

ASIAN DEVELOPMENT BANK

TAR:SAM 37235

TECHNICAL ASSISTANCE
(Financed by the Japan Special Fund)

TO THE

INDEPENDENT STATE OF SAMOA

FOR

STRENGTHENING STATE-OWNED ENTERPRISE

CORPORATE GOVERNANCE

December 2004

CURRENCY EQUIVALENTS

(As of 15 November 2004)

Currency Unit	–	tala (ST)
ST1.00	–	\$0.3495
\$1.00	–	ST2.86

ABBREVIATIONS

CDA	–	capacity development adviser
CDS	–	capacity development specialist
CEO	–	chief executive officer
CGA	–	corporate governance adviser
CGS	–	corporate governance specialist-team leader
DDC	–	director development consultant
DDS	–	director development specialist
GDP	–	gross domestic product
NUS	–	National University of Samoa
PD	–	professional development
PSC	–	Public Service Commission
SDS	–	Statement of Development Strategy
SOE	–	state-owned enterprise
SOEMD	–	State-Owned Enterprise Monitoring Division of the Ministry of Finance
TA	–	technical assistance

TECHNICAL ASSISTANCE CLASSIFICATION

Targeting Classification	–	General intervention
Sector	–	Law, economic management, and public policy
Subsector	–	Economic management, national government administration, public finance and expenditure management
Themes	–	Governance, sustainable economic growth, private sector development
Subthemes	–	Public governance, promoting economic efficiency and enabling markets, policy-institutional-legal-regulatory reforms

NOTE

In this report, "\$" refers to US dollars.

This report was prepared by B. Costello, Pacific Department.

I. INTRODUCTION

1. Samoa's Statement of Development Strategy (SDS) 2002–2004 continues to focus strongly on macroeconomic stability, public sector reform, and economic growth through private sector development. These objectives are expected to be reaffirmed in Samoa's next SDS (2005–2007). Improvement in the performance and management of Samoa's state-owned enterprises (SOEs) has been a specific priority of the Government of Samoa (the Government) throughout its reform processes, supported by the Asian Development Bank (ADB). ADB's program in Samoa¹ focuses on the twin objectives of (i) improving the environment for the private sector; and (ii) ensuring access to, and quality of, basic social services.

2. The technical assistance (TA) on Strengthening State-Owned Enterprise Corporate Governance² was agreed upon by ADB and the Government during programming discussions in 2003 and was listed in the Samoa Country Strategy and Program Update 2004–2006. It follows on from an earlier ADB TA project on the policy and government supervision aspects of SOE reform,³ which has successfully (i) updated the legal and regulatory framework for SOE operations, covering financial and community service objectives; (ii) supported the Samoan Government's adoption of a clear policy framework on SOE ownership or divestment; and (iii) strengthened systems and capacity within the State-Owned Enterprises Monitoring Division of the Ministry of Finance (SOEMD) to monitor SOE performance on behalf of the Government, as shareholder. The TA will complement a small-scale ADB TA on Privatization Support,⁴ which is supporting Samoan government privatization of four commercial SOEs in accordance with the new government SOE policy. Appendix 1 gives the project framework.

3. An ADB fact-finding mission⁵ visited Samoa 20–24 September 2004 for discussions with the Government, SOE chairpersons, and directors and other stakeholders on the proposed TA. The feasibility of the proposed project was agreed upon during the mission.

II. ISSUES

4. Samoa's 24 SOEs under 100% government ownership⁶ had total assets of about ST1.1 billion. Their revenues equaled 37% of a GDP of ST898 million in 2002–03. Thus, SOE boards play a significant role in stewarding Samoa's economy.⁷ Many of the SOEs also provide essential community services. Under the Public Bodies (Performance and Accountability) Act (2001), directors and chairpersons play an increasingly important role in efforts of the Samoan Government to improve SOE performance in delivery of both financial and community services. Professional development of directors is, therefore, an important issue. The Government, as a shareholder, has a significant interest in promoting good SOE corporate governance.

¹ Set out in ADB. 2004. *Samoa Country Strategy and Program Update (2005–2006)*. Manila.

² The TA first appeared in the *ADB Business Opportunities* (internet edition) on 2 November 2004.

³ ADB. 2001. *Technical Assistance to the Independent State of Samoa for Implementation of State-Owned Enterprise Reforms*. Manila.

⁴ ADB. 2004. *Small Scale Technical Assistance to the Independent State of Samoa for Privatization Support*. Manila.

⁵ The mission consisted of Bill Costello, policy and regional cooperation specialist, ADB Pacific Department (mission leader); and a staff consultant.

⁶ The Government disposed of three minority shareholdings during 2003. In one other case, the sale has not yet been made, but is being pursued. Privatization of 7 of the 24 wholly owned SOEs has also been agreed upon as government policy and will be undertaken through a phased approach.

⁷ The 24 SOEs under the Public Bodies (Performance and Accountability) Act are governed by 151 individuals in 235 board positions. They include 129 private sector or community representatives, 16 public servants in 41 positions, and 9 ministers holding 19 chairs.

5. In broad terms, the elements of good corporate governance⁸ comprise (i) an effective legal and regulatory environment; (ii) appropriate board processes and composition; (iii) skilled and ethical directors; and (iv) effective relations within the board and between the board and management. The Public Bodies Act provides a solid legal and regulatory basis for continuous improvement in SOE corporate governance, although some provisions of the Act, such as those relating to an independent appointments committee, have not yet been fully implemented. Full implementation will require proactive action by officials and support of ministers. Enactment and implementation of the pending Companies Act, to which SOEs are subject, along with the Public Bodies Act, would further strengthen the essentially sound legal and regulatory framework for good corporate governance in Samoa's SOEs.

6. Positive momentum is apparent in current SOE board and director performance. Enthusiasm for, and commitment to, the objective of strengthening SOE corporate governance is widespread. Many stakeholders are thinking actively about corporate governance issues, especially following a highly successful corporate governance summit in 2003. Knowledge is growing about the roles and responsibilities of directors under the Public Bodies Act.

7. Simultaneously, there is room for further improvement in director knowledge, skills, and attributes; and in board operations. SOE directors highlight a number of structural and procedural issues that require further reform. These include a lack of focus on specific skill and attribute requirements during the appointment process, reducing the number of director positions on some boards, aligning director remuneration to responsibilities, and replacing ex-officio appointees.⁹ Of concern to all stakeholders is that if the Government is to succeed with its objective of replacing ministers and public servants as ex-officio board members, it is essential to have a pool of competent directors available to replace them.

8. Improved corporate governance in SOEs will also likely have a positive flow-on effect to the private sector. Most private companies in Samoa are family-owned. Few currently operate full corporate governance structures. There is considerable scope for private sector representatives to take good practices in SOE board operations back to their own companies.

9. A number of institutional options were considered to meet the need for professional development for SOE directors and to promote improved board operations. Existing organizations were considered, along with the creation of a new organization. A specific approach to strengthening the director performance element of SOE corporate governance is the establishment of an Institute of Directors¹⁰ (the Institute) as a professional development body for directors of both SOE and private sector company boards. This proposal has been considered in both the public and private sectors in Samoa for some time. It has widespread in-principle support. The Government and other stakeholders agree that a separate organization,

⁸ The International Finance Corporation (2003) defines corporate governance as "the structures and processes for the direction and control of companies. Corporate governance concerns the relationships among the management, the Board of Directors, the shareholders and other stakeholders. Good corporate governance contributes to sustainable economic development by enhancing the performance of companies and increasing their access to outside capital."

⁹ Ex-officio appointees sit on boards as a consequence of their official positions (usually in government) rather than as individual citizens. These appointees usually bring high-level personal skills and significant knowledge and corporate memory to their duties. But problems can also arise. One problem is that directors should clearly concern themselves with the best interests of the company rather than that of another body, so motivations can become unclear. Conflicts of interest can emerge in these circumstances. Also, ex-officio appointees are generally extremely busy people who are not always available for board meetings, so they send representatives. This undermines continuity and internal working relations within the board.

¹⁰ The *Institute of Directors* is a working title for the organization, and is subject to further consideration.

specifically focused on professional development for directors in both public and private sector companies, would best advance the objective of improving director performance. Interest and momentum are sufficient to suggest that advancing this proposal within a relatively short time frame is feasible.

10. Financial sustainability will be a challenge for an independent Institute. But the financial sustainability of similar organizations (the Society of Accountants, the Chamber of Commerce, both with about 150 members, and both financially sustainable) indicates that financial sustainability is feasible, with prudent management.

11. The chief executive officer (CEO) for finance, through SOEMD, has significant responsibilities for monitoring compliance with the Public Bodies Act, and also a mandate to actively promote best practices in SOE performance through improved corporate governance. Besides its monitoring and reporting responsibilities to the Government, SOEMD should provide regular and constructive feedback to SOEs on performance and reporting issues. SOEMD should also advise on appointment of directors, and play a constructive role in facilitating the resolution of the board structure and composition issues highlighted in paragraph 7. However, SOEMD has experienced considerable difficulty in meeting its responsibilities because of limited staff numbers and experience. Despite impressive progress made by SOEMD staff, with ADB TA support, SOEMD requires additional staff and further capacity development.

III. THE TECHNICAL ASSISTANCE

A. Purpose and Output

12. The goal of the TA is improved SOE contributions to economic growth and social development in Samoa. Its purpose is the creation of a conducive environment for sound corporate governance of 24 Samoan SOEs.¹¹ The TA will have three outputs:

- 1) the Institute of Directors providing valued continuous professional development programs for directors;
- 2) effective SOE board structure and composition; and
- 3) strengthened SOEMD role in promoting SOE compliance with legislation.

13. Output 1 will be supported by the largest project component. It is anticipated that the Institute will be established as a separate legal entity, with a clear governance structure and membership policy. Given an expected positive impact from a two-way flow of best practice ideas for corporate governance between the state-owned and private sectors, the Government and ADB agree that the Institute and the Project should address both sectors equally. The TA to SOEMD will help the Institute address outputs 2 and 3.

B. Methodology and Key Activities

14. Stakeholders of the Government, ADB, and the private sector agree that the proposed Institute should be wholly or largely established before delivery of the proposed ADB project. This approach is anticipated to ensure ownership of, and commitment to, the Institute within Samoa, and to maximize the impact of the ADB TA by ensuring that appropriate counterparts and facilities are in place. The Government has agreed to appoint and convene a task force to

¹¹ SOEs that the Government has selected for privatization will continue to be a project focus until privatization has been completed. Indeed these SOEs deserve priority treatment to maximize their readiness and attractiveness for sale, and thereby their return to Government from the privatization process.

steer the Institute's establishment.¹² Appendix 2 includes a summary of key issues for consideration and a proposed approach for establishing the Institute. The Institute is expected to be formally established by April 2005.

15. The Institute should be fully self-financing by completion of the TA. The proposed ADB TA will, in effect, provide a decreasing level of subsidy for the Institute's establishment and running costs in its first 2 years of operation. The main recurrent cost of the Institute is likely to be the salary of a full-time manager (locally hired) with sufficient experience and credibility to lead the Institute's development. Cost-effective options are available in areas such as accommodation and training. A key sustainability initiative, with support of the CEO of the Ministry of Finance, will be for SOEs to include director training and development in their annual budgets, and to directly meet the costs of institute membership and director training from these budgets.

16. Output 2 addresses a vital objective, but requires relatively modest inputs of short-term policy advice (delivered in combination with other inputs) toward the establishment of a consistent and forward-looking government policy position on SOE board structure and composition, including issues such as linking director remuneration to responsibilities.

17. SOEMD will receive further assistance in its role of strategically managing the Government's SOE portfolio and actively promoting best practices in SOEs. The reporting process by which SOEs regularly provide key information to SOEMD is becoming increasingly effective, providing important management information to the Government. The TA will strengthen SOEMD's capacity to provide constructive feedback to SOEs and to analyze the information to determine key issues for portfolio-wide performance improvement. These higher-order issues, along with the need to ensure a proactive approach to capacity development for new SOEMD staff, will be the focus of output 3. Intermittent short-term inputs are considered sufficient. A key assumption is that the Public Service Commission will approve a funded submission from Treasury to expand SOEMD's staff establishment.

C. Cost and Financing

18. The TA is estimated to cost \$475,000, with ADB contributing \$400,000 (comprising \$330,000 in foreign exchange and \$70,000 in local currency costs), and the Government, \$75,000 equivalent. The TA will be financed by the Japan Special fund, funded by the Government of Japan. The Government contribution will include salaries of counterpart staff in both Government (SOEMD) and the proposed Institute, with the Institute largely financed through SOE budget allocations for memberships and professional development for their directors. Appendix 3 provides summary cost and financing estimates.

19. The advance payment facility for the Institute will support agreed elements or proportions of the cost of the Institute's training and related programs. It will be established, managed, replenished, and liquidated in accordance with detailed arrangements agreed upon among ADB, the Government, and the Institute. The funds (\$75,000) will be provided in three accountable tranches of \$25,000 each. The advance payment facility is proposed on the basis that the Institute will be staffed and governed by experienced company directors with sound experience in financial management and personal commitment to good corporate governance.

¹² ADB will fund a short-term domestic consultant to work with the task force. Specifically, the consultant will prepare an institute business plan for task force consideration, and eventual presentation for adoption to a stakeholder meeting.

The provision of an imprest account is consistent with the approach now being developed by the Australian Agency for International Development and the New Zealand Agency for International Development with the Government for short course training for the public and private sectors.

D. Implementation Arrangements

20. SOEMD, in the Ministry of Finance, will be the Project's Executing Agency. Once fully established, the Institute will be the Implementing Agency for output 1, in accordance with arrangements acceptable to ADB.

21. The Project will be implemented over 24 to 30 months, with intermittent consultant inputs. The Project is expected to begin in April 2005 and be finished by October 2007.

22. ADB will hire three international and three domestic consultants (11.5 person-months and 10 person-months, respectively) on a firm basis. The consultants will have expertise in: corporate governance, boardroom ethics and practices, director training and mentoring, training program accreditation, director remuneration, government supervision of SOEs, development of public sector capacity, and database development. These inputs are expected to contribute to the Institute's fully effective and sustainable functioning by the end of the project period, and to improvement of the Government's capacity to monitor and manage its shareholding in Samoa's SOEs. Appendix 4 gives the summary terms of reference. ADB will engage the consultants in accordance with ADB's *Guidelines on the Use of Consultants*. Equipment will be procured in accordance with arrangements acceptable to ADB, and will become the property of the Institute upon completion of the TA.

23. The consultancy firm will produce technical reports regarding (i) annual professional development programs that the Institute will conduct; (ii) issues and options for a system of director accreditation or qualification; (iii) best practice guidelines for boards; (iv) codes of ethics for boards; (v) SOE board structures and remuneration arrangements; (vi) skills development for SOEMD; and (vii) SOEMD mandate and reporting arrangements. The firm will also provide an inception report, mid-term report, draft completion report, final completion report, and brief quarterly progress reports.

24. The Institute will actively disseminate many TA key outputs to members and the public. Important indicators for project evaluation will be: institute membership numbers and participation, the value perceived by chairs and directors of the Institute's work in promoting practical improvements in corporate governance, and the replacement rate of ministers and public servants with independent directors. The latter will indicate Government confidence in the pool of competent directors that the Institute is developing. Improving quality of SOEMD feedback to SOEs and reporting to government will also be key indicators for evaluation.

IV. THE PRESIDENT'S DECISION

25. The President, acting under the authority delegated by the Board, has approved the provision of technical assistance not exceeding the equivalent of \$400,000 on a grant basis to the Government of Samoa for Strengthening State-Owned Enterprise Corporate Governance, and hereby reports this action to the Board.

TECHNICAL ASSISTANCE FRAMEWORK

Design Summary	Performance Indicators and Targets	Monitoring Mechanisms	Assumptions and Risks
<p>Goal Improved state-owned enterprise (SOE) contributions to economic growth and social development in Samoa</p>	<p>Improved SOE financial performance and delivery of community service obligations</p>	<p>State-Owned Enterprise Monitoring Division of the Ministry of Finance (SOEMD) quarterly reports</p>	
<p>Purpose A conducive environment for sound corporate governance of Samoan SOEs</p>	<p>Improved compliance (timeliness and quality) with the requirements of the Public Bodies Act for:</p> <ul style="list-style-type: none"> (i) corporate planning, (ii) reporting, (iii) financial management, and (iv) community service obligations 	<p>SOEMD quarterly reports</p>	<p>Assumption:</p> <ul style="list-style-type: none"> • Improved corporate governance will positively impact SOE performance and/or reduce financial risk to the Government. <p>Risks:</p> <ul style="list-style-type: none"> • Unfavorable economic conditions impact performance • Implementation of Public Bodies Act incomplete
<p>Outputs</p> <p>1. The Institute of Directors providing valued continuous professional development (PD) programs for directors</p> <p>2. Effective SOE board structure and composition</p> <p>3. Strengthened SOEMD role in promoting compliance with legislation</p>	<ul style="list-style-type: none"> • At least 150 paid-up institute members • Increasing number of PD (training, seminar) person-hours provided • PD accessed by most members • positive member evaluation of PD • Continuous production and updating of knowledge products (best practice guidelines, newsletters) • Appropriate policy in place on board structure (numbers, skills, chair responsibilities) and basis for determining remuneration • Amendments to SOE enabling legislation to reflect above policy • Ad hoc independent selection committee operates in accordance with Public Bodies Act • Regular, timely, and relevant feedback and guidance provided on SOE reports • Ad hoc committee acts based on SOEMD advice on skills required and candidates available 	<p>Institute of Directors annual report</p> <p>Evaluation reports on PD programs</p> <p>Policy statement issued</p> <p>Legislation, parliamentary records</p> <p>Verification by SOEMD (as secretariat)</p> <p>Interviews with SOE chairs</p> <p>Interviews with ad hoc committee chairs</p>	<p>Assumptions:</p> <ul style="list-style-type: none"> • Completion of PD programs by directors will result in improved performance in the boardroom • Representatives of Government, the private sector, and communities will legally establish the Institute before project start-up • SOEs will fund Institute membership, PD for directors • Policy on board structure and remuneration will be decided centrally by the Cabinet rather than individually by SOE chairs • Cabinet willing to carefully consider advice on director appointment from ad hoc committee • Public service commission (PSC) approval of expanded SOEMD staff establishment <p>Risks:</p> <ul style="list-style-type: none"> • SOEMD unable to recruit and retain qualified staff

Design Summary	Performance Indicators and Targets	Monitoring Mechanisms	Assumptions and Risks
<p>Activities</p> <p>1.1 Staff, equip, and resource Institute appropriately</p> <p>1.2 Design and implement training program and packages, seminar series, and mentoring program</p> <p>1.3 Consider and, if agree upon, implement an accreditation/ qualification system for directors</p> <p>1.4 Design and implement Institute knowledge products (e.g., best practice statements, newsletters)</p> <p>1.5 Develop and maintain a database of directors</p> <p>1.6 Support development of national and SOE codes of ethics and best practices</p> <p>1.7 Institute representation and advocacy on corporate governance issues</p> <p>2.1 Policy advice on board structure and director remuneration</p> <p>2.2 System for review of director remuneration agreed upon and operational</p> <p>2.3 Amendments drafted for SOE enabling legislation on board composition</p>	<ul style="list-style-type: none"> • Institute fully operational within 4 months of establishment • Initial training programs delivered within 6 months of establishment • Annual program of training, seminars, and mentoring in place • Options paper tabled for consideration of members within 12 months of establishment • Decision implemented within 12 months later • Best practice guidelines implemented and regularly expanded and updated • Database used for recommendations on possible director appointments • Codes in place for 50% of SOE boards within 12 months of establishment, and 100% of boards within 24 months of establishment • Meetings, written representations to government, media, civil society, private sector • Initial SOEMD policy submission; follow-up • System operational • Amendments tabled in Parliament 	<p>Project reporting</p> <p>Institute records</p> <p>Minutes of institute meetings, institute records</p> <p>Institute records, member feedback on usefulness and application</p> <p>Institute records</p> <p>SOE board records</p> <p>Institute records</p> <p>SOEMD records</p> <p>SOEMD advice, interviews with responsible person.</p> <p>SOEMD and parliamentary records</p>	<ul style="list-style-type: none"> • Unable to identify and recruit a suitable chief executive officer (CEO) <p>Assumptions:</p> <ul style="list-style-type: none"> • SOEs pay membership fees promptly <ul style="list-style-type: none"> • Government will seek advice from the Institute when searching for suitable candidates for director appointments <ul style="list-style-type: none"> • Government is willing to address policy issues arising <p>Risks:</p> <ul style="list-style-type: none"> • SOE directors who lose from standardization of board structure and remuneration oppose amendments

Design Summary	Performance Indicators and Targets	Monitoring Mechanisms	Assumptions and Risks
<p>3.1 Regular program of skills development for new and current SOEMD staff</p> <p>3.2 Develop SOEMD database on board composition, director skills</p> <p>3.3 Support a government review of the SOEMD mandate and reporting arrangements</p>	<p>Staff training and mentoring activities, including on-the-job training, planned and implemented</p> <p>Database provides basis for SOEMD advice to ad hoc selection committee</p> <p>Government decision to alter or retain SOEMD mandate and reporting arrangements, based on TA-supported report</p>	<p>SOEMD records, project reporting</p> <p>SOEMD records</p> <p>SOEMD records</p>	<ul style="list-style-type: none"> • High staff turnover or staff shortages reduce effectiveness of training plan <p>Assumptions:</p> <ul style="list-style-type: none"> • Greater autonomy for SOEMD may raise its status and effectiveness • Greater autonomy for SOEMD will not be effective if capacity is not increased first
<p>Inputs</p> <p>Output 1:</p> <p>International consultants: 6 months + 5 training and seminar presentation visits</p> <p>Local consultant: 6 months</p> <p>Advance payment facility (for equipment, training costs, and local and international short-term consultants)</p> <p>Output 2:</p> <p>International consultant: 2 weeks</p> <p>Local consultant: 1 month</p> <p>Output 3:</p> <p>International consultants: 3.5 months</p> <p>Local consultants: 4.5 months</p>			

PD = professional development, SOE = state-owned enterprise, SOEMD = State-Owned Enterprise Monitoring Division (of the Ministry of Finance).

ISSUES PAPER: ESTABLISHING A SAMOAN INSTITUTE OF DIRECTORS

Overview of Issues

1. Commitment to the proposal to establish an Institute of Directors (Institute)¹ in Samoa is evident in both the public and private sectors. A fact-finding mission of the Asian Development Bank (ADB) for a technical assistance (TA) project to strengthen state-owned enterprise (SOE) corporate governance in Samoa found that the proposal is feasible and viable if the Institute is managed prudently. ADB support for an established Institute is anticipated. But it is recommended that Samoan stakeholders play a lead role in the Institute's establishment before the ADB project begins.
2. The mission identified eight key issues for Samoan stakeholders to consider, relevant to the new organization's establishment:
 - (i) Issue 1: composition and role of a task force to establish the Institute;
 - (ii) Issue 2: the Institute's vision and mission;
 - (iii) Issue 3: ownership and legal entity;
 - (iv) Issue 4: roles and priorities;
 - (v) Issue 5: training;
 - (vi) Issue 6: qualifications framework;
 - (vii) Issue 7: the role of a code of ethics; and
 - (viii) Issue 8: the role of a database of members.
3. ADB understands that stakeholders from the Samoan public and private sectors will lead consultation and decision making on these issues, drawing on the options set out below and adapting the Institute concept to the Samoan culture and legislative framework.¹

1. Issue 1: Recommended Composition And Role of a Task Force to Establish the Institute of Directors

a. Composition

4. The Ministry of Finance should appoint and convene a task force to establish an organization to train and provide professional support for company directors. The task force should comprise respected directors from business and the community, and be chaired by a senior businessperson with director experience and a commitment to enhancing corporate governance standards.
5. The task force members will provide planning, financial, and legal expertise, and will have a strong understanding of cultural and legal contexts. Members will seek views of professional organizations and the wider communities to recommend the legal structure and range of services.
6. A senior local consultant, with experience as a board director, should provide advice and secretariat services for the task force.

¹ ADB will make small-scale assistance available before Institute establishment and commencement of the full ADB TA on Strengthening State-Owned Enterprise Corporate Governance.

b. Role of the Task Force

7. The task force should oversee preparation of a business plan, and draft vision and mission statements and rules for presentation at a meeting for Institute establishment. The task force should guide the consultant and consult interested stakeholders to generate ownership and commitment among potential Institute members.

8. Matters that should be addressed in the business plan include: defining the Institute's legal structure; values and philosophy; the benefits and range of services to be provided; marketing strategy; a market analysis of potential members; membership criteria and fees; a financial model, including overheads; revenue from membership, courses, and other sources; analysis of options for training, independently or jointly with existing training providers; use of a database of directors; CEO skills, attributes, and roles; description of support staff; location of offices; and office equipment requirements.

9. A key reference for this work should be the Global Corporate Governance Forum's Toolkit for building director training organizations.²

10. The draft institute rules should cover criteria for appointment of the chairperson, deputy chairperson, treasurer, secretary; criteria for membership, (including measures to encourage aspiring directors); the quorum; and whether or not the CEO will be a board member.

11. The task force chairperson should convene a meeting of all stakeholders at which he or she will propose and seek endorsement of the Institute's business plan, vision and mission statements, legal status, and rules. After these documents are endorsed at the meeting, the task force chairperson will seek nominations and agree on the appointment of the Institute's chairperson, deputy chairperson, treasurer, and secretary.

12. The task force should be disbanded upon appointment of the chairperson of the Institute.

2. Issue 2: A Vision and Mission for the Institute

13. The task force should draft a vision and mission for the new board to endorse or modify.

14. A vision defines what the Institute wants to achieve. Some ideas:

- (i) the highest professionalism in boardrooms;
- (ii) role models of directors; and
- (iii) profitable and sustainable businesses through effective boards.

15. The mission statement covers what the Institute should do, and how to do it, and tasks to achieve that vision. Ideas include:

- (i) to enhance the development of sustainable and profitable corporations by providing support for all directors through training, setting standards, and advocating policy; and
- (ii) to foster high corporate governance standards through professional development, best practice guidelines, and policy development.

² Available at: <http://www.gcgf.org/>. Select 'Director Training Toolkit'.

16. The vision and mission statements should address whether the Institute's focus is on the directors, the boards, or the companies. Examples from similar organizations are in Attachment 1 to this Appendix.

3. Issue 3: Ownership and Legal Entity

17. The task force should analyze options for a legal structure that best allows the Institute to achieve its vision and mission. Five options may be considered:

- (i) a partnership or joint venture involving, for example, chambers of commerce, manufacturers' associations, women in business associations, societies of accountants, societies of lawyers, National University of Samoa (NUS), and the Government (represented by the State-Owned Enterprise Monitoring Division of the Ministry of Finance (SOEMD));
- (ii) a new, independent legal entity with its own legislation, or established under the existing Incorporated Societies Act 1952;
- (iii) no legal status of its own, but a new division under the auspices of an existing organization such as the Chamber of Commerce;
- (iv) a new center established within an academic faculty at the National University of Samoa, NUS; and
- (v) a new section in SOEMD.

4. Issue 4: Roles and Priorities for the Institute

18. Once established, the Institute board should establish priorities and a work program for the short and longer terms. Potential services identified during the fact-finding mission were:

- (i) delivering training courses, seminars, and other events as part of a structured, flexible, modular approach to professional development (Issue 5);
- (ii) developing an Institute code of ethics (Issue 7);
- (iii) developing codes of conduct for individual boards (Issue 7);
- (iv) developing a national code of best practice;
- (v) maintaining a database of directors (Issue 8);
- (vi) providing best practice guidelines for boards, based on international best practices but tailored to Samoa's legislative and cultural environment;
- (vii) networking with similar bodies within and beyond the Pacific;
- (viii) developing a board evaluation template tailored to public bodies in Samoa;
- (ix) designing and implementing an accreditation and/or qualification system for directors (Issue 6);
- (x) providing a mentoring program for boards and individual directors;
- (xi) providing information for members and raising awareness on emerging issues in corporate governance, both locally and internationally; and
- (xii) representing members' interests to government and legal entities.

19. The ADB TA on Strengthening Corporate Governance in Samoa will provide technical advice and an agreed-upon funding level to the board and CEO for these tasks during the development phase of the Institute (as long as 2 years), as set out in a TA paper agreed upon by ADB and the Government. Upon the Institute's establishment, the Government will delegate all aspects of the TA project that relate to Institute development to be managed and implemented by the Institute board and CEO.

5. Issue 5: Professional Development

20. The Institute will develop a program of training courses, seminars, and other events that meet the range of professional development needs of Institute members and current and aspiring directors. This program will be offered through courses and seminars, whose schedule will be published annually (see suggestions for initial topics in Attachment 2 to this Appendix).
21. The location, costing, venues, course fees, duration, tutors, and content of training courses will be based on identified needs. Courses may be provided on particular subjects, such as new legislation, or for particular roles, such as chairpersons or an audit committee.
22. Differing the duration of courses will allow some areas to be explored in more depth and allow time for case studies. Focus groups might help identify specific development courses.
23. The Institute will need to develop a pool of skilled local presenters who will stay abreast of international developments in corporate governance, and who also understand SOEMD's requirements.
24. Evaluation and feedback on quality and content will provide a good guide to provision of future training courses.
25. A seminar program might be run as a series of luncheon events, for example. The program should offer a combination of demand-driven topics for members, and should take advantage of the availability of visitors to Samoa with highly relevant experience.
26. The Institute might seek full cost recovery or might seek extra funding to subsidize the cost of courses and seminars. Companies should ensure that a budget is made for director development. The Institute may wish to explore direct billing for SOEs.
27. The International Finance Corporation Toolkit for Building Director Training Organizations has examples of courses provided by other institutes.³

6. Issue 6: Qualifications Framework

28. A registration process acknowledges commitment to director competence and professionalism in the boardroom. Too often the role of a director is misunderstood; recognition through a credible qualifications authority will help enhance the reputation of a professional director and help in selection and appointment of directors. Directors will be required to attend courses annually to maintain accredited status.
29. It is important to understand that registration will not overcome all inappropriate director behavior, but it will provide evidence that the registered director has experience and understands roles and responsibilities in the boardroom. By way of example, in New Zealand to become an accredited director, members need to attend an interview with the Accreditation Board and demonstrate: experience as a director of a publicly listed company or entity of substance; understanding of the rules and responsibilities of directors; and commitment to

³ Available at: <http://www.gcgf.org/>. Select 'Director Training Toolkit', then 'Module 3'.

ongoing professional development. Provisional Accreditation is available for less experienced directors.⁴

7. Issue 7: Code of Conduct, Ethics, Best Practice, Principles, and Guidelines

30. A key Institute role will be to facilitate the development of codes of ethics (or conduct of best practices). The codes of conducts could possibly be at three levels: (i) at the national level for Samoa; (ii) for the Institute itself; and (iii) for each individual board. A code addresses issues relating to ethical practices within the business environment, and includes the practical application of corporate values. It makes clear what is acceptable and what is unacceptable, and what is expected in the boardroom. Reference to relevant laws and regulations is important. It is important to emphasize that the process of agreeing upon the content of codes is crucial to their effectiveness. The discussion and clarification of behavior and ethics to produce the code helps establish and maintain its standards. Other items for consideration follow:

- (i) Government of Mauritius. *Corporate Governance in Mauritius*. Available: <http://industry.intnet.mu/speech/corpgov.pdf>;
- (ii) Organisation for Economic Co-operation and Development. *OECD Principles of Corporate Governance*. Available: www.oecd.org;
- (iii) New Zealand Securities Commission. *Corporate Governance in New Zealand Principles and Guidelines*. Available: <http://www.sec-com.govt.nz/publications/documents/governance-principles/handbook.shtml>
- (iv) Global Corporate Governance Forum. *Toolkit, Building Director Training Organizations Module 2*, page 31 Annex 6. Available: <http://www.gcgf.org/>
- (v) Institute of Directors, New Zealand. *Code of Ethics*. Available: www.iod.org.nz; (Go to About Us and click on Code of Ethics).

8. Issue 8: The Role of a Database for Members

31. The Institute can play a key role in contributing to the appointment process and enhancing the selection of competent, experienced people for boards by maintaining an up-to-date database of individuals willing to serve as directors on boards.

32. The first step might simply be to compile a list of names, but as time and resources permit, data for each person can be added to identify his or her particular skills and experiences. That will enable the selectors to identify the relevant skills set to match a skills gap on a board. In this way board composition can be crafted to suit the stage of development of the company, and the role of its board. The board evaluation process might feed information back into the database to enhance the selection process.

33. The Institute could choose a panel of two respected senior directors to interview each candidate in the database to assess whether or not he or she has the skills, experience, and personal attributes to contribute as a director in the boardroom. The highest professional integrity must be used in database development. The information must be treated with the utmost confidentiality to avoid abusing the individuals' privacy. An institute database can help in the appointment process for both the government sector and the private sector when commercial boards seek new directors.⁵

⁴ Further information on New Zealand arrangements is available at: <http://www.iod.org.nz/opinion/accreditation.html>.

⁵ See Global Corporate Governance Forum. *Toolkit for Building Director Training Organizations*. Available: http://www.gcgf.org/Toolkit%20-%20Director%20Professionalism/index-toolkit_1.htm

Attachment 1 to Appendix 2: Examples of Vision Statements

Brazilian Institute of Corporate Governance.

“To be the main corporate governance reference in Brazil and to develop and disseminate best concepts and practices of corporate governance thus contributing to the better performance of corporations to a more fair and responsible and transparent society.”

Hong Kong Institute of Directors.

“To be Hong Kong’s premier body representing professional directors working together to promote good corporate governance and to contribute towards advancing the status of Hong Kong, both in China and internationally.”

Independent Directors Association Russia.

“To enhance the corporate governance of Russian joint stock companies by promoting better Board activities through the implementation of professional independent director practices”

Institute of Directors in New Zealand.

“Our vision is to be respected as the pre-eminent professional organization for company directors in New Zealand, providing the highest standards of: (i) guidance in matters of corporate governance; (ii) furtherance in the professional development of directors; and (iii) representation of the interests of directors. In realizing this vision we adhere to the following core values in all our undertakings: (i) absolute integrity; (ii) openness and transparency; (iii) respect for others; and (iv) the delivery of value to our members. Also, we (i) fully recognize our obligations to all those with whom we have a relationship including our members and other recipients of our services and products, our employees, contractors and suppliers, and organizations affiliated to us; and (ii) use our best endeavors to ensure the respect, trust and confidence of those with whom we deal.”

Global Corporate Governance Forum Mission.

“To help countries improve the standards of governance for their corporations, by fostering the spirit of enterprise and accountability, promoting fairness, transparency and responsibility”.

Attachment 2 to Appendix 2: Proposals for a Series of Half-Day Courses or Seminars to Begin in the Short Term

1. Feedback through evaluation forms can help determine whether to offer half-day courses or seminars annually.
2. Directors might attend two or three courses annually, depending on the criteria for course training to be accredited as a director.
3. A variety of course content and duration can allow directors choices to maintain their commitments to ongoing professional development. Following are examples of courses that might be offered:
 - (i) What Is Corporate Governance and Why Do We Need It?
 - (ii) Community Service Obligations (CSOs) in Samoa: Reporting CSOs to the Board;
 - (iii) Public Bodies (Performance and Accountability) Regulations 2002;
 - (iv) Public Bodies (Performance and Accountability) Act 2001;
 - (v) What Do the Public Bodies Act and Regulations Mean For Directors?
 - (vi) Legal Compliance: Specific Legislation;
 - (vii) General (Employment, Taxation, etc.);
 - (viii) Financial Reporting to the Board and to Shareholders;
 - (ix) Assessing New Capital Expenditure Proposals;
 - (x) Board Evaluation;
 - (xi) Strategic Planning;
 - (xii) Monitoring and Developing the Chief Executive Officer (CEO);
 - (xiii) International Trends In Corporate Governance;
 - (xiv) Risk Management: Internal and External Risks;
 - (xv) Reporting to the Board;
 - (xvi) Board Policies (e.g., Business Expenditures and Credit Cards);
 - (xvii) Charter for the Board;
 - (xviii) Role of Audit: the Audit Committee and Internal Auditor;
 - (xix) Ethics, Conflicts of Interest, and Board Codes of Conduct; and
 - (xx) Boardroom Dynamics and Decision Making.

Attachment 3 to Appendix 2: Reference Web Sites for Institutes of Directors

Following are useful reference web sites for institutes of directors:

- (i) Institute of Directors in New Zealand;
www.iod.org.nz
- (ii) National Association of Corporate Directors, United States;
www.nacdonline.org
- (iii) Australian Institute of Company Directors;
www.companydirectors.com.au
- (iv) United Kingdom Institute of Directors;
www.iod.co.uk
- (v) Institute of Corporate Directors, Canada.
www.icd.ca

COST ESTIMATES AND FINANCING PLAN
(\$'000)

Item	Foreign Exchange	Local Currency	Total Cost
A. Asian Development Bank Financing^a			
1. Consultants			
a. Remuneration and Per Diem			
i. International Consultants	215.0	0.0	215.0
ii. Domestic Consultants	0.0	42.5	42.5
b. International and Local Travel	28.0	0.0	28.0
c. Reports and Communications	2.0	0.0	2.0
2. Equipment ^b	5.0	0.0	5.0
3. Trainings, Seminars, and Conferences ^c			
a. Facilitators	40.0	12.0	52.0
b. Training Program	0.0	6.0	6.0
4. Miscellaneous Administration and Support Costs	0.0	9.5	9.5
5. Contingencies	40.0	0.0	40.0
Subtotal (A)	330.0	70.0	400.0
B. Government Financing			
1. Consulting Services (Subproject Feasibility and Design)	0.0	5.0	5.0
2. Office Accommodation and Transport	0.0	22.5	22.5
3. Remuneration and Per Diem of Counterpart Staff	0.0	30.0	30.0
4. Others	0.0	10.0	10.0
5. Contingencies	0.0	7.5	7.5
Subtotal (B)	0.0	75.0	75.0
Total	330.0	145.0	475.0

^a Financed by the Japan Special Fund, funded by the Government of Japan.

^b Computer, printer, and office furniture.

^c Facilitators/presenters will contribute to the annual professional development program of the Institute of Directors, involving seminars and formal training programs. The budget estimate is based on 10 international and 50 domestic facilitators/presenters over the duration of the technical assistance.

Source: Asian Development Bank estimates.

OUTLINE TERMS OF REFERENCE FOR CONSULTANTS

1. The following international and domestic consultants will be engaged on a firm basis:

A. Corporate Governance Specialist-Team Leader (international, 5 person-months, intermittent)

2. The corporate governance specialist-team leader (CGS) will have at least 5 years experience as a company director, ideally with experience on both public and private sector boards, and past or present membership of an institute of company directors. Previous involvement in leadership or management of an institute of company directors will be an advantage; so will country knowledge of Samoa. The consultant will be familiar with current corporate governance and ethics issues and with community service obligations of state-owned enterprises (SOEs). He or she must have experience in working with and guiding teams, and in capacity development; and must have excellent communication and liaison skills.

3. The CGS will work closely and collaboratively with the chairperson and chief executive officer (CEO) of the Institute of Directors (Institute), toward the establishment, full operations, and long-term sustainability of the Institute. Specifically, under Output 1 of the Project, the CGS will help the Institute develop and disseminate a series of accessible and practical “best practice” guidelines for board operations and directors. He or she will also work with the Institute and a range of SOE boards to develop tailored codes of ethics and good conduct for each organization. He or she will also provide tailored and demand-based mentoring for selected boards or individual directors. He or she will advise on the most appropriate use of the database of directors, including protocols for information collection and confidentiality. The CGS will report to the chairperson and CEO during and on completion of these tasks, and will work in a participatory manner with a range of institute members and SOE board chairpersons to undertake the tasks.

4. The CGS will also provide short-term inputs under components 2 and 3, reporting to the CEO of the Ministry of Finance through the assistant secretary of SOEMD. These inputs will provide policy advice on SOE board structure and remuneration issues and a review of SOEMD reporting and location arrangements within the Government. In conjunction with the corporate governance adviser, CGS will provide technical reports on best practice guidelines for boards, codes of ethics for boards, SOE board structures and remuneration arrangements, and arrangements for SOEMD mandates and reporting.

5. CGS will work closely with the corporate governance adviser on all of the above tasks, drawing on his or her advice and local knowledge and providing guidance on other advice and inputs from the corporate governance adviser.

6. As team leader, the CGS will ensure that all consultants are briefed on progress and outstanding issues for TA project progress, and that consultant inputs are well-coordinated and appropriately timed. He or she will maintain periodic contact with the chairperson and CEO of the Institute and assistant secretary, SOEMD, to monitor and advise on project progress. The CGS will be responsible for project inception, quarterly progress, and draft and final completion reports.

B. Corporate Governance Adviser (domestic, 7.5 person-months, intermittent)

7. The corporate governance adviser (CGA) will be an experienced and respected Samoan with a reputation for promoting good corporate governance. He or she will have at least 3 years of experience as a director on a Samoan SOE board, and a successful career at a senior level in the public or private sector. The CGA must be experienced in working with and guiding teams for capacity development, and must have excellent liaison and communication skills in both English and Samoan.

8. The CGA will work closely with the international consultants, institute chairperson, and CEO, under GCS team leader direction, to support the establishment, full operation, and long-term sustainability of the Institute, including professional development and accreditation programs for directors. Specifically, under component 1 of the Project, CGA will provide tailored and demand-based mentoring to selected boards or individual directors; work with the CGS in development of best-practice guidelines and codes of ethics and good conduct for SOE boards; and work with the director-development specialist to develop an appropriate and sustainable approach to director accreditation/skills recognition. The CGA will contribute to CGS reports on best practice guidelines for boards, codes of ethics for boards, SOE board structures and remuneration arrangements, and SOEMD mandate and reporting arrangements.

9. The CGA will also provide short-term inputs under Outputs 2 and 3, working with and reporting to CGS and the assistant secretary, SOEMD. These inputs will provide consolidated policy advice on SOE board structure and remuneration issues, and a review of SOEMD reporting and location arrangements within Government. CGA will contribute to reports by the director development specialist on the Institute's annual professional development programs, and issues and options for a system for director accreditation or qualification.

C. Director Development Specialist (international, 2 person-months, in two missions)

10. The director development specialist (DDS) will have experience in developing and delivering professional development programs for company directors, and extensive experience in either professional development (PD) or as a company director. The DDS will have working knowledge of different approaches to accreditation of professional experience and qualifications. The ability to compile and document a coordinated PD program, using a mixture of delivery modes, and high-level communication skills, will be essential.

11. The DDS, reporting to the Institute CEO and corporate governance specialist, and working closely with the corporate governance adviser, will undertake two tasks: (i) to design and advise on implementation of a PD program to meet Samoan directors' needs, in a range of modules and formats; and (ii) to study and report on sustainable approaches to accreditation and/or recognition of qualifications or experience for company directors, to be administered by the Institute. The DDS, together with the CGA, will provide technical reports on the Institute's annual PD programs, and issues and options for a director accreditation or qualification system.

D. Capacity Development Specialist (international, 3 person-months, intermittent)

12. The capacity development specialist (CDS) will have extensive experience working in or consulting for central public sector agencies at the management level, and proven expertise in staff capacity development in developing countries, especially through on-the-job training. Detailed knowledge of the functions of a government performance monitoring unit is essential.

Knowledge of SOE monitoring functions and work experience in Samoa will be an advantage. The CDS must have excellent interpersonal and communication skills.

13. The CDS, reporting to the CEO through the SOEMD assistant secretary and to the team leader, and with support of the capacity development adviser (CDA), will work closely with the SOEMD assistant secretary to progressively and sustainably build SOEMD's capacity to fulfill the SOE monitoring and performance improvement tasks mandated in legislation such as the Public Bodies (Performance and Accountability) Act. The CDS will focus on strategic tasks for SOEMD; the CDA will focusing more on core staff competencies. The CDS will develop and implement a capacity development plan to address overall SOEMD needs and needs of individual staff, taking into account the probability of modest staff turnover during and beyond the Project's life. The CDS, together with the CDA, will provide a technical report on skills development for SOEMD.

E. Capacity Development Adviser (domestic, 3 person-months, intermittent)

14. The capacity development adviser (CDA) will have experience working in or consulting for central public sector agencies at the management level in Samoa, and proven experience in staff capacity development, especially through on-the-job training. Understanding of the functions of a government performance monitoring unit is essential, and knowledge of SOE monitoring functions will be an advantage. Excellent interpersonal and communication skills are required.

15. The CDA, reporting to the CEO through the SOEMD assistant secretary, and to the CDS, will work closely with the SOEMD assistant secretary to progressively and sustainably build SOEMD's capacity to fulfill, at a high level, the SOE monitoring and performance improvement tasks mandated in legislation such as the Public Bodies (Performance and Accountability) Act. The CDA will focus particularly on core staff competencies for SOEMD, allowing the CDS to focus more on strategic issues. The CDA will help develop and implement a capacity development plan that addresses overall SOEMD needs, and those of individual staff, taking into account the probability of a modest level of staff turnover during and beyond the Project's life. The CDA will help the CDS prepare a technical report on skills development for SOEMD.

F. Database Development Consultant (domestic, 1 person-month, in two assignments)

16. The database development consultant (DDC) will be experienced in the design, development, and maintenance of databases, using common software packages and tailored to meet client needs. The ability to understand and respond to client requirements, with low-maintenance and sustainable solutions, is essential. The DDC will have a good appreciation of information management protocols, including maintenance of confidentiality of information stored on databases.

17. The DDC will support the development of computer databases for the Institute and SOEMD that meets their specific needs to compile and maintain lists of members and/or suitable candidates for director positions, and to identify individuals on the basis of key skills, knowledge, and attributes.