Procurement and Bankability

How Risk Is Actually Transferred in Project Delivery

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1. Context

This note provides an outline for Jexium clients to use in project planning and documentation. It explains typical institutional investor expectations regarding the procurement and contracting for projects and businesses in which they are being asked to invest.

It is provided so that clients can better understand current investor expectations and market standards for investment project preparation and investment readiness.

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2. The Misunderstanding

In many projects, procurement is treated primarily as a technical or commercial exercise, with Sponsors focusing on:

- selecting technology
- negotiating pricing
- identifying and engaging contractors and suppliers

These are all certainly important, but they are *not* the primary concern of institutional investors. From an investor perspective, procurement is something else entirely:

Procurement is the mechanism through which execution risk is either transferred — or retained.

This distinction is fundamental to bankability.

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3. What Investors Are Actually Assessing

Investors do not evaluate procurement based on vendor identity, contracting modalities or equipment selection alone.

They evaluate:

- Where risk sits after contracts are executed
- Whether that risk has been transferred to the most capable counterparties
- Whether contractual obligations are enforceable and meaningful

Key considerations include:

- Contract structure (e.g., EPC, multi-contract, hybrid arrangements)
- Pricing structure (e.g., fixed price vs cost-plus)
- Contractor balance sheet strength
- Performance guarantees
- Liquidated damages (for delay and non-performance)
- Interface risk between contractors, with project management and with sponsor corporate functions
- Clarity of responsibility for project / asset delivery

Procurement defines whether risk has been transferred — or merely described.

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4. Common Failure Modes

In practice, many projects present procurement structures that appear adequate at a surface level but fail under closer scrutiny.

Typical issues include:

4.1 Fragmented Contracting Structures

Multiple contractors engaged under separate agreements without clear allocation of responsibility for integration; sponsor acting as general contractor in order to avoid the costs of having a General Contractor.

Results:

- Interface risk remains with the project / sponsor
- No single party is accountable for overall delivery

4.2 Hybrid or Transitional Structures

Partially developed procurement strategies, often combining:

- FEED contractors
- technology vendors
- future EPC expectations Without a clear end-state structure.

Results:

- Uncertainty as to who will ultimately bear completion risk
- Difficulty assessing bankability

4.3 Weak or Non-Enforceable Guarantees

Performance obligations that:

- lack clear metrics
- are not backed by meaningful financial strength
- are subject to broad exclusions Result:
- Apparent risk transfer that does not withstand stress when the risk crystallises.

4.4 Reliance on Cooperation Rather Than Contract

Assumptions that counterparties will:

- “work together”
- resolve issues collaboratively
- behave commercially under pressure Result:
- Risk remains with the project when problems arise

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5. How Investors Interpret Procurement Structures

Investors interpret procurement through a risk lens. One project structure can be viewed very differently depending on how risk is allocated:

When a sponsor presents…	… an investor sees
"Flexibility in contracting"	Retained execution risk, unclear risk transfer
"Multiple specialist vendors"	Interface risk, potential conflicts of interest
"Early-stage engagements"	Contracts entered absent a procurement policy, potential conflicts of interest
"Competitive pricing"	Potential under-scoping or omission of risks

This leads to a shift in an investor's assessment. The question becomes not:

"How will the project be built?" but

"Who bears the consequences if it is not built as planned?"

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6. What "Good" Looks Like

A bankable procurement structure typically exhibits these features:

- Clear allocation of responsibility for delivery of the project / asset
- Limited and well-defined interface risk among the various parties
- Strong, creditworthy counterparties able to financially bear the risks they are allocated
- Fixed or appropriately risk-adjusted pricing and incentive structures
- Enforceable performance and other guarantees
- Defined remedies for delay and underperformance

This does not require a single model (e.g. EPC), but it *does* require clarity.

Investors do not require perfection. They require that risks are **identified, quantified, understood** and **allocated**, and that contractual remedies are **realistic** and **enforceable**.

7. Procurement as a Risk Transfer Mechanism

Procurement should be understood as a structured contracting process through which risk is transferred away from the project, its investors and lenders to counterparties best able to manage those risks.

Where this is done effectively:

- execution risk is borne by contractors
- performance risk is supported by guarantees
- delay risk is compensated through liquidated damages Where it is not:
- these risks remain embedded within the project
- and are therefore borne, directly or indirectly, by investors and lenders

Procurement is not about what equipment is purchased or how a project is built, or by whom. It is about who bears the consequences if it is not built as planned. Where procurement ends, insurance and other residual risk transfer mechanisms begin.

8. Practical Guidance

Projects seeking institutional capital should:

- Define a clear target procurement structure early – one which will be understood and accepted by lenders and investors when they get to FID and Financial Close
- Avoid prolonged “transitional” or “innovative” hybrid arrangements not already understood by project financiers
- Ensure meticulous consistency across all documentation – contracts are not individual commercial opportunities – each is part of an overall risk transfer mosaic of contracts all of which interact

- Clearly identify and manage interface risks, and align contractual terms with stated allocation of those risks
- Verify the financial strength of key counterparties through formal vendor and contractor due diligence
- Make technology choices and vendor selection only as part of a formal procurement process in which investors have a proper governance role
- Do not rely on informal or assumed cooperation

There is no place for aspiration in procurement documentation — it must reflect reality and anticipate all futures, even adverse ones.

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9. Conclusion

Investors do not assess procurement as a technical detail or shopping list. They assess it as a core determinant of risk – either shifting it away from themselves or retaining it.

Projects that demonstrate **clear, enforceable risk transfer** through procurement are able to progress.

Projects that do **not** are viewed as retaining execution risk — regardless of their underlying potential.

Procurement is one of the primary mechanisms through which bankability is established — or undermined.

This Guidance Note is not meant to be exhaustive, but to raise clients' awareness of the subject matter and to prompt further discussion and detailed consideration in the preparation of projects for financing.

For further information, please contact us Jexium Ltd.

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