



International Rivers Network
Linking Human Rights and Environmental Protection

The Lack of International Competitive Bidding in the Nam Theun 2 Hydropower Project

A Memorandum by
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Introduction

Nam Theun 2 is a hydropower project in Lao PDR with a proposed capacity of 1,070 megawatts. The project is currently the largest and most controversial hydropower project in the pipeline of the World Bank. Other financial institutions that are considering support for the project include the Asian Development Bank, the European Investment Bank, the Nordic Investment Bank, the export credit agencies of Canada, France, Norway and Sweden, and French development finance institutions. A consortium of nine international and 17 Thai banks is in the process of being appointed.

Nam Theun 2 is expected to be presented to the World Bank's Board of Directors in March/April 2005. An informal Board briefing on the project will take place on November 30.

Nam Theun 2 is a Build-Operate-Transfer Project being developed by the Nam Theun 2 Power Company (NTPC). Shareholders in the company are Electricité de France (EDF, 35%), the Electricity Generating Public Company of Thailand (EGCO, 25%), Electricité du Laos (EDL, 25%), and Ital-Thai Development Public Company Limited (ITD, 15%).

The lack of International Competitive Bidding

The construction contracts for the \$1.3 billion project will consist of one overriding Head Construction Contract (HCC) and five principal sub-contracts. NTPC has awarded the HCC to Electricité de France – its principal shareholder – without International Competitive Bidding.¹

The five principal sub-contracts are divided into two electromechanical packages (EM1 and EM2) and three civil works contracts (CW1, CW2 and CW3). CW1 includes the upstream works

¹ Nam Theun 2 Power Company, Environmental Assessment and Management Plan, 2004 version, p.21, available at http://www.namtheun2.com/gallery/lib_eamp.htm

including the Nakai Dam, saddle dams, spillway, radial gates, road rehabilitation and new works, bridges, the operator's village and associated infrastructure.² This is the major construction contract for the dam project. NTPC has given the contract for CW1 to Ital-Thai Development – another NTPC shareholder, and again without ICB.³

The lack of ICB may reduce the project's revenues to the Lao government and increase the cost of electricity generation. It also violates the procurement guidelines of the multilateral development banks that are considering support for Nam Theun 2.

A violation of World Bank, ADB and EIB guidelines

The World Bank's Guidelines for Procurement under IBRD Loans and IDA Credits⁴ include the following provisions for procurement under BOT Concessions:

“Where the Bank is participating in financing the cost of a project procured under a BOO/BOT/BOOT, concessions or similar type of private sector arrangement, either of the following procurement procedures shall be used...:

(a) The concessionaire or entrepreneur under the BOO/BOT/BOOT or similar type of contract shall be selected under ICB procedures acceptable to the Bank... The said entrepreneur selected in this manner shall then be free to procure the goods, works, and services required for the facility from eligible sources, using its own procedures...

Or,

(b) If the said concessionaire or entrepreneur has not been selected in the manner set forth in subparagraph (a) above, the goods, works or services required for the facility, and to be financed by the Bank shall be procured in accordance with ICB procedures defined in Section II.”⁵

The Asian Development Bank and the European Investment Bank have similar provisions in the Guidelines for Procurement Under Asian Development Bank Loans (see paragraph 3.11) and the EIB Guide to Procurement.

In the case of Nam Theun 2, the BOT concession was awarded to NTPC without International Competitive Bidding, and therefore, to be in compliance with World Bank and other MDB guidelines, all construction contracts should be subject to International Competitive Bidding. Yet

² Ibid.

³ Ibid.

⁴ Published in May 2004 and available at

<http://siteresources.worldbank.org/INTPROCUREMENT/Resources/Procurement-Guidelines-November-2003.pdf>.

⁵ pp. 29f. of the Guidelines

the Head Construction Contract and Civil Works 1 contract were not subject to ICB, in violation of the World Bank, ADB and EIB guidelines.

A conflict of interest

Awarding the two most important contracts for the Nam Theun 2 project without International Competitive Bidding to two of the consortium members presents a conflict of interest. There are no guarantees to ensure that the costs of these contracts are not inflated by the contractors.

The World Bank has acknowledged that the procurement arrangement for Nam Theun 2 constitutes a conflict of interest. In an Aide Mémoire of October 2002, the Bank stated the following:

“The Bank has been exchanging views with the developer on the economy and efficiency of the procurement process and its compatibility with Bank guidelines. The Bank has recently indicated to the developer that it is concerned regarding the following two areas: a) justification for the sole source arrangements and b) justification for the high cost of the HC [Head Contractor] involving both the management fee and the risk premium that is proposed. The Bank wishes to emphasize that satisfactory justification of the HC contract will be needed. Furthermore, the Bank would appreciate being informed regularly on procurement matters ... through brief quarterly progress reports highlighting status and issues.”⁶

The Bank’s Aide Mémoire indicates that the management fee and the risk premium of the Head Construction Contract that NTPC awarded its principal shareholder without ICB is unusually favorable. Quarterly updates on procurement issues will not bring the project in compliance with the guidelines of the World Bank, the ADB and the EIB.

Conclusion

Private investment in hydropower projects is supposed to increase the efficiency of power generation. Yet in the case of the Nam Theun 2 project, the private developers have succeeded in excluding competition – the main guarantor of efficiency gains – by awarding crucial construction contracts to members of their own consortium without International Competitive Bidding. The World Bank’s mission report of October 2002 indicates that the management fee and risk premium for the head construction contract are high. The Lao government and EGCO as co-investors, and the Thai and Laotian electricity consumers, might get a better deal if NTPC complied with the MDB procurement guidelines and allowed International Competitive Bidding for all the contracts.

⁶ See Lao PDR, World Bank Mission on the Nam Theun 2 Project and Related Matters, Aide Mémoire, October 28 and 29, 2002, p. 18, available at http://siteresources.worldbank.org/INTLAOPRD/Resources/Laos_MASTER_Last_version_Nov13.pdf

The Nam Theun 2 Project Economics Interim Summary Report states that the head construction contract price has yet to be finalized.⁷ The report states that the Lao government stands to make \$250-\$260 million in net present value returns over the 25-year period of the concession. This is a far cry from the \$2 billion in revenues usually claimed by the World Bank.⁸ The Economics Interim Summary Report acknowledges that the bulk of the earnings will occur later in the project period. It does however not analyze how the revenues might be affected by various project risks, including cost overruns, delays, inflation, and reduced power generation due to hydrological risks and potential sedimentation problems.

A different report commissioned by the World Bank indicates that Nam Theun 2 is not the least cost option for Thai electricity consumers. The report was completed on August 28, 2004, and has so far not been publicly released. It concludes that Thailand has a large potential for cost-effective demand-side management, energy efficiency improvements and renewable energy sources, and that the weighted average cost of supply for these sources is an estimated 24% lower than the estimated cost of electricity from Nam Theun 2.⁹ The lack of International Competitive Bidding for key contracts may have contributed to the comparatively high cost of power from Nam Theun 2.

If NTPC is interested in MDB financing for Nam Theun 2, it should follow the procurement and safeguard policies of the World Bank, the ADB and EIB. In the meantime, the World Bank should ensure the publication of all the background documents that would allow the public to assess the terms of the construction contracts and the economics of the Nam Theun 2 project and that have so far been withheld from the public.

⁷ Nam Theun 2 Project Economics Interim Summary Report, unauthored, prepared for the World Bank, August 21, 2004, p. 15.

⁸ Ibid, pp 17-18. A closer look at the figures reveals that the \$2 billion in revenues so often cited by the World Bank is in *nominal* terms, not net present value.

⁹ Nam Theun 2 Hydropower Project (NT2), Impact of Energy Conservation, DSM and Renewable Energy Generation on EGAT's Power Development Plan, Final Report, Prepared for the World Bank, 28 August 2004, p. 37