

**TURKEY COUNTRY PROCUREMENT ASSESSMENT
REPORT: CONSULTING SERVICES**

FINAL DRAFT

**Operations Policy and Country Services
OPCS**

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ABBREVIATIONS AND ACRONYMS

ATCEA	Association of Turkish Consulting Engineers and Architects
EU	European Union
FIDIC	International Federation of Consulting Engineers
GoT	Government of Turkey
IBRD	International Bank for Reconstruction and Development
LCS	Least-cost selection
ODA	Official development assistance
PPA	Public Procurement Authority
PPL	Public Procurement Law
QCBS	Quality- and cost-based selection
RFP	Request for proposals
SSS	Single-source selection
TOR	Terms of reference

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TURKEY COUNTRY PROCUREMENT ASSESSMENT REPORT: CONSULTING SERVICES

Introduction

This report examines the condition of the consulting industry in Turkey, especially as it is influenced by the country's procurement policy, regulatory system, and practices and procedures in selecting, contracting, and using consulting services. It recommends steps the Government of Turkey (GoT) and the profession can take to improve the health of the consulting industry and ensure that the GoT has efficient access to quality professional consulting services to meet the challenges of the future.

The discussion in this report is based on the premise that governments are healthier and stronger, and can deliver better services to the citizens, when they can—and do—draw on the services of a strong and vital consultant sector. There are several important reasons why this is so:

- **Quality.** In a competitive consulting environment, consultants are obliged to maintain cutting-edge skills. In addition, consultants tend to specialize in certain areas, and can bring a wealth of past experience to today's problems.
- **Independence.** Since consultants are not government ministry staff members, they are in a position to recommend the best solutions to a given problem, without "fear or favor."
- **Cost.** It can be very expensive for ministries to keep sufficient experts on their staff to deal competently with any tasks that may arise—especially because they cannot use this expertise constantly. It is a far better use of government funds to hire precisely the expertise that is needed, when it is needed.
- **Local knowledge.** National consultants have the advantage of understanding the specific context of any task, and thus being able to recommend the most suitable solutions. Their advice should be complemented by that of international consultants, who offer state-of-the-art knowledge and experience from around the world.

Many countries—for example, the UK, Netherlands, the Scandinavian countries, New Zealand, Australia, and the USA—have internalized these principles and nurtured a strong and competitive consulting industry. Consultants in these countries take on an ever-increasing variety of tasks, while at the same time the numbers of in-house technical units and staff have rapidly decreased.

The recommendations in this report, which are based on the experiences of such countries, are intended to suggest measures the Government of Turkey can take to create an environment in which Turkey's consulting industry can effectively contribute to building the

country's much-needed knowledge capital, and truly serve the Government's efforts to deliver good-quality services to the citizens.

1 Summary and Conclusions

This section briefly summarizes the findings and recommendations detailed in Chapter 3, "Findings."

1.1 GoT Policy on Consultants

GoT does not have a policy on consultants, nor has it conducted a review of the quality of services that consultants provide to the public administration and the ways this quality affects its projects. The public administration tends to carry out in-house most planning, feasibility studies, and construction supervision, hiring professional consultants mainly to prepare detailed infrastructure designs and conduct specific studies of a limited technical nature. Thus this review finds that Turkey's public sector does not make the best possible use of consultants, and that the performance of Turkey's consultants can be enhanced by improving the environment in which they operate, including the manner in which they are selected, contracted, and managed.

Recommendation. GoT may wish to consider developing a policy on professional consultants as a first step in improving its access to professional independent services of the quantity and quality needed to increase the productivity of public sector investments and the efficiency of the public sector administration.

1.2 Legal and Regulatory Framework

The public procurement regime of consulting services in Turkey is regulated by the Public Procurement Law (PPL) and related Regulations. While the PPL and the Regulations provide a generally sound basis for establishing an appropriate environment for a flourishing consulting profession, this review identified a number of areas that are not consistent with international good practice.

Recommendation. GoT may wish to consider adjusting the PPL and Regulations to address the problems identified and make the consultants' selection process more quality-oriented, simpler, and less costly for all parties involved.

1.3 Institutional Arrangements

At present, GoT has no institutional framework for actions to ensure that a policy on consultants is formulated, implemented, and monitored, although it does have in place most of the components of such a framework: the State Planning Organization; the Public Procurement Authority (PPA); the line ministries and their technical departments, and the municipal administrations; and several professional associations.

Recommendation. GoT may wish to create a panel or commission to formulate policy, receive suggestions from stakeholders, and provide guidance on sound and coherent policy on consultants.

1.4 Procedures and Practices

In spite of the provisions of the PPL, public sector institutions tend to use practices appropriate for the procurement of services rather than of intellectual services; thus they appear to put excessive emphasis on price competition, less on quality, and very little on the independence of the advice received. Most staff have little knowledge or experience in engaging and using consultant services, including preparing appropriate terms of reference and supervising contracts, and they have little or no access to training. This environment tends to discourage good consultants from entering competition and eventually deprives clients of high-quality services.

Recommendation. As the public administration strives to become more efficient and to make increased and more diversified use of independent professional advice, it will be important for procuring agencies to bring their practices in line with widely accepted principles of good professional practice.

1.5 Capacity Development and Integrity

Executing agencies do not systematically work to develop the capacity of staff involved in selecting and managing consulting services. Those responsible for such activities are not always expert in the disciplines that are the object of the assignment, or with preparation of consultants' terms of reference or evaluation of technical proposals.

No major corruption cases were reported to the mission, although many interviewees mentioned that political pressure often interferes with the selection process and affects its results.

Recommendation. For a better operating environment, it will be important for the GoT to work with the consulting community to improve business and working practices. One essential step would be for executing agencies to ensure that their professionals who are involved in selecting consultants and managing consultant contracts receive specific training in the area.

1.6 Demand for Professional Consulting Services

Only a small percentage of domestic funds for public sector procurement is spent on independent professional services, and this percentage is even lower for the municipal administrations. Except in ODA-funded projects, the public administration tends to save as much as possible on consultant expenses by executing most planning and project preparatory activities in-house, limiting the scope of professional services to detailed design work, and offering consultants barely adequate conditions of engagement.

Recommendation. GoT and the provincial and municipal authorities may want to adopt a sourcing policy by which nonrepetitive, specialized work of an intellectual nature is contracted from independent professional consultants. This will help ensure greater quality, efficiency, and cost-control, as well as a more uniform and reliable workload for GoT in-house resources. In framing its approach, the GoT could examine the experiences of countries whose public administrations regularly employ external, specialized, and independent advice (including on policy formulation) instead of maintaining expensive in-house capacities, such as Australia, Korea, New Zealand, the United Kingdom, and the Scandinavian countries.

1.7 Supply of Consulting Services

It appears that the workload of, and the number of professionals in, the consulting sector have decreased over the past five years. Low domestic demand for consulting services, coupled with inappropriate selection methods, may have reduced consultants' remuneration as well as the quality of the services provided. The number of consulting firms may well have decreased, and valuable professionals have abandoned the field. The fact that professional services are often provided on a noncompetitive basis by in-house technical departments only compounds the problem. Furthermore, the same factors that discourage Turkish firms also deter foreign consulting firms from seeking to provide services to domestically funded GoT projects.

Recommendation. The consulting associations should help the GoT to design and adopt an outsourcing policy ensuring that studies, designs, and supervision services are conducted by independent professional consultants while GoT staff remain responsible for planning, management, and control tasks.

1.8 Risk Management

For the reasons explained in this report, public sector procurement and use of consulting services in Turkey entails risks both for the executing agencies and for the consultants. Because the design and construction supervision are often of only modest quality, there are frequent project cost overruns, completion delays, infrastructure services failure, and claims and disputes with consultants and contractors that can remain unsettled and delay the completion of projects. Incorrect application of the PPL and inadequate regulation related to consultant services hinder market functionality. The operating environment and the lack of recognition and pay discourage talented Turkish professionals from investing their skills and experience in starting a consulting business and retaining good professionals.

Recommendation. The risks identified in this report are generated on both the demand and the supply sides. From the procurement performance standpoint, the GoT can address the main risk factors by adopting the recommendations in this report about establishing (a) a simple, credible, and enforceable regulatory framework consistent with sound professional and business practices; and (b) a sourcing policy under which nonrepetitive, specialized work of an intellectual nature is contracted from independent consultants. On the supply side, consultants should ensure that they deliver services to the GoT in accordance with the quality and integrity standards and norms demanded by their profession and by the law.

1.9. Next Steps

To jump-start the policy dialogue, the GoT could convene a workshop in which representatives from government agencies, professional associations, private consulting firms, and academic institutions would participate. The workshop would address the following issues: (a) the need for a policy on consultants as part of a country policy aimed at improving public infrastructure and other services; (b) a review of the existing rules and regulations on consultants; and (c) ways to strengthen associations of the professionals that serve the public administration.

To prepare for the workshop, the Turkish consultant associations could prepare a “white book” that addresses the following issues: (a) the advantages of recurring use of competent and independent consultants; (b) losses to the economy because of poorly planned and underdesigned projects; (c) the professional skills available in the country in various fields, and skills that are missing; (d) the sustainability problems facing the profession; and (e) possible solutions. The present assessment and the survey of the performance and competitiveness of the Turkish consulting sector could also be used as background documents for the suggested workshop.

2 Background

2.1 Objectives and Execution of the Assessment

The purpose of this report is to provide the GoT with an independent assessment of its procurement arrangements, including its regulations, procedures, and practices, related to selecting and employing consultants. Its second objective is to assess whether these arrangements are helping to create or strengthen an economically sustainable national independent consulting profession. The assessment is based on a review of regulations and practices and of the supply and demand conditions of the consulting services sector in Turkey, and on interviews with the GoT and other stakeholders.

To prepare this report, Giovanni Casartelli, World Bank Consulting Services Advisor, and Piero Ravetta, consultant, visited Turkey from September 12 to 23, 2005. Mr. Ibrahim Sirer, Sr. Procurement Specialist in the Bank's Turkey Country Office, joined the mission in its activities, and Ms. Hulya Bayramoglu, Program Assistant, provided general support. The mission met with staff of several government departments; executing agencies; project implementation units; Turkish consultants associations in the areas of economics, management services, and consulting engineering (including design and supervision of works);¹ and the EU resident mission in Ankara; and with World Bank operational staff responsible for project operations in Turkey as well as with members of the World Bank country office in Ankara. To complete this assessment, the Bank conducted a survey of consulting firms in October 2005 with the kind assistance of ATCEA.

2.2 Consulting Services in Turkey

In the 1960s, the GoT used professional consulting services only for implementing externally funded projects; ministries' technical departments produced most of the planning, investigations, studies, design, and supervision work in-house. From the mid-1960s to the early 1980s, the GoT generated a demand for consulting services in ODA-funded infrastructure projects that were largely executed by foreign consultants in association with local firms. This also helped create a private domestic consulting services community of firms and individuals concentrated in engineering and related disciplines.

The Association of Turkish Consulting Engineers and Architects (ATCEA), founded in Ankara in 1980, has been a member of the International Federation of Consulting Engineers (FIDIC) since 1987 and of EFCA since 2001. Today its 188 members represent 138 technical consulting firms, of which 74 percent are located in Ankara, 24 percent in Istanbul, and only 2 percent in Izmir, Bursa, and Adana. ATCEA associates' annual turnover—US\$250 million in 2003—represents about 65 percent of the domestic professional engineering services market. Of this turnover, 10 percent represents services exported mainly to the Middle East, Central Asia, and the former Soviet Republics of the Caucasus. Over 60 percent of ATCEA's

¹ The reviewers are particularly grateful to ATCEA, which greatly facilitated this review by assisting with the survey.

firms have fewer than 25 employees, 30 percent have 25-100, and fewer than 10 percent have over 100 employees.

Turkish engineering consultants cover all main areas of public infrastructure, as well as buildings, environment, and energy. Although Turkish consulting engineers can offer practically all types of services from preliminary studies to final design and construction supervision, public sector assignments were, until recently, limited to detailed engineering design activities.

Management consultants began operating in Turkey on a small scale in the late 1980s. Some international management and engineering consulting firms have offices in Turkey—mainly in Istanbul—and for the most part employ Turkish professionals. They operate to a large extent in the private sector. Only very recently have management consultants experienced demands for services from the public administration, following the GoT privatizations and institutional development programs funded in part by the World Bank and the EU.

3 Findings

3.1 GoT Policy on Consultants

GoT does not at present have a policy on consultants, nor has it conducted a review of the quality of services consultants provide to the public administration and the ways this quality affects its projects. Traditionally the Turkish administration has carried out in-house most of the technical activities, preparation, and supervision for its programs. It tends to hire professional consultants as firms or as individuals only to prepare detailed infrastructure designs or conduct specific studies of a limited technical nature. Investment planning, master planning, feasibility studies, and construction supervision are for the most part carried out by the public administration except when related to programs funded by international agencies or the EU.

In spite of all this, GoT is by far the main force driving the demand for consulting services in the country, and its policy and regulatory stance on consultants dictates the main characteristics of the market and the development of the professional consulting services sector in Turkey. It would appear that the lack of a policy on consultants has led to regulations that are weaker than they might be, and thus to inefficient practices—a situation that eventually affects the quality of services and the productivity of investments. This review suggests that the performance of consultants in Turkey can be enhanced by improving the environment in which they operate, including the manner in which they are selected, contracted, and managed.

Recommendations

GoT may wish to consider developing a policy on professional consultants as a first step in gaining access to professional independent services of the quantity and quality needed to increase the productivity of public sector investments and the efficiency of the public sector administration. This policy should provide guiding principles on the adoption of suitable rules and procedures and encourage the creation of additional professional capacities and of an enabling environment for recognized professional work. It should be jointly formulated by all the institutions, including consultant associations, that have a stake in public sector reforms and in creation of a stronger knowledge base for the Turkish economy. (Annex B lists specific features such a policy might include.)

3.2 Legal and Regulatory Framework

The public procurement regime of consulting services in Turkey is regulated by the following laws and regulations:

- a) Public Procurement Law (PPL) No. 4734 of January 4, 2002, with later amendments introduced by three laws: No. 4761 of June 12, 2002; No. 4964 of July 30, 2003; and No. 5148 of April 27, 2004.
- b) Law on Public Procurement Contracts (LPPC) No, 4735 of January 5, 2002, with later amendments introduced by Law No. 4964 of July 30, 2003.

- c) Regulation on the Implementation of Consulting Service Procurements of January 1, 2003, including Standard Request for Proposal Document.

Development of the PPL was accompanied by extensive consultations with the World Bank and the EU. In its first edition, the PPL reflected the World Bank policy guidelines, identifying consulting services procurement in a separate section, indicating the restricted procedure applicable to consulting services, and allowing only the quality- and cost-based selection method. (All other provisions related to consultants' procurement are the same as those applicable to works, goods, and services.) Unfortunately, however, Amendment 4964/Article 3 of the PPL and the Regulation on Implementation of Services Procurement list engineering and architectural activities as "services"—which often leaves users unsure whether to apply the rule for consultants or that for services. In addition, the review found the Regulation on Procurement of Consultants to be somewhat rigid, with rather complex administrative requirements that may confuse executing agencies. Some of the problems with the Regulation are as follows.

Prequalification Stage

- Consultants must submit all documents listed by the law for works, goods, and services, instead of only those that provide specific information necessary for a normal consultant selection. In addition all documents must be in their original form or in copy certified by a notary public. These requirements add costs and discourage good consultants from participating, and they can mean that candidates may be rejected because of formalities.
- Consultants must show similar experience within the past five years, and they must have completed at least 70 percent of the entire contract. As the demand for consulting services in Turkey has been weak in recent years, only a few Turkish firms can show sufficient credentials to compete, especially when international firms are admitted.
- The number of prequalified consultants can vary from three to ten. Standard international practice limits to six the number of consultants that should be admitted in a restricted procedure. Adding more than six candidates to the shortlist increases the burden of evaluation but does not add value to the selection process, since it discourages consultants from incurring the expense of preparing good proposals.
- Consultants must submit documentation pertaining to their financial situation. Good practice requires that consultants be evaluated first on the quality of their intellectual and professional assets (knowledge, experience, and reputation), and their financial strength is second, albeit important, consideration.

Technical and Financial Proposal

- Because the mechanism to calculate the relative weights of quality and cost proposals (Article 74) is complex and rigid, it is likely to lead to wrong decisions.

- In technical proposal evaluations, the criterion “Experience in work of similar nature and size” must be given 30-50 points. The intention of the rule may be that clients do not want to take any chances with consultants that may be just entering to this market. However, this heavy weighting disfavors firms with limited specific experience even if such experience was sufficient to short list them. The World Bank limits the weight of the criterion to no more than 10 points, while the EU does not admit it at all as a criterion of selection at the proposal stage.
- The procuring entity’s estimated cost of the assignment must not be disclosed until the end of the selection process (PPL, Article 9; Regulation, Article 8), but the price of the consultants proposed for award cannot be modified (Regulation, Article 78). Nothing is said about what to do if the quoted price is higher than the estimated cost.
- Consultants must submit a tender security—another provision that is contrary to standard consultant procurement practices.
- There is no provision for awarding to a consultant a contract assignment that is a natural continuation of previous work the same consultant carried out to the satisfaction of the procuring entity. Thus it is difficult for professional consultants and their clients to establish stable and mutually fruitful relationships that can enhance the quality of services that clients receive.

All the consultants interviewed for this review agreed that these problems discourage good consultants, both national and international, from offering their services to the GoT.

Recommendations

While the PPL and the Regulations provide a generally sound basis for establishing an appropriate environment for a flourishing consulting profession, this review identified a number of areas that are not consonant with international good practice. GoT may wish to consider adjusting the PPL and Regulations to address these problems and make the procurement process quality-oriented, simpler, flexible, time-efficient, and less costly. (Annex B lists specific provisions.)

3.3 Institutional Arrangements

At present, GoT has no institutional framework for actions to ensure that a policy on consultants is formulated and implemented although it does have in place most of the components of such a framework. The framework could be formed by the institutions that play a role in the public sector procurement reform and in the creation of a strong knowledge-based consulting sector in Turkey.

- The State Planning Organization, led by the undersecretary in the Prime Ministry department, could provide the ideal “roofing” of such framework.

- The central pillar, responsible for regulation and overview of the country procurement function, would be the Public Procurement Authority (PPA), established to enforce the PPL. The PPA prepares and issues regulations and standard bidding documents, and serves as the forum for resolving grievances regarding any consultant's procurement transaction.
- The line ministries and their technical departments (whether based in the center, in the regions, or in provinces) and the municipal administrations are the main consumers of professional services in Turkey. Their internal organizations seem weak in the area of consultant procurement, and they seem to outsource without any specific strategy or plan.
- The professional associations would also have a role to play in the institutional framework. Although there are several such associations in Turkey, they appear weak: most consulting firms operate as isolated individual enterprises, each preoccupied with its own business problems and prospects, and with little energy or resources left for developing a formal dialogue with the Government on issues of interest to the country and to them. Three of the most prominent associations: the Association of Turkey Consulting Engineers and Architects (ATCEA), which is the oldest professional association, strives to uphold the standards of the profession and often expresses its concerns to the Government; the Turkish Association of Chambers of Engineering and Architecture, the professional umbrella organization of engineers and architects, provides registration to its members; and the Management Consultants Association of Turkey, which was created in 1990 with about 50 individual members and recently joined the International Council of Management Consulting Institutes, includes only a fraction of Turkish management consultants as no professional registration chamber exists.

Recommendations

GoT may wish to create a panel or commission to formulate policy, receive suggestions from stakeholders, and provide guidance on sound and coherent policy on consultants. The panel should comprise representatives of such stakeholders as the State Planning Organization, the PPA, line ministries, and the professional associations. (Annex B describes the particular roles the PPA and the professional consulting associations could play in such a framework.)

3.4 Procedures and Practices

Selection of Consultants

The practices of the Turkish public administration in selecting consultants are often inconsistent with professional best practice, and even with the provisions of the PPL. Procuring officers often seem to focus on extensive paperwork aimed at securing compliance rather than achieving real service quality and efficiency, and public sector agencies often put excessive emphasis on price competition, less on quality, and very little on the independence of the advice.

While autonomous agencies that have worked with international donors have some knowledge and experience in proper ways of engaging and using consultant services, most institutions, particularly provincial ones, lack knowledge, skills, and experience in the field, and have little or no access to training. The Turkish public administration considers most of the activities carried out by engineers, architects, and other specialists not as “independent professional services” but merely as “technology-based services” and thus often treats them as quasi-commodities—that is, awarding contracts to the lowest bidder and complying with the entire set of qualification requirements, as if they were just “services” rather than activities of an intellectual nature.² The people interviewed for this review explained that procuring entities depend on price-based procedures because they have too little time for the procurement process; they do not understand the importance of considering quality over price in selecting professional consultants; there is a widespread perception that the lowest price is the only acceptable criterion; and procurement entities may not be sufficiently familiar with the PPL and its regulations. The result of these practices is that consultants are not well enough remunerated to ensure the quality of services, let alone the sustainable development of national independent professional consulting businesses.

Consultants complain of inadequate terms of reference (TOR): specifically, the preparation of TOR frequently gives insufficient attention to the actual requirements, the institutional setting, the operating conditions, and the capacity of the executing agency. Often, cost estimates are not tailored to the scope of work and to the needs of the executing agency but are determined by budgetary considerations. These failings result in poor proposals, uncertain contracts, disagreements on study or designs, changes in scope of work, implementation and operation problems, cost overruns, and completion delays.

Although public sector agencies claim that evaluations are generally conducted by committees with expertise in evaluating technically complex proposals, consultants and others note that criteria are not always applied consistently and impartially by all evaluators, particularly when pressures are put on them.

The Privatization Administration, with its own regulation focused on obtaining quality and efficient procurement, constitutes a remarkable example of how suitably designed regulations can, without departing from the law, achieve the desired procurement outcomes in a manner that better resembles market conditions and satisfies both clients and consultants. Overall, however, the substantial deficit of professional public servants with adequate skills and experience to select consultants properly, use quality services effectively, and administer them capably means that Turkey will not benefit from the access to the quality services it will need as it implements demanding reforms and investment programs.

Contracts and Contract Execution

On the basis of the principles and guidelines of the LPPC, the PPA has issued a standard contract for consulting assignments. However, many interviewees pointed out that

² According to ATCEA, in the first seven months of 2005 public authorities published 2000 calls for expressions of interest for consulting services; of these, it appeared that only 200 of the foreseen awards of contracts would be based on quality- and cost-based selection, as required by law.

implementing agencies' execution of consultant contracts is often unbalanced, and consultants are reluctant to consider an assignment with public agencies unless it is funded and paid or monitored by ODA. On the technical front, an irritant is the delays in getting clients' comments on the draft deliverable, sometimes even after the scheduled completion of the assignment. On the business side, the accounting and audit staff indulge in unwarranted interpretation of contractual clauses, causing delays in payments. Sometimes clients unilaterally withhold payment of final invoices and release of securities and retention moneys. Amendments to consultant contracts often are inordinately delayed. Consultants are normally not paid for changes or for delays caused by the clients themselves and thus have no incentive to point them out. Local consultants are typically unwilling to complain for fear of being shut out of future contracts.

Recommendations

As the public administration strives to become more efficient and to make increased and more diversified use of professional advice, it will be important for procuring agencies to bring their practices in line with the following widely accepted principles of good professional practice:

- Quality-based selection is the appropriate method for employing consultants, as the PPL provides. The lowest-price method is applicable only if the assignment is very simple and without downstream effects.
- To obtain good-quality consulting services, it is necessary to prepare adequate terms of reference and cost estimates, and to ensure a balanced execution of contracts.
- As a rule, consulting contracts must be overseen by competent and professional project managers who understand both the object of the assignment and contract law.

3.5 Capacity Development and Integrity

The PPA provides brief training to GoT agencies on the application of the law and its regulations, and project units provide additional training on the application of World Bank procurement. However, it appears that, except in the Privatization Administration, executing agencies do not systematically work to build the capacity of staff involved in selecting and managing consulting services. For example, as described in the preceding section, those responsible for selecting and contracting consultants are not always expert in the disciplines that are the object of the assignment, and evaluators sometimes are unable to correctly apply quality- and cost-based evaluation methodology.

No major corruption cases were reported to the mission, although many interviewees mentioned that political pressure often interferes with the procurement process and affects its results.

Recommendations

For a better operating environment, it will be important for the GoT to work with the consulting community to improve business and working practices. One essential step would be for executing agencies to ensure that their professionals who are involved in selecting

consultants and managing consultant contracts, beginning with those who have already dealt with consultants, receive specific and in-depth training in the area. (Annex B lists some of the most important components of such training.)

Impartiality and integrity are as important as the evaluators' technical skills; without them, intensive and expensive training is valueless. Thus it will be important for the GoT and provincial and municipal authorities to strengthen the capacity and ensure the integrity of their staff assigned to select consultants, manage consulting contracts, and act as counterpart teams. This implies that these staff will be able to operate under suitably motivating economic and moral incentives: sufficient pay, adequate function recognition and promotion on merit, a code of conduct, and enforceable rules on conflict of interest and nepotism.

For their part, Turkey's professional consulting associations should ensure that their members adhere to the highest levels of quality and integrity required by their professions. And Turkey must demand the same high standards of behavior from all international consultants operating in Turkey.

3.6 Demand for Professional Consulting Services

The public administration is not always aware of the quality and value that good independent professional services can add to most of its activities. Only a small percentage of domestic funds for public sector procurement is spent on professional consulting services, and this percentage is even lower for the municipal administrations. National and international consultants, mostly in association, are generally used in ODA- and EU-funded projects, and at present Turkish consultants prefer to concentrate their services on assignments procured by the government under the ODA and EU rules and procedures. Mission interviews and data supplied by ATCEA on public sector investment suggest that the demand for consulting services has stagnated in recent years, especially in the infrastructure sector, but has picked up again recently. Privately developed infrastructure projects, which surged in the 1990s, have not had a lasting impact on the demand for consulting services in Turkey.

In the early 2000s, even the demand for professional services in ODA-funded programs has fallen because most lending to Turkey has been for macroeconomic adjustment. This demand is mainly met by associations between foreign consultants and national consulting organizations engaged in accordance with the rules stipulated in the relevant ODA credit agreements.

Because of the way in which public sector functions are organized, the public administration has been executing in-house most of the planning and project preparatory activities that would normally be carried out by professional consultants. Except in ODA-funded projects, the public administration tends to save as much as possible on consultant expenses by limiting the scope of consultants' services to detailed design work and offering barely adequate conditions of engagement.

As the GoT addresses the need to modernize infrastructure services, better manage ongoing sector reforms, and approximate EU practices, the Turkish administration is turning its

attention to the kinds of planning, institutional development, and professional project preparation work that cannot be produced in-house. The services of capable and unbiased consultants are likely to add quality and transparency to public sector investment decisions and actions, and demand for professional consulting services should expand again as the GoT implements reform programs in the areas of infrastructure, social sectors, and public sector governance. However, at present Turkey probably does not have a supply of professional consultants that is adequate to meet that demand. The GoT now has an opportunity to develop policy and legislation on consultants that could revive the domestic consulting services sector and create the conditions for a wider knowledge-based economy.

Recommendations

As part of planning for the period ahead, the GoT, and provincial and municipal authorities, may want to adopt a sourcing policy under which nonrepetitive, specialized work of an intellectual nature is contracted from independent professional consultants—who are likely to be able to increase the quality, efficiency, and cost-control of most of the design and project supervision activities that are now carried out in-house. In addition, such a policy will help administrators ensure a more uniform and reliable workload for in-house staff and avoid overstaffing with specialists whose workload would be uncertain.

It would also be advisable for the GoT to begin limiting the privileges and hidden subsidies presently enjoyed by state- and municipal-affiliated technical organizations, obliging them to operate under fair and equal competitive conditions, without favors. To avoid conflicts of interest, it would be good for the GoT to develop and enforce a policy governing the outside consulting work of its professional employees.

In framing an appropriate approach, the GoT may wish to examine the experiences of countries that regularly access external, specialized, and independent advice (including on policy formulation), such as Australia, Korea, New Zealand, the United Kingdom, and the Scandinavian countries.

3.7 Supply of Consulting Services

Although there is no complete data series on the turnover of Turkish consulting firms, the available records indicate that the workload of and the number of professionals in the consulting sector has substantially decreased over the past 10 years. Information supplied by ATCEA affiliates indicates that remuneration for design services has fallen in recent years because of falling demand and price competition. The survey conducted by the World Bank in October 2005 among Turkish professional consulting firms seems to confirm these trends.

Some of the constraints cited earlier in this report—for example, the decrease in infrastructure investments and price competition—are also likely to have reduced consultants' remuneration and the quality of the services provided, with the result that some consulting firms may have gone out of business and some professionals may have abandoned the field. The fact that professional services are often provided on a noncompetitive basis by in-house technical departments of public administrations only compounds the problem, and it

represents the most serious impediment to the sustainable growth of an independent professional consulting industry. The best Turkish consulting firms, if offered the possibility, prefer to sell their services to foreign clients or to Turkish private sector clients rather than to the GoT. Furthermore, the same factors that discourage Turkish firms also deter foreign consulting firms from seeking to provide services to domestically funded GoT projects.

Recommendations

The issue of the supply of professional consultants can best be addressed through a cooperative effort between the profession and the GoT. To foster a fact-based dialogue with the Government, the consulting associations could prepare a “white book” that addresses the following issues: (a) the advantages of recurring use of competent and independent consultants; (b) losses to the economy because of poorly planned and underdesigned projects; (c) the professional skills available in the country in various fields, and skills that are missing; (d) the sustainability problems facing the profession; and (e) possible solutions. After receiving the white book, the GoT could convene a workshop on consultants. The consulting associations could then help the GoT to design and adopt a strategic sourcing policy ensuring that studies, designs, and supervision services are conducted by independent professional consultants while GoT staff remain responsible for planning, management, and control.

3.8 Risk Management

For the reasons highlighted in this report, public sector selection, employment, and management of consulting services in Turkey entails risks both for the executing agencies and for the consultants. Lack of data makes it difficult to carry out a detailed risk analysis, but a superficial review identifies the following main risks.

Technical and Economic Risks. The quality of study, design, and construction supervision services affects the quality of infrastructure and causes project cost overruns, completion delays, infrastructure service failures, and a high number of claims and disputes with consultants and contractors that can remain unsettled and delay the finalization of projects. The costs to the economy are likely high.

Professional and Business Risks. The operating environment and the lack of recognition and pay discourage talented Turkish professionals from taking up or staying in a career as independent consultants to the GoT and even more from starting up and investing in an organized consulting business. The low level of sustainability and the consequent drain of knowledge and experience capital available to Turkish consulting firms is the most serious risk facing the consulting professions in Turkey.

Regulatory Risks. Incorrect application of the PPL and inadequate regulations on consultants hinder market functionality. The burdensome qualification formalities and the rigid approach make it very costly and risky to do consulting work with the GoT. On the other hand, selection and use of consultants under World Bank projects, in which the Bank’s Consultant Guidelines are reasonably enforced, have for a long time been apparently free of major risks.

Overall Risk. Without a viable operating environment that mitigates these risks at least to some degree, the strength of many domestic consulting firms is likely to be further compromised. This will put GoT projects at risk and affect the productivity growth of the Turkish economy.

Recommendations

The risks identified in this report are generated on both the demand and the supply sides, and they can be best prevented, managed, or mitigated by the parties that generate them. From the procurement performance standpoint, the GoT can address the main risk factors by adopting the recommendations in this report about establishing (a) a simple but credible and enforceable regulatory framework consistent with sound professional and business practices; and (b) a sourcing policy by which nonrepetitive, specialized work of an intellectual nature is contracted from independent consultants. On the supply side, consultants should ensure that they deliver services to the GoT in accordance with the quality and integrity standards and norms demanded by their profession and by the law.

ANNEX A: MISSION CONSULTATIONS

Government of Turkey

Mr. Kadir Akin Gozel, Head of International Relations and Coordination with EU Department, Public Procurement Authority, Government of Turkey
Mr. Murat Sungur Bursa, Director, Project Implementation Unit, Prime Ministry
Mr. Ali Guner Tekin, Department Head, Advisory Services, Privatization Administration, Prime Ministry
Mr. Goncagul A. Isiklilar, Advisory Services Associate, Privatization Administration, Prime Ministry
Mr. Mehmet Tuta, Deputy Director of Road Survey and Design, General Directorate of Highways
Mr. Ahmet Bulut, Bakim Dairesi Baskani, General Directorate of Highways
Mr. A. Sedat Ustun, Sr. Advisor, Turkish Electric Distribution Agency
Mr. Erdogan Topcu, Manager, Department of Research & Projects, Iller Bank

Consultants Associations

Mr. Rasit Unuvar, General Manager, Association of Turkish Consulting Engineers and Architects
Ms. Cigdem Alp, Assistant Manager, Association of Turkish Consulting Engineers and Architects

Consultants

Ms. Fatma Colasan, General Manager, ODTM Co., Inc.
Ms. Nuran Ercan, Director General, E&M Engineering Consulting Planning Ltd.
Mr. Yasar Mutlu, Director, E&M Engineering Consulting Planning Ltd.
Mr. Sinan Erer, Vice President, KK Kentur project, Consultancy, Research and Contracting Co., Inc.
Mr. Bulent Ozgun, Chairman, PAR Consulting
Mr. Ismail Hakki Baydur, General Manager, Yuksel Proje
Mr. Sahim Tekeli, Infrastructure Group Director, Yuksel Proje
Mr. Ferruh Anik, Technical Advisor, Temelsu Engineering Services
Ms. Sedef Odabasi Erdogan, Manager Business Development, Su Yapi Engineering and Consulting
Mr. Ismail Fidan, Business Development Marketing Dept., Su Yapi Engineering and Consulting.
Mr. Ahmet Muderrisoglu, General Manager, Ankon
Ms. Aynur Kuytu, Ankon

International Agencies

Dr. Holger Schroeder, First Secretary, Delegation of the European Commission
Mr. Yngve Engstroem, Head of Financial Management and Procurement Section, Delegation of the European Commission
Mr. Ibrahim Sirer, Sr. Procurement Specialist, World Bank Ankara Office
Mr. Rodrigo A. Chaves, Lead Economist, World Bank Ankara Office

Mr. Zafer Mustafaoglu Senior Economist, World Bank Ankara Office
Ms. Hulya Bayramoglu, Program Assistant, World Bank Ankara Office

Academic Institutions

Prof. Dr. Ercan Uygur, Ankara University, Faculty of Political Sciences

SPECIFIC RECOMMENDATIONS

This annex amplifies on the recommendations in parts 3.1, 3.2, 3.3, and 3.5 of the main paper by presenting more detailed provisions.

Policy on Consultants

Part 3.1 suggests that GoT consider developing a policy on professional consultants that fosters an enabling environment for the consultant profession and is consistent with international good practice. Such a policy should cover the following areas:

- *Outsourcing Policy.* Drawing on present plans for public sector reform plans, including the public service reform and the devolution initiatives, the policy should indicate the areas and functions in which the GoT will require the support of qualified, independent external consultants to implement its plans, as well as the principles governing the sourcing of such consulting services.
- *Regulations and Enforcement.* Procurement regulations and rules should be designed to reflect GoT policy on independent professional consultants and professional best practices.
- *Management and Capacity Development.* Consistent with present programs to reform and strengthen the public service, the policy should include provisions to improve the capacity of the appropriate departments in the public administration through training, adequate recognition, and other incentives.
- *Creation of an Enabling Environment.* The policy should recognize the role of independent professional consulting associations and provide for a regular dialogue with them. The strategy for sustaining national consultant businesses should include promoting collaboration with international consultants.
- *Policy Dialogue.* The policy should provide for an institutionalized, permanent, and open policy dialogue among all stakeholders in government, academia and research institutions, the consulting professions, the private sector at large, and the general public. This dialogue should be focused on how best to use and develop national professional talents and create conditions for the development of a competitive, viable professional services sector in Turkey.

Legal and Regulatory Framework

Part 3.2 suggests that the GoT address areas of the law and regulations that are not consistent with international good practice and that prevent the consultant professions from providing the best-quality service. In particular, the following measures should be considered for adoption in the PPL and its Regulations on consulting services:

- *Selection.* List engineering and architectural services only under the “consulting services” section of the law, to remove these services from lowest-price competition. As the PPL provides, services of an intellectual nature should be selected only through quality- and cost-based methods.
- *Weighting.* In evaluating all but very simple assignments, the cost factor should normally be given a weight of not more than 20 points out of a total score of 100. In scoring technical proposals, limit the weight of the criterion “Experience in works of similar nature and size” to no more than 10 points.
- *Statements and Certificates.* Eliminate the requirement that all bidders must submit the financial statements listed under Articles 35 and 36 of the Regulation, and replace as much as possible the submission of certificates demonstrating technical and economic qualifications with consultants’ self-declarations. Certificates should be required only from the consultant proposed for contract award.
- *Shortlists.* Limit the list of prequalified consultants to six—the number that is considered sufficient to ensure genuine competition among consultants.
- *Cost Estimates.* The request for proposal should include the estimated cost of the assignment—a common and transparent practice. If the price of the consultant proposed for award proves to be substantially higher than the procurement agency’s estimate, the procuring entity can (a) increase the budget or, if increasing the budget is impossible, (b) cancel the competition.
- *Continuation Contracts.* The procuring entity should be allowed to award a continuation contract with the initial consultants when they have performed satisfactorily and their technical approach, experience acquired, and continued professional liability may make continuation with them preferable to a new competition.
- *Previous Experience.* The present requirement—that five years of experience in similar projects are necessary to qualify—is appropriate as a general rule; however, flexible application of the rule should be allowed when the type of assignment, the circumstances of the project, and the degree of desired competition make it desirable.

Institutional Framework

Part 3.3 recommends that the GoT create a panel or commission to design an institutional framework for the professional consulting sector that would build on the components now in place. The roles of the PPA and of the professional associations in such a framework could be as follows:

- The PPA should establish a unit that is responsible for professional consulting services, and specifically for attending to regulatory issues, providing advice and coordinating training to GoT agencies, and supplying a forum for addressing major grievances. The PPA should also establish a system for monitoring the performance of public agencies in procuring and managing consulting services and feed the results back to the agencies themselves. Professional consulting is a relatively young profession in Turkey, so the PPA's role would be particularly important in detecting and addressing problems and introducing improvements both in the practices of the procuring entities and in the applicable policies, procedures, and standard documents.
- Professional consulting associations should concentrate on updating professional standards, promoting the role of independent consultants to the public, and alerting the Government about all issues that affect the steady supply and quality of their services. To improve their familiarity with evolving professional best practices and improve members' management capabilities, they should establish "twinning" arrangements with counterpart associations in developed countries that have dealt successfully with the same issues.

Capacity Development and Integrity

Part 3.5 urges GoT executing agencies to ensure that their professionals who are involved in selecting consultants and managing consultant contracts receive training in the area. Trained staff should be competent in the following areas:

- *Terms of Reference.* The training should cover the drafting of clear, concise, and comprehensive terms of reference (TOR) and requests for proposal (RFPs), including the procedures and criteria for evaluating proposals. Both types of document should concentrate on the information available and results to be achieved by the consultant, rather than on the methodology the consultant will adopt for getting those results (which is the consultant's responsibility).
- *Cost Estimates.* Staff should understand that using high-quality consulting services can mean cost savings in project implementation; and the training should cover the correct assessment of the costs needed for the execution of high-quality services.
- *Criteria.* Trained staff should be able to define reasonable minimum qualifications of firms to be invited and appropriate evaluation criteria for the selection of the best proposal.
- *Advertising.* Trained staff should know how to advertise the assignment, together with the qualifications required for being shortlisted.

- *Shortlists.* The training should cover establishing shortlists of capable and reputable consulting firms. Trained staff should understand that the same shortlist must not include both private firms and government-owned or government-affiliated firms, unless the latter are legally and financially autonomous, operate under commercial law, and do not enjoy unfair privileges such as subsidies.
- *Proposal Evaluation.* Trained staff should be able to evaluate the proposals using competent and unbiased evaluators, strictly applying the criteria and procedures set out in the RFP; ensure that the evaluation committees are trained before evaluation commences; and ensure the attendance of an independent expert, particularly for complex consulting assignments.
- *Managing.* Trained staff should be able to manage contracts, enforcing performance and paying amounts due without delay or undue bias.
- *Performance Evaluation.* The training should cover the final evaluation of (a) the consultant's performance, including the timeliness, quality, effectiveness, and efficiency of the services provided; and (b) the preparation, selection, and management process. Trained staff should understand the importance of using the evaluation results for continuous improvement.