context
Statement of Need by the Ministry (Authority to proceed from ISP Coordinator)	Authority from the Principal Secretary dated <b>3<sup>rd</sup> July, 2009</b> after approval of the same by the Minister responsible dated 29 <sup>th</sup> June 2009.
Advertising	Date of Advertisement: <b>July 13th, 2009</b> Where was it advertised? <b>The Daily Times News Paper</b>
Pre/Post qualification	Tender was offered on open competition, post qualification basis
Time allowed for submission of bids	Closing date for Advertisement: <b>August 7th, 2009</b> Number of days to submit bids: <b>26 days</b> Is the number of days sufficient? <b>Somehow Yes</b> If no, how many days should have been given to the bidder: <b>30 days</b>

Quality of Bid Documents (Including evaluation and post qualification criteria)	The bid documents used were for consultancy services . The evaluation criteria used a point system where bidders were awarded scores for possession of registration certificate, experience etc. The bid document used for non consultancy services was not yet available.
Bid opening & minutes of bid opening date(s)	Bid Opening Date: <b>August 7<sup>th</sup> , 2009</b> Minutes of Bid Opening on file: <b>Yes</b> Who attended the Bid Opening? Was price read out loud? <b>Yes</b>
Bid security records: Is it as stated in the bidding document?	N/A
BER, <b>verify existence of bids and give Names of bidders, checking also their eligibility</b>	All <b>73 bids</b> are available and all were eligible to participate in the tender.
Methods used in the evaluation of bids and awards of contracts objectives & made known in the bidding documents and not applied arbitrarily?	<b>Point Rating system wrongly applied to non consultancy service evaluation. Decision to award contracts was not objective.</b>
Bid validity Extensions? How many days? Is the bid validity valid?	<b>Bid validity period was valid at 90 days</b>
Publication of contract award	Date of Publication: <b>Not done</b> Where was it published? <b>Not done</b>
Contract document (same as for selected bid?)	<b>Effective date of contract (except for one) not indicated. Contract document used suitable for consultancy services.</b>
Reference to ODPP and “no objection,”	Date of NOB: <b>September 18<sup>th</sup> , 2009</b> OR N/A
Advance payment and guarantee: <b>details and records:</b>	N/A
Performance Security details and records	Name of Bank: N/A Amount: N/A
Amendments and addendum to the contracts (Date, reasons for amendments , quantity and value of amendments)	<b>Sixty contracts were supposed to be issued to responsive bidders but were rationalized to 30 contracts upon which a no objection was issued. Basis of reduction from 60 to 30 bidders that were awarded contracts was not indicated</b>

Complaints and related matters	<p>If yes, date of complaint: N/A</p> <p>Name of complainant: N/A</p> <p>Date resolved: N/A</p> <p>Fairness and Treatment of bidder's complaint: N/A</p>
<b>Contractual</b> completion date (extended? amendments, variation orders acceptable?)	<p>Plan date for end of contract as scheduled: <b>Not indicated in both the contract and bid document.</b></p> <p>Actual: Not indicated</p> <p>Date of Amendment, if any:</p> <p>Revised date for contract to end:</p> <p>Actual:</p> <p>Variation orders::</p>
<b>Actual</b> completion date	<b>Not indicated</b>
Contract payments same as contract?	<p>Contract payments scheduled in the contract: <b>Payments done according to delivery tonnage accepted.</b></p> <p>Was it paid as scheduled? Any deviation? Why?</p>
Bill of lading, if any	N/A
Delivery receipt or like instrument	<b>Like instrument is provided by the logistics unit</b>
Liquidated damages, details and enforcement for delays.	
Timeliness of payments	<p>Invoice date:                      Payment date: <b>Information not readily available</b></p> <p>Number of days to process payment:</p> <p>Is this in accordance with the contract? :</p>
Indication of possible fraud or corruption?	None
Other matters	None

Justification for direct contract (if applicable)	N/A
Procurement Documentation (Filing)	<p>What was missing in the file? <b>Payment Vouchers and Delivery Notes</b></p> <p>Does the unit keep all procurement files in one location? <b>No-Documents are scattered between Logistics and Procurement</b></p> <p>Who handle the filing? <b>The Secretary in the Procurement Unit</b></p> <p>Are evidence of payment (e.g. payment vouchers, receipts) filed separately in the finance unit? <b>Yes</b></p>
Compliance with agreed provisions – Yes or No (explain)	<b>Open tendering was used, evaluation was done and IPC upheld decision of the evaluation committee and ODPP issued the no objection based on IPC decision.</b>
Specific Comment on potential misprocurement	<b>Rationalization of the number of contracts to be awarded from 60 to 30 contracts may be an area for potential misprocurement.</b>
Action points to be undertaken to improve procurement execution	<b>MoAFS should use the Standard Bidding Document for non consulting services future procurements of this nature, post qualification criteria should be strengthened and the mandatory bidding period must be adhered to.</b>

## MEMBERS OF THE REVIEW TEAM

ITEM NO	NAME	POSITION	ORGANIZATION
1	Simon Chirwa	Senior Procurement Specialist	World Bank, Zimbabwe
2	Chester Gondwe	Procurement Specialist	Office of Director of Public Procurement
3	Christine Mtambo	ISP Coordinator	Ministry of Agriculture and Food Security
4	Betty Ngoma	Assistant Director, Debt & Aid	Ministry of Finance
5	Clementina Zimba	Chief Procurement Officer	Ministry of Agriculture and Food Security
6	Ben Yekeson	Technical Advisor	Ministry of Agriculture and Food Security