

# Philippines

## Country Procurement Assessment Report

# 2012



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# Acronyms and Abbreviations

ABC	—	approved budget for the contract
ADB	—	Asian Development Bank
AIM	—	Asian Institute of Management
APCPI	—	agency procurement compliance and performance indicator
APP	—	Annual Procurement Plan
BAC	—	Bids and Awards Committee
BLI	—	Baseline Indicator
BOT	—	Build–Operate–Transfer
CBCP	—	Catholic Bishops Conference of the Philippines
COA	—	Commission on Audit
COFILCO	—	Confederation of Filipino Consulting Organizations
CPAR	—	Country Procurement Assessment Report
CSC	—	Civil Service Commission
CSO	—	civil society organization
CTM	—	composite team member
CWG	—	CPAR Working Group
DBM	—	Department of Budget and Management
DENR		Department of Environment and Natural Resources
DepEd	—	Department of Education
DOF	—	Department of Finance
DPWH	—	Department of Public Works and Highways
EO	—	Executive Order
FAP	—	foreign-assisted project
FY	—	fiscal year
GAA	—	General Appropriations Act
GAP	—	Guide in the Audit of Procurement
GCC	—	General Conditions of Contract
GDP	—	gross domestic product
GOCC	—	government owned and controlled corporation
GPM	—	generic procurement manual
GPPB	—	Government Procurement Policy Board
GPRA	—	Government Procurement Reform Act
HOPE	—	head of the procuring entity
IAS	—	internal audit service
IAU	—	internal audit unit



## Acronyms and Abbreviations

IFI	—	international financial institution
IRR	—	Implementing Rules and Regulations
IRR-B	—	Implementing Rules and Regulations Part B
JICA	—	Japan International Cooperation Agency
LGU	—	local government unit
MAPS	—	Methodology for Assessing Procurement Systems
MDB	—	multilateral development bank
MSMEs	—	Micro, Small and Medium Enterprises
NCB	—	national competitive bidding
NEP	—	National Expenditure Program
NGA	—	national government agency
OECD	—	Organisation for Economic Co-operation and Development
OECD-DAC	—	Organisation for Economic Co-operation and Development–Development Assistance Committee
OMB	—	Office of the Ombudsman
OSFMD	—	Operations Services and Financial Management Department
PBD	—	Philippine Bidding Document
PDF	—	Philippine Development Forum
PFM	—	public financial management
PGIAM	—	Philippine Government Internal Audit Manual
PhilGEPS	—	Philippine Government Electronic Procurement System
PMR	—	Procurement Monitoring Report
PPP	—	public–private partnership
PPS	—	Public Procurement System
PRC	—	People’s Republic of China
RA	—	Republic Act
SWG	—	Sub Working Group
TSO	—	Technical Support Office

# Currency Equivalents

Currency Unit = Philippine peso (P)

\$1.00 = P42.50 (January 2012)

1 Japanese yen (¥) = \$0.012

¥1.00 = P0.555

## Fiscal Year

The fiscal year (FY) of the government ends on 31 December. FY before a calendar year denotes the year in which the fiscal year ends, e.g., FY2008 ends on 31 December 2008.

# Preface

Proper public procurement practices directly reflect good governance. Transparent and effective procurement practices minimize expenditure and create opportunity. Procurement is an enormous component in the process by which governments build infrastructure, such as schools and hospitals. It involves the management of significant amounts of money and is therefore often the cause for allegations of corruption and government inefficiency. The difference between getting public procurement right and doing it wrong has the potential to be either highly rewarding, or highly damaging. In some nations, reforms implemented to improve the efficiency of public procurement have resulted in savings of 1% of a country's gross domestic product. One can see why public procurement is so significant to the development of a country and its people.

Citizens have the right to expect their government to spend these funds for the good of the people. In the past, corruption, inefficiency, ignorance, and disorganization have resulted in billions of pesos worth of losses. It is with the importance of these issues in mind that this report is produced to report on the state of procurement in the Philippines today.

## Ownership of Procurement Reform

The Government Procurement Reform Act (GPRA) took effect on 23 January 2003. Through the GPRA and its oversight body, the Government Procurement Policy Board (GPPB), the country's public procurement system has continuously improved the processes for acquiring goods, works, and services in an effort to be more transparent, efficient, economical, and accountable. The GPPB has issued more than 80 rules through resolutions that amended the Implementing Rules and Regulations of the GPRA to ensure that the procurement system remains current.

The Government of the Philippines spearheaded the 2012 Country Procurement Assessment Report (CPAR) process in collaboration with its stakeholders. The periodic CPAR assessment demonstrates a continuing effort by the government, through the GPPB and its Technical Support Office (GPPB-TSO), to continually improve the system. The CPAR Working Group (CWG) was organized by the GPPB, comprised of representatives from major procuring entities, development partners, private sector entities, civil society organizations, and the Philippine Government Electronic Procurement System. The CWG was chaired by the Executive Director of the GPPB-TSO, and cochaired by the Director, Operations Procurement for East Asia, Southeast Asia and Pacific, Operations Services and Financial Management Department (OSFMD) of the Asian Development Bank (ADB). The full composition of the CWG is in Annex 2.

## Date and Basis of the Report

The CPAR has become a regular review process that enables the government, its development partners, and other stakeholders to record the progress of reforms, diagnose the health of the current public procurement system, and continue the dialogue to determine and agree upon actions needed to push reforms further.

On 15 April 2011, the Philippine Development Forum Sub-Working Group (PDF SWG) on Procurement discussed the status, activities, and accomplishments of the Philippine Public Procurement System (PPS).<sup>1</sup> The participants agreed that a number of improvements to the PPS had been implemented as detailed in the 2008 CPAR Action Plan. They also reached a consensus that it was time to assess the effectiveness and impact of these improvements and to identify remaining weaknesses, particularly in the GPRA's implementation and enforcement, and agree on an action plan to further implement reform.

On 11 May 2011, the GPPB formally agreed to the commencement of the 2012 CPAR Update with technical assistance provided from ADB.<sup>2</sup> This CPAR process was intended to be the third major update since the first exercise in 2002 and the second in 2008. Minor updates were conducted in 2003 and 2005.

On 12 October 2011, the PDF SWG on procurement approved the update concept memorandum, which became the basis for carrying out the review during October 2011–March 2012. Seven focus group discussions were conducted in November 2011 to discuss recurrent and emerging issues. A baseline indicator (BLI) assessment workshop, which was attended by members of the CWG, was conducted during 1–2 December 2011 at the Eugenio Lopez Center in Antipolo City, Rizal.

The workshop reviewed the status of accomplishments of the PPS during 2008–2011, using the Organisation for Economic Co-operation and Development–Development Assistance Committee Methodology for Assessing Procurement Systems. A series of parallel meetings ensued in January 2012 among members of the GPPB Inter-Agency Technical Working Group, the GPPB-TSO, and representatives of development partners to refine and agree on the positions and scores given for certain subindicators. A second workshop was conducted on 10 February 2012, where the BLI assessment score was finalized and remedies to address identified weaknesses in the PPS were discussed.

A third workshop was held on 2 March 2012 to review the results of the agency procurement compliance and performance indicators<sup>3</sup> (APCPI) and to finalize the 2012 CPAR Action Plan. Based on the integrated assessment results, the CPAR technical team drafted and finalized the CPAR. On 16 March 2012, the GPPB approved the 2012 CPAR Action Plan which was then reviewed and approved by the PDF SWG on 19 April 2012. On 28 May 2012, the members of the CWG agreed to upgrade the update to a full CPAR, in recognition of the amount of effort and consultations that were undertaken.

The CWG was supported by a technical team composed of Dennis S. Santiago (Executive Director, GPPB-TSO); Jose Luis Syquia (Senior Procurement Specialist and Team Leader, OSFMD, ADB); Galia Ismakova (Senior Procurement Specialist, OSFMD, ADB); Helena Ireen Baylon (Public Management Officer, Philippine Country Office, ADB); Kota Yasumura (Representative, Japan International Cooperation Agency [JICA]); Floro Adviento (Program Manager, JICA); Florida Chan (JICA); Cristina Santiago (JICA); Samuel Haile Selassie (Senior Procurement Specialist, East Asia & Pacific Regional Procurement Unit 1, World Bank); Cecilia Vales (Lead Procurement Specialist, East Asia & Pacific Regional Procurement Unit 1, World Bank); Noel Sta. Ines, Dominic Aumentado, and Rene Manuel (Senior Procurement Specialists, East Asia & Pacific Regional Procurement Unit 1, World Bank); and consultants Alicia Tionson, Genmaries Entredicho Caong, and Juanito Gomez III.

<sup>1</sup> The PDF is the primary mechanism of the government for facilitating substantive policy dialogue among stakeholders on the country's development agenda. It is cochaired by the Department of Finance and the World Bank, and is composed of representatives from various multilateral development banks, bilateral funding agencies, government agencies, private sector, academe and civil society organizations. The Sub-Working Group on Procurement, which is chaired by the Government Procurement Policy Board Technical Support Office and cochaired by the World Bank, is the group tasked with the procurement reform agenda, and is composed of representatives from key government agencies, civil society organizations, the private sector, and development partners such as ADB; the World Bank; JICA; the Australian Agency for International Development; the United States Agency for International Development; European Union; and the embassies of the People's Republic of China (PRC), France, Japan, the Republic of Korea, Spain, and the United Kingdom.

<sup>2</sup> RETA 7277: ADB. 2009. *Governance and Capacity Development Initiative (Phase 2)*. Manila.

<sup>3</sup> Scoring benchmarks of the agency procurement compliance and performance indicator (APCPI): The APCPI scoring system uses a four-point rating scale based on recommended benchmarks obtained from the average scores of a pilot assessment for 19 government agencies conducted in 2010. The rating system ranges from a score of poor (0) to very satisfactory (3) for each subindicator (refer to Annex C of the APCPI User Guide). Most of the subindicators have recommended benchmark or thresholds where performance above threshold will merit a satisfactory or very satisfactory rating, while performance below would receive a fair or poor score. The ranges and scores vary, depending on the subindicator. The GPPB has the sole discretion to maintain or change the scoring benchmarks based on the average performance of procuring entities over a period of time.

# Acknowledgments

**T**he Country Procurement Assessment Report Working Group (CWG) would like to acknowledge the support and cooperation provided by the representatives of the Government Procurement Policy Board (GPPB) Inter-Agency Technical Working Group and Technical Support Office (GPPB-TSO), the Asian Development Bank (ADB), the Japan International Cooperation Agency, and the World Bank, who dedicated significant time and effort to produce this report. Special mention is given to Department of Budget and Management Undersecretary Laura Pascua for providing overall guidance to the conduct of the assessments; and to GPPB-TSO Executive Director Dennis Santiago for leading the workshops, meetings, and focus group discussions. Susan Cristobal of ADB, Ruth Cruz of the World Bank Manila Office, and Liza Vega of the GPPB-TSO handled all the logistical requirements.

# Foreword from the Government Procurement Policy Board



Good governance is not simply an instrument in the Aquino administration's reform campaign; it is the very foundation of our development agenda. Reform measures to improve the delivery of public services, the management of public funds, and the elimination of graft and corruption continue to be urgent priorities, particularly in the implementation of crucial governmental programs, activities, and projects.

A competitive, transparent, fair, and efficient public procurement system is one of the pillars of our good governance platform. The *2012 Country Procurement Assessment Report* (CPAR), as in previous CPARs, continues to be a tool for feedback and dialogue. The report helps establish a standard for measuring the performance of the Philippine public procurement system, allowing us to identify both the strengths and weaknesses of our procurement environment. More importantly, the CPAR serves as a crucial reference point for formulating an effective plan of action and a distinct procurement reform road map that will improve the government procurement processes and, in the long term, ensure its competitiveness, transparency, and integrity.

Although much has been achieved toward this end, we recognize that much more remains to be done, especially with respect to confronting challenges that face the administration's drive for procurement reforms. We worked on harmonizing our rules and regulations with those of our development partners, as well as improving and implementing the professionalization program for procurement personnel. We have also begun to implement an efficient mechanism for evaluating procurement performance and monitoring compliance with the procurement law, rules, and regulations, specifically at the level of the procuring entity. Finally, we intend to broaden our engagement with civil society in procurement monitoring, as well as strengthen our capacity to reach out to citizens and tap them as valuable partners in our efforts to reform the public procurement system.

With this, I wish to thank our development partners for their continuous and invaluable support to our drive against corruption: the Asian Development Bank, which spearheaded the 2012 CPAR and provided technical and financial assistance, alongside the Japan International Cooperation Agency and the World Bank. My deepest gratitude is likewise extended to all dedicated government procurement personnel at the national and local levels, the members of the bids and awards committees, secretariats, technical working groups, civil society observers, policy makers and implementers, as well as various other procurement stakeholders who continue to play a key role in enhancing the government procurement processes and procedures. Your unflagging commitment to transparent, accountable, and participative leadership will be instrumental not only in reforming our procurement system, but also in bringing the benefits of good governance directly to the Filipino people.

**Florencio B. Abad**

Chairman

Government Procurement Policy Board

# Foreword from the Asian Development Bank



**T**he *2012 Country Procurement Assessment Report* (CPAR) provides the most recent comprehensive picture of the public procurement environment in the Philippines. With the 2012 CPAR, I am happy to find that public procurement in the country has taken a positive momentum to reforming both policy and practice.

The 2012 CPAR presents a scorecard of achievements and progress made against best international practice following the Baseline Indicators of the Development Assistance Committee of the Organisation for Economic Co-operation and Development and the World Bank. It identifies both the remaining and the persistent challenges needing further attention, and, like the previous CPARs, proposes measures to address them. It includes an action plan reached between the government and its development partners, including financial commitments, to mitigate those challenges.

The 2012 CPAR is the third such assessment conducted in the country, and the Asian Development Bank is pleased to have led the exercise. While still making use of baseline indicators as the norm, the 2012 CPAR now uniquely features the use of Agency Procurement Compliance and Performance Indicators (APCPI). Developed by the government, the APCPI gauges the extent to which instituted procurement reforms have been cascaded down and taken root within agencies and local governments. Included also are related reviews and assessments on a protest mechanism, approved budget ceiling, the Philippine electronic procurement system, and civil society involvement as procurement observers, which have all enriched the findings and recommendations.

I wish to commend firstly the government for its commitment to pursue, through the Government Procurement Policy Board and its Technical Support Office, the long-term process of strengthening the public procurement system; and secondly, the development partners for consistently supporting this cause. The 2012 CPAR provides us with a new platform for dialogue and continuing cooperation to promote an efficient, transparent, and integrity-based Philippine public procurement.

A handwritten signature in dark ink, appearing to read 'N Jain', with a stylized flourish extending from the end.

**Neeraj Jain**  
Country Director  
Philippines Country Office  
Asian Development Bank



# Foreword from the Japan International Cooperation Agency



**O**n behalf of the Japan International Cooperation Agency (JICA), I wish to commend the Government of the Philippines for its continuing efforts to make the procurement process more efficient and transparent. Significant progress has been made in harmonizing the domestic procurement guidelines with those of the international financial institutions following the approval of the revised Implementing Rules and Regulations of Republic Act 9184 in 2009. The bidding requirements have been substantially simplified, thereby further enhancing competitiveness in the bidding process.

JICA is pleased to have fully harmonized with the government national competitive bidding for procurements financed under the local currency portions of JICA official development assistance loans. We believe that this is an important milestone toward the use of country systems as envisioned under the 2005 Paris Declaration on Aid Effectiveness of the

Development Assistance Committee of the Organisation for Economic Co-operation and Development.

In addition to making the procurement process more efficient and transparent, we believe that it is equally important for the government to make the contract provisions fair not only to the government but also to the contractors. There must be an objective and balanced allocation of risks. Unfair risk allocation to the contractors should be avoided. This is particularly important in foreign-assisted projects involving contracts that are bid through international competitive bidding. We are thoroughly convinced that an efficient and transparent procurement process backed up with internationally accepted contract norms would be beneficial to the government in the long run in terms of attracting capable and well-established contractors of international caliber to participate in international competitive bidding for foreign-assisted projects, thereby promoting more competition and consequently resulting in the reduction of the bid prices.

Before closing, I would like to take this opportunity to express our sincere thanks to the Government of the Philippines, the Asian Development Bank, and the World Bank for their continuing collaboration in the pursuit of procurement reforms in the Philippines. JICA remains committed to be part of the dialogues to achieve further improvements in the procurement process.

A stylized, dark ink handwritten signature, likely of Takahiro Sasaki, consisting of several fluid, overlapping strokes.

**Takahiro Sasaki**  
Chief Representative  
JICA Manila Office

# Foreword from the World Bank



**T**he World Bank commends the Government of the Philippines, through its Government Procurement Policy Board (GPPB) and its Technical Support Office, for pursuing the country's procurement reform agenda and ensuring that it moves forward. As the *2012 Country Procurement Assessment Report* (CPAR) shows, the country's public procurement system has improved, compared to its rating in 2008.

The CPAR is an important process to determine the progress of the procurement reforms launched 10 years ago, through the enactment of the Government's Procurement Reform Law (Republic Act 9184). The new CPAR provides us with an evidence-based approach that will lead us to measure performance at the agency level. This performance measurement will enable the government to address rooted bottlenecks in the system, thereby resulting in better service delivery.

The World Bank looks forward to supporting the next round of procurement reforms, which will continue to provide value for money and the best-fit methods that will complement the country's existing procurement framework. The new wave of reforms will lead to innovative approaches and strategies that will minimize unnecessary procedures and transaction costs, both for buyers and suppliers. We hope that through these reforms, the government will be able to link policy and agency objectives more directly with its development agenda and enhance efficiency and transparency. All these reforms will result in creating more opportunities for better and more jobs, more savings, improved service delivery, and greater support to small and medium-sized enterprises. More importantly, the new wave of reforms will help the government to be more accountable and effective, which is the core of the social contract of President Benigno Aquino III with the Filipino people.

The World Bank is committed to support a country-led engagement, including an increased focus on performance measurement and management; a modern approach for risk management that shift to principles and results, rather than on procedural compliance; and the development of a modern procurement profession.

We thank our major development partners, the Asian Development Bank, for leading this year's CPAR engagement, and the Japan International Cooperation Agency, for actively supporting the process. We also acknowledge the important role of other development partners, including representatives from civil society and the private sector, for their active involvement.

**Motoo Konishi**  
Country Director, Philippines  
World Bank

# Executive Summary

## Improvements in Public Procurement Regulations

1. The passage and promulgation of Republic Act 9184, otherwise known as the Government Procurement Reform Act (GPRA), resulted in the replacement of multiple laws, rules, and regulations by a unified public procurement legal framework. The GPRA aimed to reduce opportunities for graft and corruption; harmonize the system with international standards and practices; and promote transparency, competitiveness, and accountability. In 2009, the revised Implementing Rules and Regulations (IRR) for the GPRA were issued to address deficiencies in domestic and foreign-funded procurements in government, and adopt some of the good practices of the multilateral development banks (MDBs). Hence, some of the important reform measures put in place to improve the public procurement processes in the revised IRR include (i) the significant reduction of eligibility requirements for all types of procurements; (ii) the introduction of rules to encourage foreign bidders to participate, such as the posting of bid opportunities in internationally prescribed websites that provide greater access to information and an extension of the period for the preparation and submission of bids; and (iii) the inclusion of specific guidelines linking the agency's procurement planning and budget preparation processes. These amendments have helped improve competitiveness, increase the number of suppliers and contractors bidding for government projects, and steer financial management and procurement processes toward greater economy and efficiency.

## Accomplishments Since the 2008 Country Procurement Assessment Report

2. In line with efforts to harmonize the public procurement systems of the Government of the Philippines and the MDBs, the Philippine Bidding Documents were further revised and harmonized and the Generic Procurement Manuals are undergoing revisions to incorporate amendments to the revised IRR. The usability of the Philippines Government Electronic Procurement System (PhilGEPS) for MDB-funded procurements was also assessed and found to be adequate. Procurement reforms were also cascaded to local government units (LGUs) through the development of the Local Government Procurement Manual, *Barangay*<sup>4</sup> Procurement Manual, and the Community Participation Manual. To improve the participation of civil society organizations (CSOs) as observers in the procurement process, a manual on procurement monitoring was developed and rolled out in selected municipalities in 2012.

3. To further strengthen institutional capacity development, the Government Procurement Policy Board Technical Support Office (GPPB-TSO) was transferred from the Procurement Service to the Department of Budget and Management (DBM) as an attached agency, thereby granting it more stability and independence. A centralized electronic portal on government procurement, PhilGEPS, was continuously developed and is now implementing five of its major components under Phase 1: the Electronic Bulletin Board, the Supplier's Registry, the Electronic Catalogue, the Virtual Store and the Merchant's Registry System. Hence, since the 2008

<sup>4</sup> A *barangay* is the basic administrative unit of government. As the lowest level of political and governmental subdivision, *barangays* are under the administrative supervision of cities and municipalities.

CPAR, there has been a significant increase in the number of government agencies and suppliers that are registered with the PhilGEPS and procuring entities that are posting procurement opportunities in the system.

4. Capacity development programs were also instituted during the period including: the development and pilot testing of 15 module training course to professionalize procurement personnel in government; the development, issuance, and adoption by the Commission on Audit of the Guide in the Audit of Procurement, including the training of Commission on Audit auditors; the issuance by the DBM of guidelines on the establishment of procurement units in all government agencies; and the conduct of procurement training by private sector organizations for their members, as well as by selected government agencies for suppliers, contractors, and consultants. The Magna Carta for Micro, Small and Medium Enterprises has facilitated access to sources of funds, and provided them with a fair share of government contracts, related incentives, and preferences. The contractor's licensing and registration procedures for government projects was streamlined, and a web-based one-stop-shop system integrates all business registration-related transactions.

5. The agency procurement compliance and performance indicators (APCPI) was developed primarily as a tool to evaluate procurement performance and compliance at the agency level, collect information for national procurement statistics, and strengthen the capability of the GPPB-TSO to monitor and enforce national compliance with the procurement regulations. Likewise, through the Guide in the Audit of Procurement, internal and external controls of procurement transactions are now effectively contributing to efforts in handling fraudulent and corruptive practices.

6. In addition, several programs were introduced to improve procurement procedures and practices. These include the issuance of a circular on the management of government records by the National Archives of the Philippines that cover procurement and contract management, and the implementation of integrity development action plans and the Integrity Development Review by a number of government agencies to address corruption prevention.

## **Areas for Improvement and Further Challenges**

7. The CPAR process has identified challenges and areas for improvement that the government needs to address with regard to the implementation and enforcement of the GPRA. It has also strengthened the process of communication and collaboration among the government, development partners, procuring entities, and other stakeholders in devising appropriate actions to address all of the challenges. Hence, for instance, the collaboration in the development of the APCPI and its use reveal improved compliance with the GPRA at the agency level. However, despite efforts to simplify and standardize the procurement processes at local governments, the APCPI also indicates that continued compliance with the GPRA remains a major challenge. Overall, the GPRA needs to be communicated further to LGUs, the private sector, civil society, the media, and the public in general. Support from different stakeholders, all the way down to the local level, is required to promote strong public awareness and involvement.

8. Five major issues pertaining to differences and inconsistencies between the GPRA and the MDBs' rules on national procurement that warrant further review are as follows:

- The restrictions on foreign ownership of Filipino firms and the nationality requirements for joint venture arrangements that limit the entry of foreign bidders
- The use of the Approved Budget for the Contract as the ceiling for bid prices and the award of contracts
- The institution of an independent and autonomous complaint appeals body to resolve protests
- The absence of procedures for international competitive bidding in the GPRA, as it is assumed that this is applicable only to foreign-funded procurements
- The absence of prequalification procedures

9. With respect to the institutional framework and management capacity, areas for improvements include (i) examining the conflict of interest between the regulatory and contract review functions of the Government Procurement Policy Board (GPPB); (ii) strengthening compliance with the submission of required procurement monitoring reports, Annual Procurement Plans and APCPI assessment results, and the posting of contract award information; (iii) defining the skills and knowledge competency required by specialized procurement jobs and monitoring the compliance to these standards among agencies; and (iv) developing a staff performance evaluation system for procurement personnel, based on results and professional behavior.

10. To ensure the integrity and transparency of the procurement process, issues on the sustainability of CSO funding and participation need to be addressed, including their qualification requirements under the GPRA; the training, registration, and mapping of CSOs to maximize deployment; and compliance with the submission of observers' reports as a feedback mechanism.

11. Other emerging issues that result from differences in conditions, standards, and interpretation of procurement regulations and processes under existing practices of MDBs and procuring entities include the following:

- There is misconception about the conduct of advance procurement action under MDB-funded projects, as compared to the requirement of the commitment and appropriation of funds before the award of contracts. Procuring entities can start the initial processes for procurement without the allotment advice issued by the DBM, as long as the Notice of Award is not issued. This needs to be explained and properly disseminated to other procuring entities and the MDBs.
- Some LGU officials apply the GPRA for public–private partnership projects, which is contrary to the Build–Operate–Transfer law. There is also no defined policy to determine whether an infrastructure project should be considered as a government procurement transaction under the GPRA, or as a public–private partnership project.

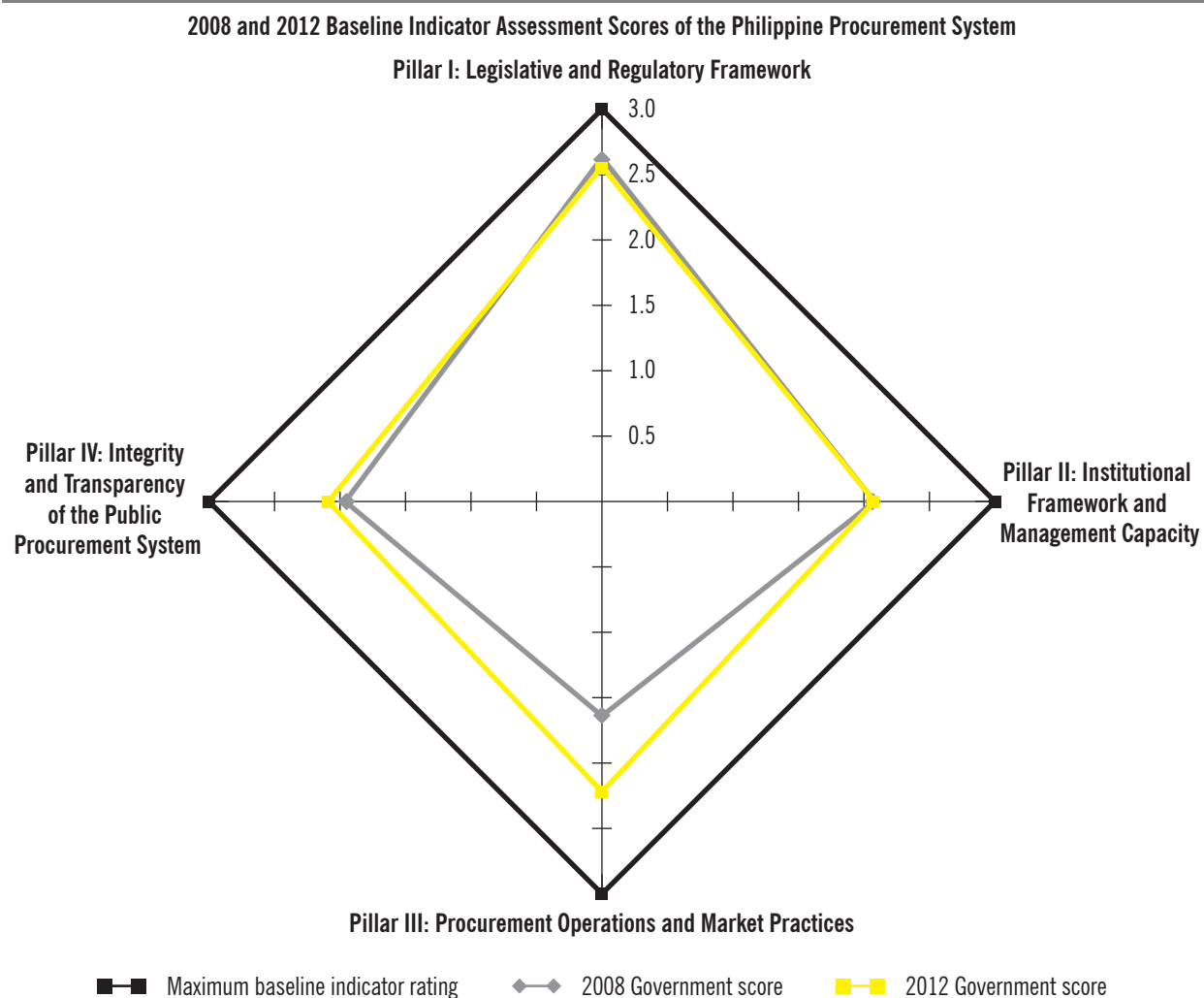
## Country Procurement Assessment Report Assessment Risk Ratings

12. For this CPAR process, the Public Procurement System is given a rating of medium or moderate risk. The overall risk level is based on the levels of achievement obtained in the four pillars, which are elaborated further in this report. The pillar for Legislative and Regulatory Framework fully achieves international standards, and is given a low risk level. The pillars for Institutional Framework and Management Capacity, Procurement Operations and Market Practices, and Integrity and Transparency of the Public Procurement System adequately achieve the prescribed standards, and are assessed as having a medium or moderate risk. Figure 1 shows government scores in 2008 and 2012 as they compare with the maximum scores for each pillar.

## Next Steps

13. A 2012 CPAR Action Plan integrating all the existing and proposed initiatives and recommendations to address the areas for improvement in the Public Procurement System is presented at the end of this report. The action plan provides the road map and agenda for procurement reforms to be undertaken by the government, together with its development partners during 2013–2016. Some of the priorities focus on strengthening monitoring and enforcement and procurement capacity, and improving procurement processes and practices, i.e., (i) implementation of the professionalization program, (ii) implementation of the APCPI and development of mechanisms to enforce compliance, (iii) review and possible revision of the IRR to provide procedures for international competitive bidding, (iv) establishment of an independent complaints or protest review body and development of its governing rules and procedures, and (v) development and implementation of a framework to sustain and ensure CSO participation in procurement monitoring. The Philippine Development Forum Sub-Working Group on Procurement will continue to monitor the implementation of the action plan, ensure the availability of funding support and address issues that may arise during implementation.

**Figure 1** Graphical Representation of the Baseline Indicator Pillars for the Philippine Public Procurement Systems in 2008 and 2012



Pillar	Maximum Baseline Indicator Rating	2008 Government Score	2012 Government Score
I	3.00	2.63	2.56
II	3.00	2.08	2.08
III	3.00	1.64	2.22
IV	3.00	1.96	2.09

Source: CPAR Working Group, 2012.







“ During 2008–2012, the Philippine government’s average annual procurement is at \$7.5 billion, increasing at an average growth rate of 5.6%. This accounts for an average of 21% of national budget and 3.7% of GDP. ”



# Background

## 1.1 Country Economic Context

1. The Philippine economy grew at an average of 4.8% from 2000 to 2012 as a result of fiscal consolidation, macroeconomic stability, and a strong international economic environment. While fiscal and economic reforms made the Philippine economy one of the most open to trade and capital inflows, its growth continued to lag in comparison to its Association of Southeast Asian Nations neighbors as per capita gross domestic product (GDP) dropped. Growth during this period was accompanied by low inflation; strengthening external accounts; and a healthier, improved, and better capitalized domestic banking sector. In 2009, the economy was hit by global food- and fuel-price hikes, the subsequent financial crisis, and typhoons that caused massive floods in the capital region. With the new administration in place, the economy has recovered rapidly due to double-digit growth in exports—specifically in the electronics and business process outsourcing industries—a real estate construction boom, and solid private consumption backed by remittance inflows from overseas Filipino workers. The GDP growth rate reached 7.6% in 2010, the highest since the mid-1980s.<sup>1</sup> Philippine growth prospects are favorable, but strong and sustained reforms are needed to push the country's growth potential.

2. Weak public institutions and systems, and insufficient budget resources have severely affected the quality and efficiency of public service delivery and economic regulation at all levels of government. The new government, led by a president who ran and won on a good-governance platform, has initiated reforms to improve public finances and to strengthen the investment climate for more inclusive growth, which development partners are keen to support. Reforms in public procurement, public financial management (PFM), and

results-based management are underway; and progress in legislation and implementation, such as a move to zero-based budgeting to force departments to improve budget efficiency and targeting, have helped. However, many challenges remain to improve budget execution and reporting in order to realize positive results in public service delivery. A vibrant civil society has played an important role in holding government accountable; however, the capacity of civil society is insufficient in some areas, particularly at the local level. Limited fiscal resources, weak institutional integrity, and low functional efficiency have limited access to the justice system, particularly by the poor, and more broadly, have limited the effectiveness of the justice system. Greater trust in the justice system is critical to improving the country's investment climate.

3. Continued weakness in the global economic environment, the ongoing European debt crisis and the slowing of the PRC economy pose significant downside risks to growth in the Philippines. Strong domestic fundamentals—a current account surplus, ample reserves (the country is a net external creditor), a flexible exchange rate, and strong banking and corporate balance sheets—provide substantial buffers in case the external environment deteriorates. Nonetheless, the Philippines remains exposed through trade links. Although not as exposed as its more trade-dependent neighbors, the G-3 (US, Japan, EU) accounts for about 40% of the Philippines' exports. Meanwhile, slowing growth in the People's Republic of China (PRC)—a key support to the global economy in 2009—adds to the downside risks since about 12% of Philippine exports are shipped there. Manufacturing exports (mainly electronics) have proved highly susceptible to a fall in global demand, which would cause substantial job losses for the country in that sector. While remittances were resilient during fiscal year (FY) 2009, inflows from Europe

<sup>1</sup> ADB. 2011. *Country Partnership Strategy: Philippines, 2011–2016*. Manila.

have started to contract and a decline in overall flows cannot be ruled out in case of a severe global downturn.

4. The baseline growth projection for the Philippines is 5.0% for 2012 and 2013. The Philippines is benefitting from strong domestic consumption with household spending fueled by robust remittance flows, and improved government spending thanks to relative political stability and an improved fiscal position. However, key downside risks to growth remain, as the increased uncertainties in the Eurozone and slowdown in the PRC adversely impact global demand and lead to a further slowdown in investments. Capital inflows may moderate as foreign investors retain their “wait and see” stance and as structural impediments to growth remain. Consumption, which accounts for 75% of GDP, is expected to drive overall growth as remittances continue to grow, albeit at a slower pace due to the slowdown in Europe and continued uncertainty in the Middle East. The current account is projected to remain in surplus (although narrowing somewhat), driven by remittances and some recovery in electronics exports early in the year.

## 1.2 Country Assistance Strategies and Portfolios

### Asian Development Bank

5. The key objective of the country partnership strategy of the Asian Development Bank (ADB) with the Philippines, 2011–2016 is to help the country achieve high, inclusive, and sustainable growth. Its proposed lending program will focus on infrastructure, environment, and education and will continue to combine policy-based lending with capacity development to support broader governance reforms while gradually expanding sector policy and investment lending. ADB will continue and deepen its efforts to strengthen governance and reduce corruption at the country, sector, and project levels, as specified in its Second Governance and Anticorruption Action Plan. The main priorities for reform include (i) legal and regulatory reforms in budget execution and reporting; (ii) strengthening national and local government capacity for revenue generation, planning, budgeting, PFM, and procurement; (iii) further institutionalizing results-based management reforms in key sector and oversight agencies; (iv) strengthening the capacity of accountable institutions, including the judiciary; and (v) capacity development for social accountability measures with an emphasis on

procurement, budget transparency, accountability, and performance monitoring. ADB will support constructive engagement between civil society organizations (CSOs) and sector agencies, as well as local governments.

6. The current ADB portfolio in the Philippines consists of 42 active projects (10 loans, 27 technical assistance projects, and 5 grants). The total loan commitment stands at \$1.233 billion, technical assistance totals \$35.32 million and grants amount to \$13.9 million. In accordance with its country partnership strategy (CPS), the loan portfolio and lending program is allocated to the following sectors: two transport projects, one energy project, two health projects, and two agriculture and natural resources projects. There is also one project each on social protection, financial reforms, and judicial reforms. Technical assistance support focuses on fiscal policy, public expenditure management, and the strengthening of policy formulation and strategic planning at the national and local government levels. There are projects to strengthen local governance, water supply, water resource management and sanitation, environment, renewable energy development, public–private partnerships in health, and improvements in education. Grants were given for integrated coastal resources management, energy efficiency, and rehabilitation efforts for typhoon-ravaged areas. The complete list of ADB-funded projects is in Annex 3.

### World Bank

7. The World Bank’s country assistance strategy for the Philippines for 2010–2013 was built on the theme “Making Growth Work for the Poor” to support the government’s priorities. It intends to assist the Philippines in pursuing macroeconomic stability, an improved investment climate, better public service delivery for the poor, reduced vulnerabilities, and better governance. The World Bank’s strategy supports government agencies, local government units (LGUs), and other sectors of society to demonstrate improved accountability and transparency for better socioeconomic outcomes. It also addresses emerging global challenges, such as climate change, disaster risk management, and resilience to external shocks, and emphasizes a knowledge agenda that supports the Philippines in addressing its own development challenges.

8. The World Bank portfolio in the Philippines is comprised of 24 active projects, with net loan commitments



of \$1.8 billion as of December 2011. Human development has the highest allocation in terms of net commitment, followed by infrastructure, rural development, social development, and governance. Eight of the projects are in the rural and environment and natural resource sector; six support human development; five support infrastructure; two improve sewerage infrastructure, and one project each support governance, tax administration, and judicial reforms. There are also a total of 126 grants under the trust fund portfolio in the amount of \$182.9 million to support a stable macro economy, an improved investment climate, better public service delivery, reduced vulnerabilities, good governance, and cross-cutting tasks. Under the country assistance strategy, World Bank exposure to the Philippines is expected to increase to up to \$1.9 billion in FY2012. The composition of the World Bank's current loan portfolio and lending program is in Annex 3.

## Japan International Cooperation Agency

9. Based on the revised country assistance policy for the Philippines, Japan will support the Philippines in its pursuit of inclusive growth. Towards this end, Japan will assist the Philippines to

- (i) improve the investment climate in order to attract more local and foreign investments through the improvement of transport networks in the National Capital Region, improvement of infrastructure related to energy and water, enhancement of administrative capacity, securing maritime safety, and human resource development for industries;
- (ii) overcome vulnerability to various risks affecting the impoverished, particularly risks related to environment, natural disasters, climate change as well as infectious diseases;
- (iii) strengthen bases for human life and production activities through improvement of “hard” and “soft” infrastructures to address issues related to natural disasters and environment, development of social safety nets including healthcare, enhancement of agricultural production and activity as well as improvement of the processing and distribution of agricultural products; and
- (iv) secure peace in Mindanao by promoting the peace process through socioeconomic development in conflict-affected areas, strengthening of governance, reduction of poverty, improvement of access to social

services, and development of communities through improvement of infrastructures and promotion of local industries.

10. The Philippine official development assistance (ODA) portfolio of the Japan International Cooperation Agency (JICA) includes 70 projects (15 loans, 31 technical cooperation, 5 general grant-aid, 6 development studies, and 13 nongovernment organization [NGO] projects). The JICA ODA portfolio is broken as follows: ¥212.9 billion is for loans, ¥5.8 billion is for technical cooperation, ¥6.7 billion is for general grant-aid, ¥1.1 billion is for development studies, and ¥209.9 million is for NGO support. Among the loan projects are major arterial roads and bridges, flood control, irrigation, support to agrarian reform communities, disaster rehabilitation and credit support for agricultural production, environmental development and logistics improvement. The technical cooperation involves capacity building for maintenance of roads and bridges, fiscal reforms, good governance, livelihood improvement projects, enhancement of basic social services, environmental protection, and disaster prevention. The summary of JICA assistance is in Annex 3.

## 1.3 Public Sector Procurement

11. During 2008–2012, the Government of the Philippines spent an average of P318 billion annually (\$7.5 billion) for its public procurement requirements, increasing at an average rate of growth of 5.6%. This accounts for an average of 21% of the national budget and 3.7% of GDP. Nearly 64% was spent on capital outlay expenditures consisting mostly of public infrastructure, while 36% was utilized for maintenance and operating expenses of government agencies. This is almost double the amount spent annually during 2003–2005, due mainly to the government policy of increasing investments in public infrastructure and providing more services to the public. There was a significant rise in public procurement expenditures in 2009 (P346.4 billion) as government announced a stimulus package to stimulate the economy due to the world economic slowdown in order to cushion the impact of fuel price increases and step-up rehabilitation efforts in areas ravaged by two major typhoons that hit the country. In 2012, the government prioritized the construction of additional school buildings and infrastructure facilities resulting in another considerable increase in the procurement budget (Table 1).

**Table 1** Government of the Philippines Procurement Budget, 2008–2012  
(P'000 at 2012 prices)

Expense Class	2008	2009	2010	2011	2012
<b>Maintenance and Operating Expenses</b>					
Repair and Maintenance	24,988,621	25,971,178	15,961,725	27,323,018	23,840,915
Supplies and Materials	41,277,811	54,741,223	38,653,287	43,654,486	46,624,505
Utility Expenses	6,705,812	8,518,300	7,992,292	8,570,571	10,226,686
Training and Scholarship Expenses	7,160,583	14,169,660	8,597,618	13,732,616	12,658,872
Professional Services	22,805,652	20,240,315	26,606,659	19,397,525	24,074,489
Printing and Binding Expenses	1,131,623	11,436,404	1,091,465	1,246,187	1,681,526
Advertising Expenses	132,796	1,143,207	792,077	1,063,905	802,309
Subscription Expenses	1,381,716	276,835	188,044	244,243	262,022
<b>Subtotal</b>	<b>105,584,614</b>	<b>136,497,122</b>	<b>99,883,167</b>	<b>115,232,551</b>	<b>120,171,324</b>
<b>Capital Outlay</b>					
Land and Land Improvement	5,525,203	7,513,183	4,554,235	1,968,168	2,237,928
Buildings and Structures	10,837,703	25,169,597	10,934,998	38,108,411	31,509,745
Furniture, Fixtures, Equipment, and Books	5,583,390	9,969,495	6,001,223	6,735,049	7,522,147
Transportation Equipment	2,524,880	6,249,912	1,286,881	1,611,905	11,146,977
Machineries and Equipment	11,996,851	11,914,185	8,970,938	10,166,946	13,021,600
Public Infrastructure	138,463,865	149,080,079	156,564,227	130,837,719	186,722,241
<b>Subtotal</b>	<b>174,931,892</b>	<b>209,896,451</b>	<b>188,312,502</b>	<b>189,428,198</b>	<b>252,160,638</b>
<b>Total</b>	<b>280,516,506</b>	<b>346,393,573</b>	<b>288,195,669</b>	<b>304,660,749</b>	<b>372,331,962</b>
Percentage of National Government Budget	21.34%	24.15%	19.57%	18.52%	20.50%
Percentage of Gross Domestic Product	3.63%	4.32%	3.20%		

Source: Department of Budget and Management. 2008–2012. Budget of Expenditures and Sources of Financing. Philippines.

## 1.4 The 2008 Country Procurement Assessment Report

12. In 2007, a country procurement assessment report (CPAR) was compiled to assess the accomplishments of the government in its procurement reform programs. The report, released in October 2008, identified the following accomplishments up to the end of 2007:

- Harmonization activities were completed by 2007, leading to a closer alignment of the public procurement system with the guidelines of the multilateral development banks (MDBs). Three areas were fully harmonized: (i) the standard bidding documents, through the issuance of the Philippine Bidding Documents (PBDs) for works and goods as harmonized with ADB, Japan Bank for International Cooperation (JBIC) (now JICA), and the World Bank; (ii) the generic procurement manuals (GPMs) in four volumes, as harmonized with ADB, JBIC, and the World Bank; and (iii) the joint training of procurement staff through the national training program using the state universities and colleges.
- In November 2006, an assessment on the acceptability of the Philippine Government Electronic Procurement System (PhilGEPS) for MDB-funded projects was conducted, and ADB and the World Bank have accepted its use for national competitive bidding (NCB) and shopping procedures, subject to several modifications.

- The NCB thresholds for procurements funded by ADB were raised, and now stand at \$5 million or less from \$2 million for works, \$1 million or less from \$500,000 for goods, and \$100,000 or less from \$50,000 for shopping procedures. For the World Bank, the threshold was further raised at \$15 million or less from \$5 million for works; \$3 million or less from \$1 million for goods; and for shopping method, to \$200,000 or less from \$100,000 for works, and \$100,000 or less from \$50,000 for goods.
- The World Bank introduced a piloting program on the use of country systems in early 2008. In August 2009, the Philippines was accepted as a candidate pilot country, the only one in East Asia to have been considered. The country's public procurement system was reviewed in accordance with the guidelines for the use of country systems piloting program. However, in a review of the final report by its Operational Procurement Review Committee, in consultation with the International Technical Advisory Group, the World Bank decided not to pursue the Philippines as a pilot for the use of country systems for the following reasons:
  - the Philippines' legislation includes provisions that restrict the eligibility of foreign bidders;
  - there is no independent procurement complaint review body;
  - there is mandatory imposition of price controls on bid prices in open competitive bidding through the approved budget for the contract (ABC); and
  - the existing bid opening procedures and practices deviate from the practices acceptable to the World Bank.

Only two countries were found to be eligible for pilot status, but then the entire piloting program for the use of country systems was discontinued in June 2011.
- **Allegations or perception of procurement corruption.** Allegations or perception of procurement corruption were reported despite the 5-year implementation of the GPRA since January 2003. The previous CPAR reported that, although there was considerable progress in terms of the promulgation of rules and regulations, bidding documents, manuals and forms, the implementation and enforcement of the law at the agency level remained weak, and that the objectives of the reforms have not been fully achieved. Moreover, there were continuing reports of abuses or the inappropriate use of power. In 2008, the Philippines ranked 141 in the Corruption Perception Index issued by Transparency International. In 2011, there was a notable improvement as it ranked 129 among 183 countries.
- **Public awareness.** Public awareness was very low as only 13% of the general public was aware of the existence of the procurement law, and only 30% of government employees were familiar with the implementation requirements of the GPRA despite its enactment in 2003. As a remedial measure, and as recorded in the CPAR, the Government Procurement Policy Board (GPPB) crafted Resolution No. 01-2009 dated 24 April 2009 to increase awareness of the law. The GPPB's strategy focused on targeted training of government staff through its composite team members (CTMs) and state universities and colleges. Moreover, in view of the high profile procurement cases that were published as violations of the GPRA, there was a general indication that public awareness of the law had increased.
- **Government Procurement Reform Act implementation and enforcement.** Seven of the 2008 CPAR recommendations were critical to improving implementation and enforcement. These were:
  - i. Review, revise and implement a national training program.
  - ii. Hasten the implementation of the career program of professionalizing procurement practitioners.
  - iii. Develop simpler bidding documents and manuals for small users, especially LGUs, *barangays*, people's organization, and communities.
  - iv. Issue policies on record keeping and public disclosures of documents to provide the public with better access to procurement data and information.

## 1.5 Key Findings under the 2008 Country Procurement Assessment Report

13. The key findings of the 2008 CPAR were grouped into five major challenges: (i) allegation or perception of procurement corruption, (ii) public awareness or communication of the reform to the public, (iii) Government Procurement Reform Act (GPRA) implementation and enforcement, (iv) procurement policies and mechanisms, and (v) public and private sector partnership.

- v. Strengthen the capacity of GPPB Technical Support Office (GPPB-TSO).
- vi. Pursue the expansion of the PhilGEPS phases 2 to 5.
- vii. Prepare and issue Implementing Rules and Regulations (IRR) Part B (IRR-B) to harmonize with the rules for foreign-assisted projects.
- **Procurement policies and mechanisms.** The 2008 CPAR stated that the following features of the GPRA were not in accordance with international practices:
  - i. the use of the ABC as ceiling for bid prices;
  - ii. the absence of an independent complaint review body; and
  - iii. the removal of prequalification and its replacement by eligibility screening, which is restricting competition by requiring at least 16 documents to be screened on the basis of pass or fail criteria.
- **Private and public sector partnership.** The 2008 CPAR reported weak competition, with an average of three bidders submitting bids per contract. Many companies were also unaware of the positive features of the GPRA that meant to allow equal treatment of bidders.

## 1.6 Accomplishments after the 2008 Country Procurement Assessment Report

14. Since the issuance of the 2008 CPAR, several reform measures were instituted to further improve the government's public procurement processes. Some of these are as follows:

- In August 2009, the revised IRR of the GPRA were issued to cover both government and foreign-funded procurements activities. It improved competitiveness by reducing bidders' eligibility documentary requirements. The average number of bidders that submitted bids increased from three to five.
- The IRR significantly reduced the number of eligibility requirements from 16 to 7. The following requirements were removed: (i) the Bureau of Internal Revenue registration certificate; (ii) a statement that the bidder is not blacklisted; (iii) the tax clearance certificate; (iv) other appropriate licenses that may be required by the procuring entity; (v) statements on the availability of key personnel and equipment for infrastructure projects; (vi) a certificate of hold out

on cash deposit, which should be at least 10% of the ABC, if the Net Financial Contracting Capacity is not sufficient to comply with the requirements set in the bidding documents; and (vii) a letter authorizing the head of the procuring entity (HOPE) or his or her duly authorized representative/s to verify the documents submitted for the eligibility check. The PhilGEPS or the procuring entity registry system also eliminated the need to submit the same documents for every bidding activity.

- Rules were introduced to encourage foreign bidders to compete, such as: (i) the posting of procurement opportunities on the website prescribed by the relevant development partner or international financial institution (IFI), (ii) the extension of the period for the bid submission and pre-bid conference to at least 30 days before the submission and receipt of bids, (iii) the substitution of eligibility documents with the equivalent documents issued in the foreign bidder's country, (iv) the English translation of all documents submitted by foreign bidders, and (v) the submission of sworn statements that participating foreign bidders are not blacklisted from bidding by their respective governments or an IFI whose blacklisting rules have been recognized by the GPPB.
- The PBDs for goods and infrastructure projects were further harmonized with the guidelines of the MDBs.
- Specialized bidding documents were introduced in the interests of economy and efficiency for specialized items, such as the proposed PBDs for information and communication technology goods and services, and the customized bidding documents for textbooks and manuals.
- Procurement reforms were further cascaded to the LGUs. Under the Japan Social Development Fund administered by the World Bank, the GPPB, in partnership with the Transparency and Accountability Network, revised the Local Government Procurement Manual and the *Barangay* Procurement Manual, and developed the Community Participation Manual and the Procurement Observer's Guide.
- To improve the participation of civil society organizations (CSOs) as observers in the procurement process, the Procurement Observer's Guide was rolled out in selected municipalities in 2012. The Catholic Bishops Conference of the Philippines (CBCP)—*Sangguniang Laiko ng Pilipinas*



(Laiko),<sup>2</sup> also developed a training manual on good governance for its observers.

- The GPPB, through Resolution 10-2012, dated 1 June 2012, approved the use of the agency procurement compliance and performance indicator (APCPI) by all procuring entities as the standard performance monitoring and evaluation tool.

15. Capacity development programs were instituted in the following areas:

- In terms of institutional capacity development, in 2011 the GPPB-TSO was transferred from the Procurement Service to the Department of Budget and Management (DBM) as an attached agency, thereby granting it more stability and independence. In 2008, the DBM issued guidelines on the establishment of procurement units in all national government agencies (NGAs).
- In 2010, the Commission on Audit (COA) developed, issued, and adopted the Guide in the Audit of Procurement (GAP), and trained more than 900 of its auditors nationwide. It also conducted training programs on forensic audit for 1,000 auditors.
- In 2009, through funding from the World Bank, the GPPB engaged the Asian Institute of Management (AIM) to develop 15 procurement training modules to professionalize government procurement personnel and conduct a pilot training program from May to August 2009.
- Private sector organizations, such as the Philippine Constructors Association, the Confederation of Filipino Consulting Organizations (COFILCO), and the Philippine Institute of Civil Engineers have given regular training on procurement for their members.
- The Department of Health, Department of Education (DepEd) and the Bureau of Internal Revenue, likewise conducted trainings on the GPRA for their suppliers, contractors, and consultants.
- The National Archives of the Philippines issued a circular on the management of government records that cover procurement and supply contracts.

16. In 2010, with World Bank assistance, the APCPI was developed as a tool to evaluate procurement performance at the agency level, collect information for national procurement statistics, and strengthen the GPPB-TSO's capability to monitor and enforce national compliance with procurement regulations. The assessment tool was pilot-tested in 17 procuring entities comprised of NGAs, government owned and controlled corporations (GOOCs), and LGUs.

17. Reforms in the GPRA have contributed significantly to the government's anticorruption efforts. Sanctions and penalties are imposed under the GPRA for public officials, bidders, contractors, suppliers, and consulting firms found guilty of violating its provisions. Moreover, erring bidders, suppliers, contractors, and firms may be blacklisted or suspended in accordance with the Uniform Guidelines for Blacklisting of Manufacturers, Suppliers, Distributors, Contractors and Consultants, issued in August 2004. Several government agencies developed and implemented integrity development action plans and integrity development reviews, as implemented by the Presidential Anti-Graft Commission and the Office of the Ombudsman (OMB) to address corruption prevention. Internal and external controls of procurement transactions are now effectively contributing to efforts to handle fraudulent and corruptive practices. Internal control systems also link the procurement system to the overall public financial system.

18. In 2008, then President Gloria Arroyo issued an order to suspend the procurement of 11 high-profile projects funded from official development assistance, including the Cyber Education Project worth P104 billion. She instructed these projects to be implemented through local financing instead. The directive was given amid allegations of huge kickbacks in major foreign-funded projects, including the scrapped \$329 million National Broadband Network deal with the PRC's ZTE Corp.<sup>3</sup> In the same year, due to findings of collusion in the bidding process, the World Bank cancelled three major road projects, and debarred seven firms and one individual under the National Road Management and Improvement Project 1. In 2009, the DepEd cancelled the procurement contracts for noodles under the Food-for-School Program over allegations of overpricing and false nutritional

<sup>2</sup> *Sangguniang Laiko ng Pilipinas*, formerly Council of the Laity, is one of the Episcopal Commissions of the CBCP. Laiko has a mandate from the CBCP to organize and empower the lay faithful as catalyst for social transformation.

<sup>3</sup> *The Philippine Star*. 2008. Headlines. 20 February.

claims.<sup>4</sup> In 2010, the bidding for a P500 million contract for the supply of driver's licenses was cancelled after bidders questioned the terms of reference issued by the then Land Transportation Office chief, over concerns that they favored one particular contractor. As a result, the Department of Transportation and Communications decided to reissue new terms of reference that would allow the participation of more bidders, and ordered the LTO not to be involved in the procurement of drivers' licenses.<sup>5</sup>

19. In his 2011 State of the Nation Address, President Benigno Aquino III laid down the key initiatives to reduce red tape, enforce anticorruption measures, and penalize law violators under his reform agenda. These include (i) upholding transparent and competitive bidding, (ii) investigating disadvantageous projects and contracts, and (iii) increasing civil society participation in governance. For item (i), the President reported that the Department of Public Works and Highways (DPWH) has simplified its bidding requirements by reducing the number of required documents from 20 to 5. It also adopted a new cost structure for determining the ABC, which minimizes leakage by reducing the allocation of indirect costs by as much as 8%. The DPWH generated savings of P2.51 billion from 3,692 projects from July 2010 to June 2011 as a result of such reforms. For item (ii), on the investigation of disadvantageous projects, savings of P479 million were generated by the Philippine Charity Sweepstakes Office in 2011 through the cancellation of marketing-focused television shows and reduction of the advertising budget. In June 2011, the President cancelled the P18.5 billion Laguna Lake Rehabilitation Project due to inconsistencies between the project components and its intended objectives, and the lack of transparency in the review and approval of the project. In particular, a Department of Environment and Natural Resources (DENR) study found that the areas to be dredged were in danger of being silted again in 3 years without a massive rehabilitation of the watersheds, due to heavy deforestation and erosion. The DENR further noted that the approval of the supply contract was done without the benefit of a thorough review. As for item (iii), CSOs are now

being engaged during budget consultations, and government agencies are forging integrity pacts with the private sector.<sup>6</sup>

20. The following additional features and improvements in the PhilGEPS were noted:

- The online Virtual Store was launched in July 2011 to facilitate the online ordering of common supplies and equipment carried on stock by the Procurement Service, for use by all government procuring entities. The proposal to charge a user's fee is currently under review by the Cabinet Cluster on Good Governance. The development of the Electronic Bid Submission System is undergoing final testing. An expansion of the present Supplier Registry System through the "Government of the Philippines' Official Merchants Registry System" has been ongoing since December 2011, and the training of suppliers started in January 2012. Trained suppliers are currently uploading their eligibility documents and populating the database in the registry.<sup>7</sup> The Merchant Registry System will be mandatory for all suppliers who wish to deal with government, and will be a precursor to the introduction of the e-Bidding Module. This registry will have links to other government departments, such as the Department of Trade and Industry. The e-Bidding Module is currently being pilot-tested in two agencies.<sup>8</sup>
- Based on a 2012 assessment of the PhilGEPS, its current features were found to have complied with the MDBs' procurement procedures and principles, and are deemed to be appropriate for MDB-funded procurement. These features include: registration, e-payment, bid matching, a United Nations standard products and services code catalogue, advertisements of opportunities, document download functions, and a virtual store.
- Data on government agencies' compliance with the PhilGEPS registration requirement indicates a marked increase from 11.44% in 2008 to 22.48% in 2012.

<sup>4</sup> *GMA Television News*. 2009. 12 May.

<sup>5</sup> *Manila Standard Today*. 2011. 2 May.

<sup>6</sup> <http://www.gov.ph/2011/07/25/the-2011-state-of-the-nation-address-technical-report/>

<sup>7</sup> PhilGEPS. 2011. *Accomplishment Report*. Manila.

<sup>8</sup> PhilGEPS Assessment Mission. 20–27 June 2012. Aide Memoire, p. 5.

## 1.7 Further Challenges

21. **Despite accomplishments in strengthening the legal and institutional framework for procurement, the government still faces challenges on the implementation and enforcement of the Government Procurement Reform Act.** Some of the issues were carried over from previous concerns on legislation existing prior to the GPRA, as well as recommended courses of action that have not yet been implemented. The CPAR helped identify these issues, and strengthened the process of communication and collaboration between the government, development partners, procuring entities, and other stakeholders with regard to developing appropriate courses of action to address the identified challenges. These courses of action are discussed in Annex 1.

22. **Major issues in the current legal framework.** There are five major issues in the GPRA that warrant further review.

- The first issue involves nationality restrictions on firms and joint venture arrangements that limit the entry of foreign bidders. The current legal framework restricts government procurement to firms with 60% Filipino ownership for goods, and 75% Filipino ownership for infrastructure projects. This discourages the participation of foreign bidders.
- The second issue is the imposition of the ABC as ceiling for bid prices and the award of contracts. The government posits that the ABC is an effective procurement and budgetary control mechanism that addresses concerns related to the abuse of discretion, lack of transparency, collusion, and runaway bid prices. On the other hand, development partners see this as a restriction to free and open competition and the application of free market rules.
- The third issue pertains to the existence of an independent and autonomous review body to resolve protests. There is a proposal for the GPPB to serve as the independent review body, but this is not part of its mandate, and questions have been raised on a potential confusion of roles, given its nature as a policy-making body. Thus, alternative solutions need to be considered.

- The fourth issue is the absence of procedures for international competitive bidding in the GPRA, as it is assumed that this is applicable only to foreign-funded projects.
- The fifth issue pertains to the absence of prequalification procedures. The current system of eligibility screening under the GPRA does not conform with internationally accepted standards for highly complex procurements where prequalification may be applicable.

23. **Emerging issues.** Additional issues have emerged involving differences in the conditions and standards established under MDB practices and those of procuring entities. These resulted in differences in the interpretation of procurement regulations and processes. These issues are as follows:

- The conduct of procurement activities prior to budget approval, allocation and availability. Some MDBs, such as ADB, allow such practices under advance procurement, which is in contrast with the government's rule requiring the commitment and appropriation of funds prior to the issuance of the Notice of Award.
- A potential conflict of interest in the role of the COA auditor as an observer during the bidding process. Some COA auditors are reluctant to participate in the bidding process, as this may conflict with their post-audit functions. However, the Supreme Court of the Philippines has ruled that the COA is not prevented from questioning previous acts of government officials, including procurement activities, if these are erroneous or irregular.<sup>9</sup>
- The application of the GPRA in public-private partnership (PPP) projects. Some national and local government officials use the GPRA for PPP projects, even if these are supposed to be covered by the Build-Operate-Transfer (BOT) Law.

24. Compliance of LGUs with the GPRA remains a challenge, due to the absence of a comprehensive strategy to communicate reforms, develop capacity, and monitor

<sup>9</sup> *Development Bank of the Philippines v. COA*. G.R. No. 107016. 11 March 1994; *Villanueva v. COA*. G.R. No. 151987. 18 March 2005.

performance at the local level. As the principal agency tasked to monitor compliance with the GPRA, there is a need to strengthen the capacity of the GPPB-TSO to assess the level of compliance at the local level, and collect and disseminate procurement information. Since procurement reforms need support from different stakeholders, strong public awareness and involvement at both the national and local levels must be promoted. There is also a need to validate whether procurement-related incidences of corruption have decreased as a result of the government's increased focus on good governance.

## 1.8 Country Procurement Assessment Report Process

### ■ Assessment Tools

25. The assessment of the country's public procurement system (PPS) utilized two tools under the Organisation for Economic Co-operation and Development–Development Assistance Committee (OECD-DAC) Methodology for Assessing Procurement Systems (MAPS). The first tool is the Baseline Indicator (BLI), which is a country-level assessment of the formal and functional features of the existing system compared to international standards. The BLI comprises 4 pillars and 12 indicators that constitute a sound PPS. The second tool is the APCPI, which was developed by the GPPB to evaluate compliance at the agency level, in line with the intent of the compliance and performance indicators under the MAPS. The APCPI was conducted in 17 pilot agencies (15 NGAs and 2 LGUs) to capture how national reforms have cascaded to procuring entities and LGUs (Annex 4). The APCPI assessment is one of the innovations featured in this CPAR.

### ■ Country Procurement Assessment Report Related Activities

26. The CPAR process began with an organizational meeting of the CPAR Working Group (CWG) to discuss and agree on the objectives, scope, approach, and methodology for this exercise. Research and interviews were conducted to update the status of accomplishments under the 2008 CPAR Action Plan. This was followed by the APCPI assessment in 17 pilot agencies. From December 2011 to February 2012, two BLI assessment workshops were held to discuss the overall performance of the PPS and update the 2008 BLI rating. Two more workshops were conducted to formulate the 2012 CPAR Action Plan. Simultaneously, seven focus group discussions were conducted to clarify the status of selected recurring and emerging issues, identify constraints, and recommend measures to address these issues, and gather inputs for the 2012 CPAR Action Plan. In addition to this, ADB hosted a workshop on 11 June 2012 to discuss issues and concerns related to the sustainability of civil society participation in the procurement process.

27. A PhilGEPS assessment mission was held during 20–27 June 2012 to determine its usability for MDB-funded operations, particularly in project procurement. The findings and recommendations of the following studies were also used: (i) Professionalization of Public Procurement Practitioners and Functions: “Developing a Career Stream for Public Procurement Practitioners,” (ii) Study on Protest Mechanism, and (iii) Study on Alternatives to the ABC as a procurement and budget control mechanism. The results of the BLI assessment and the Action Plan were presented to the GPPB and the Philippine Development Forum Sub-Working Group (PDF SWG) on Procurement for their comments. The names and organizations of all stakeholders who participated in this process are in Annex 2.





“ Compliance of LGUs with the GPRA remains a challenge, due to the absence of a comprehensive strategy to communicate reforms, develop capacity, and monitor performance at the local level. ”

# Findings, Assessments, and Recommendations

# 2

## 2.1 Pillar I: The Legislative and Regulatory Framework

28. **The legal and regulatory framework is generally the starting point for the development of a sound governance system.** For procurement, such a framework sets the rules and procedures to be observed, and provides the legal basis for ensuring the rights and responsibilities of various participants in the process. It links the procurement process to the overall governance structure and defines the obligations of the government in complying with internal and external requirements. Pillar I has two indicators: Indicator 1 assesses whether the public procurement legislative and regulatory framework achieves the agreed-upon standards and complies with applicable obligations; and Indicator 2 evaluates the existence of implementing rules and documentation. The availability and dissemination of procurement implementation regulations is important for a correct and consistent application of the legislative and regulatory framework as well as for an effective undertaking of the procurement operations.

29. In 2012, the existing legal framework governing public procurement was found to have fully achieved the baseline standards of a good procurement system, with a score of 2.56. Indicator 1 shows that the Philippine public procurement legal and regulatory framework meets international standards and complies with applicable obligations of international best practice, with an average score of 2.63. This reflects an increase from the 2008 CPAR score of 2.25, which is due to improvements in advertising rules and time limits (BLI 1c) and in the rules of participation (BLI 1d). Indicator 2 shows that the government achieves the standards set for implementing rules and documentation, and provides processes and procedures that are not included in the higher-level legislation. However, there is a decrease from the 2008 CPAR score of 3.00, as a consensus was

**Table 2** Summary of Baseline Indicator Scores for Pillar I: Legislative and Regulatory Framework

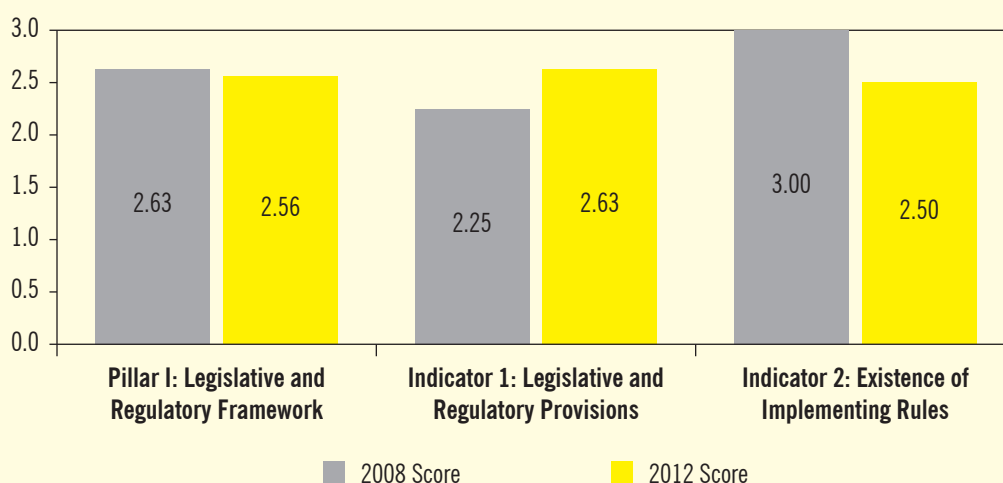
Indicators	2008 Score	2012 Score	Maximum Score
Indicator 1: Public procurement legislative and regulatory framework achieves the agreed standards and complies with applicable obligations	2.25	2.63	3.00
Indicator 2: Existence of Implementing Regulations and Documentation	3.00	2.50	3.00
<b>Average Score</b>	<b>2.63</b>	<b>2.56</b>	<b>3.00</b>
Rating: 57/66 (86%), <i>substantially achieved level of achievement</i>			

Source: CPAR Working Group, 2012.

reached among the members of the CWG that the GPRA does not provide for prequalification procedures (BLI 2c). Table 2 and Graph 1 show the results of the BLI assessment.

30. **Agency compliance with the legislative and regulatory framework.** Although the national legal and regulatory framework fully achieves the baseline standards, the APCPI assessment shows that compliance at the agency level only meets the established APCPI benchmarks. At the agency level, compliance is measured through three indicators: (i) the use of public bidding as the default method of procurement in terms of value and volume of contracts awarded; (ii) the use of alternative methods in general, and the specific modes (shopping, negotiation, direct contracting, repeat order, limited source) as provided for under the GPRA



**Graph 1** Legal and Regulatory Framework

Source: CPAR Working Group, 2012.

in terms of value; and (iii) the competitiveness of the bidding process in terms of the average number of bidders who acquired bid documents, submitted bids, and passed bid evaluation. Table 3 presents the APCPI assessment results indicating the level of compliance for related indicators.

31. In 2010, the total procurement of all sampled agencies represented 4.5% of national procurement. Procurements done through public bidding accounted for 73% of the total in terms of value, which is within the acceptable level set. The GPRA states that all procurement shall be conducted through competitive bidding, except under exceptional circumstances

**Table 3** Summary of Agency Procurement Compliance and Performance Indicator Results for Pillar I: Agency Compliance to Legislative and Regulatory Framework

Assessment Conditions	Benchmark	2010 Results
<b>Indicator 1. Competitive Bidding as Default Procurement Method</b>		
(a) Public bidding contracts by value of total procurement (%)	70	73
(b) Public bidding contracts by volume of total procurement (%)	30	16
<b>Indicator 2. Alternative Methods of Procurement</b>		
(a) Alternative modes of contracts by value of total procurement (%)	25	27
(b) Shopping contracts by value of total procurement (%)	5	10
(c) Negotiated procurement by value of total procurement (%)	10	15
(d) Direct contracting by value of total procurement (%)	3	4
(e) Repeat order contracts by value of total procurement (%)	3	1
<b>Indicator 3. Competitiveness of the Bidding Process</b>		
(a) Average number of bidders who acquired bidding documents	6	7
(b) Average number of bidders who submitted bids	5	5
(c) Average number of bidders who passed bid evaluation	3	3
<b>Pillar I Score</b>	<b>1.00</b>	<b>1.14</b>
Rating: <i>Acceptable</i>		

Source: CPAR Working Group, 2012.



where alternative methods of procurement are allowed. The value of procurements done through alternative methods was slightly above the benchmark, at 27%. One explanation for this is the increase in the threshold for small-value procurements from P100,000 to P500,000, as well as the introduction of other negotiated procurement modalities, such as procurement with nongovernment organizations (NGOs), community participation, and from United Nations agencies.

32. Shopping, negotiated procurement, and direct contracting registered higher results than the benchmarks at 10% for shopping, 15% for negotiated procurement, and 4% for direct contracting. These methods were used extensively by the DepEd (for textbooks); the Department of Health (for the purchase of drugs and vaccines from United Nations organizations); and the Department of Environment and Natural Resources (for goods not available at the Procurement Service, repair of vehicles, and equipment and facilities). This indicates a need to improve the procurement planning practices of procuring entities, particularly in the use of alternative methods and its conditions in order to increase the number of publicly bid contracts. In terms of competitiveness of the bidding process, there was an increase in the number of bidders who acquired bidding documents, which indicates greater interest in the public procurement process. The average number of bidders submitting bids also increased from three in 2008 to five in 2010, and an average of three bidders passed bid evaluation.

## 2.1.1 Procurement Legislative Framework

### Findings

33. Indicator 1 reflected a substantial level of achievement, as the legislative and regulatory framework met the agreed-upon standards and complied with applicable obligations set for a well-functioning public procurement system. The findings show that the legislative framework is adequately recorded and organized; covers all types of procurement using the national budget; and is well-structured, consisting of a legislative act, a set of implementing regulations, bidding documents, and procurement manuals. It also defines the allowable procurement methods. Despite this however, there remains no independent protest mechanism under the law. The legal framework provides for public bidding as the default procurement method, and establishes the procedures and timelines for this method. Table 4 presents the results for this indicator.

34. The scores below indicate improvements from the 2008 BLI assessment, particularly for subindicators 1(c) and 1(d). The current score of 3 for subindicator 1(c) is a result of the extension of the timeframe for the preparation of bids whenever international competition is sought. Under the revised IRR, a longer period of 30 days from the pre-bid conference is provided in cases with international bidders. The increase in subindicator 1(d) is prompted by the inclusion in the revised

**Table 4** Summary of Scores for Baseline Indicator 1: Public Procurement Legislative and Regulatory Framework Achieves the Agreed Standards and Complies with Applicable Obligations

Subindicators	2008 Score	2012 Score	Maximum Score
1(a) – Scope of application and coverage of the legislative and regulatory framework	3	3	3
1(b) – Procurement methods	2	2	3
1(c) – Advertising rules and time limits	1	3	3
1(d) – Rules on participation	2	3	3
1(e) – Tender documentation and technical specifications	3	3	3
1(f) – Tender evaluation and award criteria	3	3	3
1(g) – Submission, receipt, and opening of tenders	3	3	3
1(h) – Complaint	1	1	3
<b>Total Score</b>	<b>18</b>	<b>21</b>	<b>24</b>
<b>Average Score</b>	<b>2.25</b>	<b>2.63</b>	<b>3.00</b>
Rating: 21/24 (88%), <i>substantially achieved</i>			

Source: CPAR Working Group, 2012.

IRR of provisions that allow the participation of government owned and controlled corporations (GOCCs) in competitive biddings, under certain conditions. Subindicator 1(h) on the protest mechanism reflects no improvement, because an independent review body has not yet been established.

35. **Non-procurement related activities.** There are three areas that fall outside the coverage of the GPRA. The first involves procurements financed from official development assistance, which is governed by Republic Act (RA) 8182, as amended by RA 8555 (Official Development Assistance Act). The second relates to the acquisition of rights of way or sites for national government infrastructure projects, governed by RA 8974 (An Act to Facilitate the Acquisition of Right-of-Way Site or Location for National Government Infrastructure Projects and for Other Purposes). The third covers public-private partnership (PPP) arrangements, which are utilized as financing tools for faster delivery of infrastructure projects and other services. An issue however, is the lack of defined policy in determining whether an infrastructure project should be considered as a government procurement transaction under the GPRA, or may be better implemented as a PPP project under the BOT Law, RA 6957, as amended by RA 7718 (An Act Authorizing the Financing, Construction, Operation and Maintenance of Infrastructure Projects by the Private Sector, and for Other Purposes). There is also some confusion on the procedures for inviting proposals under the BOT Law, as several LGUs use the procurement law to implement BOT projects. There are current government efforts to study or devise policies for PPP projects.

36. **Amendments to the Implementing Rules and Regulations for foreign-funded procurements.** One of the notable findings of the 2008 CPAR was that the GPRA did not specify the appropriate standards for international competitive tendering, as it simply acknowledged that the procurement rules specified in treaties and international or executive agreements should be respected. The 2008 CPAR Action Plan recommended the drafting and issuance of an IRR-B to provide guidance in the implementation of international competitive tendering for foreign-funded procurement. However, a decision was subsequently reached to formulate a single set of IRR, covering both domestic and foreign-funded procurements. The revised IRR issued in July 2009 include the following provisions for international competition: (i) procurement opportunities are

now required to be posted on the website prescribed by the relevant development partner; (ii) where the participation of international bidders is considered advantageous and a longer bid preparation period is necessary, the bid submission period will be extended and a pre-bid conference will be held at least 30 calendar days before the submission and receipt of bids; (iii) foreign bidders may substitute the required eligibility documents with appropriate equivalent documents issued by their respective countries; (iv) all documents submitted by foreign bidders should be translated into English, if necessary; and (v) bidders are required to submit sworn statements that they are not blacklisted from any public bidding conducted by the government, or by any development partner whose blacklisting rules have been recognized by the Government Procurement Policy Board (GPPB). Notwithstanding the foregoing additional provisions, participation of purely foreign bidders for locally-funded procurements may only be allowed under certain circumstances mentioned in the revised IRR.

37. **Procurement methods.** The GPRA prescribes competitive bidding as the general mode of procurement, except under certain conditions that allow the use of alternative methods.<sup>10</sup> The method of procurement to be used should be indicated in the approved annual procurement plans (APPs). The APCPI results in Table 3 show that 73% of the total value of contracts reviewed were procured through public bidding. This is slightly higher than the 70% benchmark set for all agencies. As mentioned earlier, the revised IRR now provide additional alternative methods of procurement. Also, the threshold for shopping has been increased to P100,000 for immediate purchases covered by unforeseen contingencies, and P500,000 for the procurement of ordinary or regular office supplies and equipment that are not available in the Procurement Service. The use of small-value procurement, which is limited to at least three suppliers, contractors, or consultants for contracts not exceeding P500,000, has been increasingly resorted to by procuring entities in their small contracts or projects. This resulted in a decline in the number of contracts procured through public bidding, particularly for agencies with smaller procurement requirements. The APCPI pilot testing revealed that the value of procurements done through alternative methods was 27% of the total value of contracts reviewed. This is slightly higher than the 25% benchmark. The use of shopping, negotiated procurement, and direct contracting were also higher than the prescribed benchmarks (Table 3).

<sup>10</sup> IRR of RA 9184. Section 48.2.

**38. Nationality requirements for foreign bidders.** The GPRA establishes the eligibility requirements for different procurement methods based on legal, technical, and financial qualifications, but the nationality requirement among prospective bidders continues to restrict wholly-owned foreign entities from participating in public procurement. With respect to the procurement of goods and consulting services, there is an eligibility requirement that 60% of the interest of partnerships or the outstanding capital of corporations should belong to citizens of the Philippines. For infrastructure projects, 75% Filipino ownership is required. Foreign bidders may be eligible to participate (i) when allowed under any treaty or international or executive agreement; (ii) when the foreign bidder is a citizen, corporation or association of a country whose laws or regulations grant reciprocal rights to citizens, corporations, or associations of the Philippines; (iii) when the goods sought to be procured are not available from local suppliers; or (iv) when there is a need to prevent situations that defeat competition or restrain trade. Development partners insist that the limitations on foreign ownership continue to limit the entry of foreign bidders for domestically funded contracts. There is a need to review the provisions on nationality requirements under RA 9184 in relation to the guidelines of international financial institutions (IFIs).

**39. Advertising rules and time limits.** To ensure transparency and competitiveness, the GPRA requires the advertisement of bidding opportunities for contracts under competitive bidding. Under the revised IRR, advertisement in at least one newspaper of general nationwide circulation is mandatory for contracts undertaken through competitive bidding, except for contracts with an approved budget for the contract (ABC) of P2,000,000 and below for goods, P5,000,000 and below for infrastructure projects, and P1,000,000 and below or those whose duration is 4 months or less for consulting services. It has also extended the period for bid preparation when international participation is sought, providing for a period of 30 days from pre-bid conference to bid opening. In addition, except for certain alternative methods of procurement, the posting of all bid opportunities in prescribed websites is required, including those identified by the development partners.

**40. Rules on participation for government enterprises.** The 2008 CPAR noted the lack of rules and regulations for

the participation of GOCCs as bidders. The revised IRR now explicitly provides that GOCCs may be eligible to participate in public biddings if they can establish that they are legally and financially autonomous, operate under commercial laws, and are not dependent agencies of the government or the procuring entity. However, issues were raised regarding the degree of independence of GOCCs from the government, as many of these institutions continue to receive financial support from the government. This may affect the fairness of the procurement process and encourage direct negotiation arrangements with procuring entities. Moreover, ADB is of the view that the condition stating that a GOCC should not be a dependent agency of the government tends to defy the intent of this provision, because all GOCCs—being government-owned—are naturally dependent upon the government. Therefore, there is a need to clarify the matter of a GOCC's independence from the government.

**41. Tender documentation and technical specifications.** Procuring entities prepare the bidding documents following the Philippine Bidding Documents (PBDs) and standard forms prescribed by the GPPB. The specifications and other terms indicated in the bidding documents reflect the minimum requirements or specifications required to meet the needs of the procuring entity. The GPRA does not allow any reference to brand names, and neutral specifications are used in preparing the required technical specifications. The IRR also allows procuring entities to require the bidders to pay for the bidding documents, but only to recover the cost of its preparation and development. On 24 February 2012, the GPPB approved the Guidelines on the Sale of Bidding Documents, which prescribe the maximum fee corresponding to the appropriate range of the ABC for the project. These guidelines were issued to rationalize the fees and lessen the discretion of procuring entities in prescribing such fees.<sup>11</sup>

**42. Approved budget for the contract as ceiling for contract award.** The GPRA includes a provision on the imposition of the ABC as the ceiling for bid prices and the award of contracts for procurements from the national budget. All bids above the ABC are automatically rejected. Development partners do not generally adhere to this practice for international competitive bidding procurements, because of the view that price control mechanisms are inappropriate in an open competitive bidding environment. There may also

<sup>11</sup> Guidelines on the Sale of Bidding Documents. Section 2. <http://www.gppb.gov.ph/issuances/Guidelines/2012/SaleBiddingDocs.pdf>

be concerns regarding the accuracy of the estimates and the quality of their preparation. Nevertheless, development partners have recognized the ABC in varying degrees. While the Japan International Cooperation Agency (JICA) has accepted the use of the ABC for its national competitive bidding (NCB) procurements, the World Bank only agreed to adopt it for NCB under the following conditions: (i) bidding documents are obtainable free of charge on a freely accessible website, (ii) the agency has procedures in place to ensure that the ABC is based on an engineer's estimate, (iii) the agency has trained cost estimators to estimate prices and analyze bid variances, and (iv) the agency has established a system to monitor and report bid prices relative to the ABC and engineer's estimate. For its part, ADB agreed to advertise the ABC, but does not reject bid prices that exceed it.

43. The 2008 CPAR Action Plan recommended a study to determine the advantages and disadvantages of the ABC to the government. A World Bank study on the ABC was discontinued, because of difficulties encountered in data gathering. Nevertheless, in a separate ADB-financed study, government stakeholders expressed the view that the ABC is an effective procurement control mechanism, because it sets a specific ceiling for contract award, simplifies the bid evaluation process, limits the exercise discretion in determining the reasonableness of bid items, and minimizes runaway bid prices.

44. As a budgetary control mechanism, the ABC fixes the maximum amount to be released by the Department of Budget and Management (DBM). The conclusion reached by the government stakeholders is that a status quo on the use of the ABC should be maintained until more practical alternatives are identified. However, there was a consensus that the capacity of government estimators needs to be improved, and that guidelines on the preparation of technical specifications for common and uncommon use items need to be developed and disseminated. There was also an agreement to establish a network of existing government databases and formulate standard templates for the preparation of a program-of-work for infrastructure projects.

45. **Complaint and protest mechanisms.** The GPRA and its IRR establish the right of bidders to contest a decision of the procuring entity. Decisions of the Bids and Awards Committee (BAC) may be questioned by bidders at any stage of the procurement process through a request for reconsideration. If the

BAC denies the request, a bidder may file a verified protest with the head of the procuring entity (HOPE), accompanied by a nonrefundable protest fee. The HOPE's decision on the protest is final. In April 2010, an ADB and World Bank study confirmed that the system falls short of the international standards set out in the Organisation for Economic Co-operation and Development–Development Assistance Committee (OECD-DAC) baseline indicator, and observed that it is neither independent nor objective.

46. The study recommended short-term measures that involve the amendment of the IRR provisions on the protest mechanism to define procedural requirements, amend the protest fee, and provide clear guidance on the overall appeal process. The study also recommended long-term alternatives to strengthen the independence of the protest body, such as the establishment by the HOPE of an independent panel of experts to hear disputes, the submission of disputes to an independent panel by agreement of the parties, or the designation of the GPPB as the independent review panel. With respect to the designation of the GPPB as the independent review panel, reservations were raised by several sectors on the GPPB's independence and ability to act as a review panel, as it is primarily a policy-making body.

## 2.1.2 Implementing Regulations and Documentation

### Findings

47. Indicator 2 reflects a rating of 83% compliance, which is lower than the previous score of 100%. This is due to a change in the score obtained for subindicator 2(c) on procedures for prequalification. In the 2008 assessment, the eligibility screening process of the GPRA was considered in the same manner as prequalification. However, in the current assessment, the CPAR Working Group (CWG) agreed that eligibility screening is not akin to prequalification, and that the provisions on competitive bidding do not provide for prequalification procedures. Nevertheless, the baseline standards for the indicator were substantially achieved, because of the existence of implementing regulations and documentation in the legal and regulatory framework that have been assessed to meet all the baseline elements of a good public procurement system. Table 5 provides a summary of the ratings for this assessment.

**Table 5** Summary of Scores for Baseline Indicator 2: Existence of Implementing Regulations and Documentation

Subindicator	2008 Score	2012 Score	Maximum Score
2(a) – Implementing regulation that provides defined processes and procedures not included in higher-level legislation	3	3	3
2(b) – Model tender documents for goods, works, and services	3	3	3
2(c) – Procedures for prequalification	3	0	3
2(d) – Procedures suitable for contracting for services or other requirements where technical capacity is a key criterion	3	3	3
2(e) – User's guide or manual for contracting entities	3	3	3
2(f) – General conditions of contracts for public sector contracts covering goods, works and services consistent with national requirements and, when applicable, international requirements	3	3	3
<b>Total Score</b>	<b>18</b>	<b>15</b>	<b>18</b>
<b>Average Score</b>	<b>3.0</b>	<b>2.50</b>	<b>3.0</b>
Rating: 15/18 (83%), <i>substantially achieved</i>			

Source: CPAR Working Group, 2012.

**48. Revised Implementing Rules and Regulations.**

As mentioned earlier, instead of developing an IRR-B, the GPPB decided to issue a single set of IRR for both locally-funded and foreign-assisted projects (FAPs). In May 2009, the GPPB created an Executive Committee, composed of representatives from the National Economic and Development Authority, and major procuring entities, to review the latest draft of the revised IRR. After a series of deliberations, the GPPB approved the revised IRR on 22 July 2009, which became effective on 2 September 2009. The revised IRR incorporates several international standards, which results in greater harmonization with the guidelines of the IFIs. Additional amendments include the prerogative for the IFI and the government to agree on additional track-record requirements for foreign bidders.<sup>12</sup> Furthermore, foreign consultants may now be hired for assignments that involve regulated professions in the country, as long as the foreign consultant is duly authorized by the appropriate government professional regulatory body.<sup>13</sup>

**49. Philippine Bidding Documents.** The issuance of the revised IRR in 2009 resulted in the revision of the Philippine

Bidding Documents (PBDs). The PBDs for goods and works were harmonized with the procurement procedures of ADB, JICA, and the World Bank for NCB procurements. This version of the PBDs includes a chapter on foreign-assisted projects, which contains some provisions that are still unacceptable to the IFIs. Details of the remaining differences between the government's procedures and those of the IFIs are discussed in Section 4 of this report. The PBDs for goods and infrastructure projects (as harmonized with development partners) were issued in December 2010. The PBDs for information and communication technology projects were drafted with assistance from the Canadian International Development Agency, and are based on World Bank and European Union directives on information and communication technology. The PBDs for the procurement of textbooks and manuals were recently approved by the GPPB.

**50. Generic procurement manuals.** The 2008 CPAR pointed out the need to draw up generic procurement manuals (GPMs) that will suit local government units (LGUs), especially the smaller units such as *barangays*. A set of local government procurement manuals was developed with funding

<sup>12</sup> IRR of RA 9184. Section 23.5.2.5.<sup>13</sup> IRR of RA 9184. Section 24.3.3 (b).



from ADB and is currently being revised with funding from the Japan Social Development Fund. *Barangay* procurement manuals were also developed in 2008 with funding from ADB. These were approved by the GPPB in July 2011. The GPMs are being revised to incorporate amendments in the revised IRR, including resolutions and guidelines issued by the GPPB. The mandatory use of these manuals by government agencies and LGUs will be monitored through the APCPI tool. There is a need to train local government procurement officials on the GPMs in order to ensure better compliance with the GPRA. The LGU manuals will prevent LGUs from introducing restrictions that can limit competition at the local level.

51. **Procedures for prequalification.** The GPRA replaced prequalification with an eligibility check and a post-qualification process that assesses the qualifications of participating bidders. Eligibility screening is not the same as prequalification, because it involves a simple pass–fail check of the eligibility requirements of participating bidders.

52. The government believes that the present system is the more appropriate approach for government procurements, especially for projects that are not highly complex or specialized. Development partners, on the other hand, believe that eligibility screening, like the use of the ABC as a contract ceiling, may restrict competition. The eligibility check requires the submission of some documents that are not necessarily linked to the capacity of a bidder, and a bidder may be disqualified for nonsubmission of a minor documentary requirement. It is for these reasons that eligibility screening cannot be fully used for foreign-funded procurements. The CWG agreed that the GPRA's competitive bidding procedures do not provide for a prequalification process.

## 2.2 Pillar II: Institutional Framework and Management Capacity

53. Pillar II is designed to examine the government's institutional framework and its capacity to oversee, manage, and support efficient procurement operations and implementation. It is important for focal points within the government to possess sufficient capacity and qualifications to supervise the public procurement system and monitor its implementation. Pillar II has three indicators: Indicator 3 considers whether public procurement is mainstreamed and integrated into public sector governance, in particular public financial management

### Box 1 Summary of Recommendations for Pillar 1

- The Government of the Philippines should continue to conduct a study on the nationality requirements for joint ventures, in line with international standards, with the possibility of amending the Government Procurement Reform Act and allied laws. While wholly owned foreign participation is not possible under the current legal framework, the revised Implementing Rules and Regulations incorporated several considerations for international participation. For better appreciation and clarity of application, a section integrating all provisions on international participation should be included in the revised Implementing Rules and Regulations. As a supplement to the Philippine Bidding Documents, a primer for foreign bidders' participation should also be developed. Regarding the reciprocity rule, the list of countries offering reciprocal rights should also be issued.
- The Government Procurement Policy Board (GPPB) should issue guidelines to clarify government owned and controlled corporations' independence from the government as a condition to participate in public biddings.
- The following measures are recommended to address the issue of the approved budget for the contract (ABC): (i) develop and implement credible standards and guidelines for the preparation of the ABC for common and uncommon use items; (ii) share of existing databases of agencies on prices, using the Philippine Government Electronic Procurement System (PhilGEPS) as a possible repository for such databases; (iii) the Department of Public Works and Highways should share its cost estimation system, and prepare a template for the preparation of the program of work for civil works projects that can be used by all agencies and posted in the PhilGEPS website; (iv) develop and implement training programs for government cost estimators for all types of procurements; (v) conduct a study on the accuracy and effectiveness of the ABC; and (vi) develop clear guidelines and standards on the preparation and review of technical specifications for common and uncommon use items, and green and sustainable public procurement, and train procuring entities.
- The GPPB should review the proposal to establish an independent complaint or protest review body.
- The GPPB should provide training to local government officials on the use of the local government and *barangay* procurement manuals.
- The GPPB should review its procedures on eligibility screening.

The foregoing recommendations are part of the 2012 Country Procurement Assessment Report Action Plan.



(PFM); Indicator 4 focuses on the presence of a functional normative and/or regulatory body for public procurement; and Indicator 5 looks at the institutional development capacity of various stakeholders in the procurement process.

54. The public procurement system (PPS) did not obtain a full achievement rating for Pillar II, with a score of 2.08, similar to that obtained in 2008. Indicator 3 shows a substantial link and integration of public procurement with broader public sector governance systems. It obtained an average score of 2.5, which is an improvement from the 2008 average score of 2.25, due to improvements in multiyear budget planning (3a). Indicator 4 is substantially compliant with the criteria

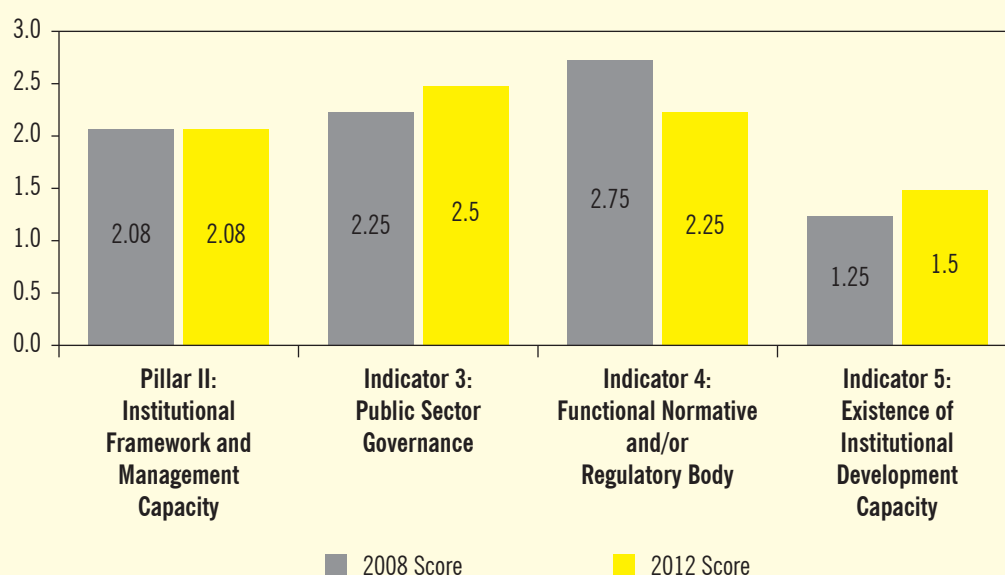
on the existence of a functional normative and/or regulatory body, having obtained an average score of 2.25. However, this is lower than the 2008 average score of 2.75, because the GPPB has been exercising procurement review functions that may be in conflict with its policy and oversight functions. The government obtained a score of 1.5 for institutional development capacity, which is higher than the 2008 average score of 1.25. This is due to an increased compliance with the requirement to post procurement information at the Philippine Government Electronic Procurement System (PhilGEPS) (as noted from the APCPI results). Table 6 and Graph 2 show the Baseline Indicator (BLI) scores for the three indicators and the levels of achievement.

**Table 6** Summary of Scores for Pillar II: Institutional Framework and Management Capacity

Indicators	2008 Score	2012 Score	Maximum Score
Indicator 3: Public procurement is mainstreamed and well integrated into the public sector governance system	2.25	2.50	3.00
Indicator 4: The country has a functional normative and/or regulatory body	2.75	2.25	3.00
Indicator 5: Existence of Institutional Development Capacity	1.25	1.50	3.00
<b>Average Score</b>	<b>2.08</b>	<b>2.08</b>	<b>3.00</b>
Rating: 25/36 (69%), <i>partial or less than full achievement</i>			

Source: CPAR Working Group, 2012.

**Graph 2** Institutional Framework and Management Capacity



Source: CPAR Working Group, 2012.

55. **Agency institutional framework and management capacity.** The compliance and performance of agencies under Pillar II were evaluated through the following indicators: (i) presence of required procurement organizations such as the BAC and the BAC Secretariat or Procurement Unit; (ii) the preparation of annual procurement plans (APPs) for all types of procurement; (iii) the use of the PhilGEPS; and (iv) the existence of a system for disseminating and monitoring procurement information. Table 7 presents a summary of the assessment results for this pillar.

56. **Procurement organizations in agencies.** At the procuring entity level, the APCPI results show that all sampled agencies have existing BACs and BAC Secretariats or Procurement Units, as prescribed under the GPRA. This may be explained by the fact that most of the respondents were national government agencies (NGAs) and first-class cities. As such, there is a need to investigate compliance at the municipal and *barangay* levels, because some LGUs may

not have appropriate procurement organizations, even on an ad hoc basis.

57. **Preparation of the annual procurement plan, use of the PhilGEPS, and the existence of systems for collecting and disseminating procurement information.** Of the agencies assessed, 82% have prepared and updated their APPs for all types of procurement. Three of the sampled agencies (Procurement Service, the Department of Transport and Communications, and the city government of Marikina) did not have consolidated APPs. All sampled agencies have published bid opportunities on PhilGEPS' and their own websites. Most agencies (94%) have websites providing procurement information at no cost. However, not all of these organizations have posted contract award information. The compliance rate for the preparation of procurement monitoring reports (PMRs) was only at 41%, and the posting of these reports at agency websites was even lower at 18%.

**Table 7** Summary of Agency Procurement Compliance and Performance Indicator Results for Pillar II: Agency Institutional Framework and Management Capacity

Assessment Conditions	Benchmark	Average Results 2010
<b>Indicator 4. Presence of Procurement Organizations</b>		
(a) Creation and operation of Bids and Awards Committee(s)	Compliant	100% compliant
(b) Creation and operation of a bids and awards committee secretariat or procurement unit	Compliant	100% compliant
<b>Indicator 5. Procurement Planning and Implementation</b>		
(a) An annual procurement plan is prepared for all types of procurement	Compliant	82% compliant
<b>Indicator 6. Use of Government Electronic Procurement System</b>		
(a) Agency registered with the PhilGEPS	Compliant	100% compliant
(b) Percentage of bid opportunities posted at the PhilGEPS	100%	106% compliant
(c) Percentage of contract award information posted at the PhilGEPS	20%	53% compliant
(d) Percentage of contract awards procured through alternative methods posted in the PhilGEPS	20%	35% compliant
<b>Indicator 7. System for Disseminating and Monitoring Procurement Information</b>		
(a) Presence of website that provides minimum, up-to-date procurement information easily accessible at no cost	Compliant	94% compliant
(b) Preparation of procurement monitoring reports and submission to Government Procurement Policy Board	Compliant	41% compliant
(c) Posting of procurement monitoring report in agency website	Compliant	18% compliant
<b>Pillar II Score<sup>a</sup></b>	<b>3.00/1.00</b>	<b>2.07</b>
Rating: <i>Satisfactory</i>		

<sup>a</sup> Benchmark Score for Indicators 4, 5, 6(a), and 7 is 3. Benchmark Score for Indicator 6 (b, c, and d) is 1. Source: CPAR Working Group, 2012.

## 2.2.1 Links to Public Financial Management Systems

### ● Findings

58. The government received a rating of 83% compliance for Indicator 3, or a level of substantial achievement with baseline standards for public procurement to be mainstreamed to the public governance system. This was due to improvements in the procedures for multiyear budget planning, such as the issuance of Department of Budget and Management (DBM) Circular Letter 2011-11 in November 2011, which requires government agencies to develop forward estimates covering annual requirements beyond the current fiscal year up to FY2016. An efficient procurement system provides information to support the process of budget development and execution. It benefits from the PFM system with regard to timely appropriations and availability of funds to support the award and payments of contracts. Table 8 shows the summary of scores for this indicator.

59. **Links between annual procurement plans and the budgetary process.** One of the amendments to the IRR is the inclusion of specific guidelines linking the agency's procurement planning to its budget preparation process. In the formulation of the APP, end-user units are required to prepare and submit the Project Procurement Management Plan for their programs, activities, and projects to the Budget Office.<sup>14</sup> If warranted, the plan will be included in the procuring entity's budget proposal, which may be approved by the head of the procuring entity (HOPE). Upon approval, the BAC Secretariat consolidates these into a proposed APP. When the General Appropriations Act (GAA), corporate budget or appropriation ordinance becomes final, the end-user unit revises and adjusts the Project Procurement Management Plan based on the approved budget, and the BAC finalizes the consolidated APP for approval. The agency's budget reflects its expected needs and expenditures, based on its planned programs, activities, and projects.

60. The 2008 CPAR found that agencies do not prepare multiyear plans that are linked to the annual budget process or the APPs. In 2011, under DBM Circular Letter 2011-11, the government required government agencies to draw up

### Box 2 Government Integrated Financial Management Information System

The Government of the Philippines has recognized the need for the development of a government integrated financial management information system (GIFMIS). Such an integrated system is expected to allow greater financial management and control at the oversight and agency levels, and facilitate records management and reporting of general accounts at various levels of government. The GIFMIS will facilitate the generation of vital information on all aspects of government financial transactions that can be made accessible to the public through information technology, and greater participation of civil society organizations in fiscal governance.

As an initial step, a memorandum of agreement was executed among the key oversight agencies—the Commission on Audit, the Department of Budget and Management, and the Bureau of Treasury in the Department of Finance—to create the Steering Committee for developing the GIFMIS and implementing a public financial management reforms road map. Following this, Executive Order 55 was issued by the President on 6 September 2011, directing the automation of the financial management systems of the Commission on Audit, the Department of Budget and Management, and the Department of Finance to serve as the backbone of the government's financial reporting system, and provide the deliverables and authority/functions of the Public Financial Management Committee (GIFMIS Committee).

Source: Government of the Philippines. 2011. Directing the Integration and Automation of Government Financial Management Systems. Executive Order 55. Manila.

forward estimates that cover the annual requirements beyond the current fiscal year (2012), i.e., for 2013–2016. This circular letter is the current government policy on multiyear budget planning. The forward estimates will be used to determine the extent of the annual costs of all ongoing budgetary programs and projects, which will be set aside to ensure continuous funding, provided the government does not change its expenditure policies.<sup>15</sup>

61. **Commencement of procurement activities prior to the issuance of certificate of availability of funds or allotment.** Under DBM Circular No. 2010-9, procuring entities,

<sup>14</sup> IRR of RA 9184. Sections 7.3.1–7.3.5.

<sup>15</sup> DBM Circular Letter 2011-11.

**Table 8** Summary of Scores for Baseline Indicator 3: The Public Procurement Is Mainstreamed and Well Integrated into the Public Sector Governance System

Subindicator	2008 Score	2012 Score	Maximum Score
3(a) – Procurement planning and associated expenditures are part of the budget formulation process and contribute to multiyear planning	2	3	3
3(b) – Budget law and financial procedures support timely procurement, contract execution, and payment	2	2	3
3(c) – No initiation of procurement actions without existing budget appropriations	3	3	3
3(d) – Systematic completion reports are prepared for certification for budget execution and for reconciliation of delivery with budget programming.	2	2	3
<b>Total Score</b>	<b>9</b>	<b>10</b>	<b>12</b>
<b>Average Score</b>	<b>2.25</b>	<b>2.5</b>	<b>3.0</b>
Rating: 10/12 (83%), <i>substantially achieved</i>			

Source: CPAR Working Group, 2012.

including government owned and controlled corporations (GOCCs) that are tapped as implementing units and recipients of fund transfers from the national government, can commence their procurement activities even without any allotment issued by the DBM. DBM Circular No. 2010-9 provides that:

Pending approval of the GAA and/or receipt of allotments (obligational authority) issued by DBM, agencies can start the initial processes of their procurement activities, based on the proposed budget levels per the National Expenditure Program (NEP), specifically in conducting public bidding. (Section 1)

62. GPPB Circular No. 01-2009 also supports the conduct of advance procurement activities, provided that the ABC of a project is based on the budget level in the NEP. However, for foreign-funded projects, the inclusion of a project's budget in the NEP and GAA requires a signed loan agreement. The DBM will not issue the Multiyear Obligational Authority for multiyear contracts without the signed agreement. Hence, implementing agencies are not inclined to conduct advance procurement activities, as no definite project exists until the loan agreement is signed, and there is a likelihood that the Commission on Audit (COA) will disallow any expense incurred related to any advance procurement activity that is not supported by a budget item in the NEP and GAA. In an effort to address

this issue, the National Economic and Development Authority proposed the inclusion of Project Evaluation Form 7 in the basic requirements for any submission to its Investment Coordination Committee. The committee's Project Evaluation Form 7 incorporates the detailed procurement plan and APP. Nevertheless, this may not be enough to address the reservations of implementing agencies.

63. A notice of award may be issued to the winning bidder only upon receipt of the special allotment release order or agency budget matrix, or upon receipt of the actual cash transfer by the GOCC.<sup>16</sup> This implies that a procuring entity can advertise the invitation to bid and proceed with the bidding up to the recommendation of the award of contract without the special allotment release order, agency budget matrix, or cash transfer, as long as the procuring entity has an ABC and has identified its source of funding, which are prerequisites to the issuance of a notice of award.

64. **Link to public financial management.** The 2008 CPAR Action Plan noted that there is no link between the financial management system and the procurement system to ensure enforcement of the law. In 2011, Executive Order (EO) 55 was issued directing the automation of the financial management systems of the COA, DBM, and the Department of Finance, and the creation of a PFM committee that will eventually

<sup>16</sup> GPPB NPM No. 066-2012.

integrate procurement into the financial management system. Government Integrated Financial Management Information System Resolution 01-2011 requires DBM, COA, and the Bureau of Treasury to issue a reporting system that captures budget utilization and identifies variances. The PFM Committee is currently developing a financial management manual.

## 2.2.2 Management Capacity

### ● Findings

65. The government obtained a rating of 75% compliance (substantially achieves baseline standards) for Indicator 4 on the existence of a functional body to oversee procurement responsibilities. There was a decrease from the 2008 assessment score, because of the finding that the GPPB has been exercising contract review functions that may be in conflict with its policy and oversight functions. It should be noted that the primary function of a normative and/or regulatory body is to provide guidance on the interpretation of rules, and to support training and capacity development. Table 9 summarizes the scores for Indicator 4.

66. **Normative and/or regulatory body.** The GPRA established the GPPB as a policy-making, regulatory, and monitoring body on government procurement. It is an interagency body composed of 12 cabinet secretaries from the executive department and one representative from the private sector, who is appointed by the President. It is chaired by the Secretary of the DBM, and the Director General of the National Economic and Development Authority sits as alternate chair. Under the GPRA,<sup>17</sup> the GPPB is tasked to (i) formulate and amend public procurement policies, rules, and regulations; and, when necessary, amend the IRR, and prepare generic procurement manuals and bidding documents on procurement; (ii) ensure proper implementation of the GPRA and the IRR by the procuring entities; (iii) establish a sustainable training program to develop the capacity of government procurement officers and employees; and (iv) conduct an annual review of the effectiveness of the GPRA and its amendments. The GPPB has been considered by government agencies as a policy authority on public procurement. However, EO 423 issued in 2005 gave the GPPB the responsibility for reviewing procurements undertaken through alternative modalities with an ABC of at least P500 million.

**Table 9 Summary of Scores for Baseline Indicator 4: The Country Has a Functional Normative and/or Regulatory Body**

Subindicator	2008 Score	2012 Score	Maximum Score
4(a) – The status and basis for the normative and/or regulatory body is covered in the legislative and regulatory framework	3	3	3
4(b) – The body has a defined set of responsibilities	3	3	3
4(c) – The body’s organization, funding, staffing, and level of independence and authority (formal power) to exercise its duties should be sufficient and consistent with the responsibilities	2	3	3
4(d) – The responsibilities should also provide for separation and clarity so as to avoid conflict of interest and direct involvement in the execution of procurement transactions	3	0	3
<b>Total Score</b>	<b>11</b>	<b>9</b>	<b>12</b>
<b>Average Score</b>	<b>2.75</b>	<b>2.25</b>	<b>3.0</b>
Rating: 9/12 (75%), <i>substantially achieved</i>			

Source: CPAR Working Group, 2012.

<sup>17</sup> Section 63.



67. The CPAR Working Group (CWG) noted that this was not considered in the 2008 CPAR and, as a result, changed the score for this indicator to reflect the actual situation. The review function has created a possible conflict-of-interest issue with the GPPB's regulatory responsibilities, as it immerses the board in actual procurement transactions. In relation to this, a PhilGEPS assessment mission noted the lack of an "operational procurement organization" whose role should be separate from the essential procurement policy and regulatory functions of the GPPB. This operational procurement organization should be able to manage the entire government e-procurement functions and support the agencies' management of their procurement systems. DBM has issued an official order creating a task force to study and implement the establishment of a new operational procurement organization.

**68. Organization, technical and funding support.**

The GPPB has a technical support office that provides administrative and technical support. The Government Procurement Policy Board Technical Support Office (GPPB-TSO) is headed by an executive director who sits as the board secretary. Currently, the GPPB-TSO is composed of five units and divisions—the Legal and Secretariat Division, the Performance Monitoring Division, the Capacity Building Division, the Information Management Division, and the Administrative and Financial Unit; and has a staffing complement of 29 positions. Since its establishment in

2003, the GPPB-TSO has issued 595 non-policy opinions, while its help desk has accommodated 1,237 walk-in and 16,238 phone-in queries. The GPPB-TSO's operations have been funded by the Procurement Service, which is an agency attached to the DBM that is tasked to handle the procurement of commonly used office supplies and equipment for the government. The dependence of the GPPB-TSO on the Procurement Service for its budgetary requirements was raised as an issue in the 2008 CPAR. In the 2010 GAA, the GPPB-TSO was recognized as an attached agency of the DBM, and now receives regular budgetary support from the national government. This provides more stability and independence for the GPPB-TSO to carry out its mandate.

### 2.2.3 Institutional Development Capacity

#### ● Findings

69. Indicator 5 on the existence of institutional development capacity was assessed at 50% compliance, or a level that partially achieves baseline standards. The public procurement system relies heavily on the capacity of participants from both the public and private sectors to understand and implement procurement law, rules, and procedures. An increase in the score for Baseline Indicator (BLI) 5(a) from the 2008 assessment is due to the higher compliance rate of pilot agencies in the posting of procurement opportunities at the PhilGEPS. Table 10 shows the scores for Indicator 5.

**Table 10** Summary of Scores for Baseline Indicator 5: Existence of Institutional Development Capacity

Subindicator	2008 Score	2012 Score	Maximum Score
5(a) – The country has a system for collecting and disseminating procurement information, including tender invitations, requests for proposals, and contract award information	1	2	3
5(b) – The country has systems and procedures for collecting and monitoring national procurement statistics	1	1	3
5(c) – A sustainable strategy and training capacity exists to provide training, advice and assistance to develop the capacity of government and private sector participants to understand the rules and regulations and how they should be implemented	2	2	3
5(d) – Quality control standards are disseminated and used to evaluate staff performance and address capacity development issues	1	1	3
<b>Total Score</b>	<b>5</b>	<b>6</b>	<b>12</b>
<b>Average Score</b>	<b>1.25</b>	<b>1.50</b>	<b>3.0</b>
Rating: 6/12 (50%), <i>partial achievement</i>			

Source: CPAR Working Group, 2012.

**70. Collection and dissemination of procurement information.** All government agencies are mandated to use the PhilGEPS.<sup>18</sup> Manufacturers, suppliers, consultants, and contractors are required to register in the system to be able to participate in government procurement opportunities.<sup>19</sup> It was launched by the Procurement Service in 2006, and its construction and enhancement were awarded to a local service provider—Ayala Systems Technologies. This company developed three features of the PhilGEPS: the Electronic Bulletin Board, which allows the posting of procurement opportunities and notices of awards, the electronic distribution of bid documents, and the automatic notification of bid notices and bid supplements; the Subscriber Registry, which is a registry of government agencies and all suppliers, contractors, manufacturers, distributors, and consultants; and the Electronic Catalogue, which provides a price list of commonly used goods, supplies, materials, and equipment that can be purchased from a centralized procurement system managed by the Procurement Service. In addition, the Virtual Store was launched in July 2011 to facilitate the online ordering of common-use supplies and equipment carried on stock by the Procurement Service. The system is connected to the Procurement Service Inventory Management System, which provides real-time advisories to agencies on inventory levels. From a pilot test of five government agencies, the Virtual Store is now utilized by 60 government agencies.

**71.** Other phases for further development of the PhilGEPS include: an Electronic Payment involving the electronic transfer of funds from the procuring entities to the Procurement Service, the introduction of user fees for system usage, the ability to download bidding documents, and the implementation of an online bid submission process. The proposal to charge a user fee is currently under review by the Cabinet Cluster on Good Governance. The development of the Electronic Bid Submission system is undergoing final testing, and the expansion of the present Supplier Registry System through the “Government of the Philippines’ Official Merchants Registry System” was implemented in December 2011. The training of suppliers started in January 2012. Trained suppliers are currently uploading their eligibility

documents to build up the database in the registry.<sup>20</sup> The Merchant Registry System will be mandatory for all suppliers who wish to deal with government, and will be a precursor to the introduction of the e-Bidding Module. This registry will have links to other government departments, such as the Department of Trade and Industry. The e-Bidding Module is currently being pilot-tested in two agencies.<sup>21</sup>

**72. Compliance with the PhilGEPS registration.** Table 11 shows that the compliance of procuring entities with the PhilGEPS registration requirement has markedly increased since the 2008 CPAR. The agency procurement compliance and performance indicator (APCPI) results show that all sampled agencies have published bid opportunities on the PhilGEPS and in their own websites (as shown in Indicator 6 of Table 7). Despite the benefits derived by procuring entities in the use of the PhilGEPS, there seems to be a lack of appreciation for its value at the *barangay* level. This may be caused by one of the following factors: (i) the lack of access to information and communication technology facilities, particularly in remote areas of the country, (ii) the limited number and value of procurements done by *barangays*; (iii) the lack of personnel dedicated to managing and reporting procurement-related activities; and (iv) the lack of training on procurement for many *barangay* officials. Therefore, there is a need to strengthen the capacity of local *barangay* officials to use the PhilGEPS and implement the GPRA, and develop more effective systems to monitor compliance.

**73.** One positive effect of increased compliance with the procurement law is the significant rise in the number of suppliers, contractors, and consultants registered with the PhilGEPS at 43% (from 33,331 in 2008 to 58,128 in 2011), as shown in Table 12. In 2011, of the 58,128 registered prospective bidders, 86% consisted of manufacturers, dealers, and suppliers of goods and services. This may be an indication of the private sector’s improved confidence in the government procurement process.

**74. Posting of procurement information.** Despite the increased postings of bid opportunities on the PhilGEPS

<sup>18</sup> RA 9184. Section 8.

<sup>19</sup> IRR of RA 9184. Section 8.2.2.

<sup>20</sup> *Supra* note 7.

<sup>21</sup> *Supra* note 8.

**Table 11** Status of Compliance with the Philippine Government Electronic Procurement System Registration, 2008 and 2012

Government Procuring Entity	Total Number of Agencies	2008		2012	
		Agencies Registered with the PhilGEPS	Level of Compliance (%)	Agencies Registered with the PhilGEPS	Level of Compliance (%)
NGAs	1,829	1,456	79.61	1,621	88.63
GOCCs	1,041	575	55.24	997	95.77
SUCs	190	180	94.74	190	100.00
LGUs	43,709	3,138	7.18	7,706	17.63
City	136	113	83.09	134	98.53
Province	80	71	88.75	77	96.25
Municipality	1,498	818	54.61	1,220	81.44
Barangay	41,995	2,136	5.09	6,275	14.94
<b>Total</b>	<b>46,769</b>	<b>5,349</b>	<b>11.44</b>	<b>10,514</b>	<b>22.48</b>

GOCC = government owned and controlled corporation, LGU = local government unit, NGA = national government agency, PhilGEPS = Philippines Government Electronic Procurement System, SUCs = state universities and colleges.

Source: Philippines Government Electronic Procurement System.

**Table 12** Suppliers, Contractors, and Consultants Registered with the Philippine Government Electronic Procurement System, 2011

Category	2008	2011
Manufacturers, Dealers, and Suppliers	28,442	50,136
Contractors	4,419	6,845
Consultants	470	1,147
<b>Total</b>	<b>33,331</b>	<b>58,128</b>

Source: Philippine Government Electronic Procurement System.

website, there is still a limited number of procuring entities that post contract award information, even though it is required by law. The level of compliance with the posting of contract award information stood at a low of 53% for public bidding and 35% for alternative methods. There is a wide discrepancy in the number of postings of bid opportunities and contract awards on the PhilGEPS website. Hence, there is a need to enforce compliance with the posting requirement, not only for contract award information, but also for APPs and annual procurement monitoring reports (PMRs).

**75. Usability of the Philippine Government Electronic Procurement System for procurements funded by multilateral development banks.** An assessment of the usability of the current features of the PhilGEPS for multilateral development bank (MDB)-funded procurements was conducted in November 2006, and followed up in June 2012. The assessment found that the current operating features of the PhilGEPS comply with MDB procurement procedures and principles, and may be used for MDB-funded procurement. These features include registration, e-payment, bid matching, a United Nations Standard Products and Services Code catalogue, advertisement of opportunities, document download functions, and virtual store on a limited scale. The virtual store functionality requires a follow-up assessment to determine the efficiency of the procurement procedures used by the Procurement Service in procuring the products that are sold virtually in the PhilGEPS. The assessment noted the lack of an operational procurement organization that will function separately from the GPPB, and will have wider and more comprehensive management roles than the Procurement Service.

**76.** The need for such a new organization is acknowledged as e-procurement systems are expanding and their potential

impact on procurement and other government functions has increased. The government has already created a task force that will study the establishment of a similar corporatized structure for an integrated management of the government's operational e-procurement system. As regards the linkage to PFM system, the assessment provided the following recommendations: (i) the PhilGEPS should collaborate with the COA to ensure the appropriate use of the current available features, and establish the acceptability of e-documents in procurement audit and their validity as evidence in court cases; (ii) the PhilGEPS and GPPB should be included in the Project Management Group of the Government Integrated Financial Management Information System, and a subgroup on procurement should be formed for better integration; and (iii) a high-level steering group should be created to comprehensively review the final form of the PhilGEPS, and the data linkages required among the PhilGEPS, the GPPB's monitoring and evaluation of procurement performance, and the COA's audit functions.

**77. Agency procurement compliance and performance indicators.** The 2008 CPAR identified the need to strengthen the procurement monitoring system to determine agencies' compliance with the GPRA and to collect information for national procurement statistics. The APCPI system was developed by the GPPB as a tool to respond to this need. The APCPI is patterned after the Organisation for Economic Co-operation and Development–Development Assistance Committee (OECD-DAC) Methodology for Assessing Procurement Systems (MAPS) BLIs and CPI, and serves as an improvement on previous tools used by the GPPB to monitor agency procurement performance, such as the Online Monitoring Evaluation System and the Agency Procurement Performance Indicators discussed in the 2008 CPAR. The APCPI was developed in 2010, and pilot tested in 19 national government agencies (NGAs) and GOCCs implementing World Bank-funded projects to assess agency performance and compliance using 2009 data. A second APCPI assessment was conducted in 17 procuring entities for the 2012 CPAR. There is a need to expand the coverage of the APCPI for all government agencies. However, since the APCPI is a self-assessment tool, it needs to be validated by third parties. The information generated through the APCPI exercise will support the GPPB-TSO in monitoring compliance with the GPRA.

78. In addition to serving as a monitoring tool, the APCPI provides a basis for analyzing procurement-related information, but it needs to be linked to other government-related databases for policy and decision-making purposes. A major component of the APCPI is the submission of the annual PMR. The report summarizes all the procurement activities of an agency in the APP. It includes data on the posting of bid opportunities and contract award information, prescribed procurement timelines, average number of bidders who acquired bidding documents, submitted bids, and bids that passed evaluation. The PMRs are required from government procuring entities, and must be submitted to the GPPB after the end of each semester. When consolidated into a national database, information from the annual PMR will serve as a source for national procurement statistics and the GPPB can use the data to analyze performance, trends, and reform-related issues. Since the APCPI has not yet been implemented in all agencies, the full potential of the annual PMR as a source of information has not yet been achieved. While the rules exist on the submission of semestral PMRs and APPs to the GPPB, compliance with these requirements among agencies remains weak. Despite of the existence of agency websites that provide minimum and up-to-date procurement information, the APCPI results only show a 41% compliance rate for the preparation of PMRs among the pilot agencies, and a lower rate of 18% for the posting of these reports at the agency websites (Indicator 7, Table 7).

**79. The national training program.** The GPPB established the National Training Program for Procurement Officers in 2004, which covers the GPRA, Philippine Bidding Documents (PDBs), and the generic procurement manuals (GPMs). The GPPB-TSO trained a pool of trainers composed of representatives from the DBM, the COA, and the Department of the Interior and Local Government from 13 regions nationwide, known as composite team members (CTMs). The CTMs rolled out the training to local government units (LGUs), with administrative and logistical support provided by the Philippine League of Local Budget Officers. The GPPB also partnered with the Development Academy of the Philippines to form another pool of trainers composed of representatives from state universities and local and state colleges and universities, called the state universities and colleges trainers. This group rolled out the training to national agencies nationwide. As of 30 April 2008, 30% of national agencies and 85% of the LGUs had had at least one representative trained on Republic Act (RA) 9184 and its

IRR.<sup>22</sup> The training continued after the release of the revised IRR in 2009, covering 22% of the national agencies and 13% of the LGUs (excluding *barangays*) (footnote 22).

80. However, the membership of both the composite team and the state universities and colleges trainers has declined over the years, because several of them were either reassigned to other responsibilities, retired from government service, or have moved to the private sector. The GPPB's partnership agreements with the Philippine League of Local Budget Officers and the Development Academy of the Philippines expired in 2010. Currently, training is conducted upon request by agencies. The training may have improved awareness of the GPRA, and taught the correct and practical application of the procurement rules and procedures, but it may not have improved the overall skills and capacity of the trainees. For example, the training may not have enhanced a procurement staff member's capacity to conduct judicious procurement planning, or may not have provided adequate tools for the preparation of realistic cost estimates and suitable technical specifications.

81. **The professionalization program.** As a response to the need for a more sustainable training program, the GPPB launched a professionalization initiative in 2006 that was intended to present a career path for procurement practitioners in the government and correct weaknesses in capacity development. It was envisioned to be a sustainable program to be implemented in three phases:

- **Development of the training curriculum.** The professionalization program involves formal training, and a four-stage certification program that is designed to raise the level of proficiency and effectiveness of government procurement personnel. The program is also envisioned to provide a methodology for the systematic matching of skills against standardized requirements for the selection and recruitment of procurement personnel, as recommended under the OECD-DAC methodology. The syllabus and materials for 15 modules under the training component of the professionalization program were developed by the Asian Institute of Management (AIM) with funding from the World Bank. A pilot training session was conducted

and attended by participants from various procuring entities that provided feedback and comments to improve the modules. The Government Procurement Professionals of the Philippines was formed as an initiative from the graduates of the pilot batch to serve as potential trainers.

- **Road map to certification.** In 2009, a study to develop career streams for public procurement practitioners was completed. The study proposed changes in the organizational structure of the procurement units in every agency, as well as amendments to the position classification and salary grade structure of procurement personnel. Standardization of benefits across government agencies was also proposed, such as honoraria for the Bids and Awards Committee (BAC) members, award of team incentives, and competency requirements for selected procurement functions.<sup>23</sup> The study suggested that practitioners should take competency tests and training courses, as it envisioned that the procurement function will be recognized as a profession in the long term, where practitioners will have to attend a procurement course and pass a licensure examination under the supervision of the Professional Regulation Commission. The challenge to build procurement capacity remains, and there is a need to develop a sustainable strategy to strengthen the capacity of government officials to understand and implement the procurement rules and regulations. There is also a need to review the AIM modules to align them with procurement-specific competency requirements. During the focus group discussions with procurement practitioners and the academe, the academe expressed interest in working with the government to review the existing modules and in teaching courses on public procurement.
- **Pilot testing and implementation.** The professionalization program is expected to be pilot-tested in several procuring entities and LGUs, with the assistance of identified academic and training institutions. This will require the revision of the training modules to align these with the recent amendments to the IRR, as well as the development of standards and a certification program.

<sup>22</sup> Data from GPPB-TSO.

<sup>23</sup> E. Boncodin. 2009. Developing a Career Stream for Public Procurement Practitioners. Manila. Unpublished.



### Box 3 Summary of Recommendations for Pillar 2

- The Financial Management Manual should include procedures integrating procurement and logistics processes; business standards on the processing of invoices, electronic submission, tracking and release of payments; and performance evaluation of personnel responsible for preparing and approving payments. The implementation of the Government Integrated Financial Management Information System (GIFMIS) should also be fast-tracked to improve these processes. In addition, as recommended in the Philippine Government Electronic Procurement System (PhilGEPS) Assessment, the PhilGEPS and the Government Procurement Policy Board (GPPB) should be part of the GIFMIS Project Management Group, and a procurement subgroup within GIFMIS should be created.
- Executive Order 423 and other policies entrusting procurement review functions to the GPPB should be revisited and revised, to ensure the independence of the GPPB. As discussed in the PhilGEPS assessment mission, the task force created by the Department of Budget and Management should study the management roles of the Procurement Service and the PhilGEPS, so that these may be merged into a new operational procurement organization.
- The GPPB should develop mechanisms to ensure compliance with the requirements for posting of contract award information, the annual procurement plan and the annual PMR on the PhilGEPS and the agency's website. This is connected with the recommendation on the collection and monitoring of procurement information.
- With the issuance of GPPB Resolution No. 10-2012 on 1 June 2012, government procuring entities are now mandated to use the agency procurement compliance and performance indicator (APCPI) as the standard performance monitoring and evaluation tool. Training modules should be developed to expand the coverage of the pilot testing and eventual nationwide rollout of the APCPI. Links need to be established to confirm the validity of information provided by procuring entities in the APCPI self-assessment reports through third parties, such as the Commission on Audit auditors and/or civil society representatives.
- The GPPB should provide agencies with standard and simple data gathering tools and formats for encoding and consolidating required procurement-related information to ensure the submission of the annual PMRs and the APCPI, and to link this database with other government-related databases to improve decision making at the national level.
- The GPPB should establish a procurement professionalization working group that will formulate policies, develop or improve training modules, run courses on public procurement, and support the certification program for procurement personnel. The working group should review and update the Asian Institute of Management's modules, to align these with competency standards defined in the career stream study and to ensure that these conform with the certification requirements. In collaboration with various academic and training institutions, a trainer's training program should be conducted to roll out the training component of the professionalization program as a public-private partnership undertaking. A system should also be developed and implemented to accredit and monitor trainers and training institutions, and evaluate the professionalization program. Upon the completion of these activities, the GPPB should issue circulars that require procurement practitioners to enroll in the professionalization program, and should consider the development and implementation of the certification and testing program for procurement personnel. As a long-term measure, the GPPB should explore the possibility of a board examination for certified procurement professionals in coordination with the Professional Regulation Commission.
- The GPPB should develop and implement a performance evaluation system specifically intended for procurement personnel.

The foregoing recommendations are part of the 2012 Country Procurement Assessment Report Action Plan.

Source: CPAR Working Group, 2012.

#### 82. Performance evaluation of procurement personnel.

One of the identified weaknesses under institutional and management capacity in this CPAR assessment is the absence of a defined staff performance evaluation process based on results and professional behavior. The results of the APCPI assessment indicate that government agencies have a system to evaluate performance of its procurement

personnel. However, closer investigation revealed that this system refers to the general system used by the Civil Service Commission (CSC) to evaluate all government personnel. A procurement-specific performance evaluation system is needed to assess the capacity of procurement personnel in carrying out their functions, identify strengths and weaknesses, and formulate a more relevant training and

incentives program to address identified capacity issues. This will help improve the quality of service delivery, motivate personnel to carry out their duties and responsibilities better, possibly minimize graft and corruption, and support the efficient and effective management of scarce resources at all levels of government. However, there is still a need to explain the value of such a system to the oversight agencies responsible for its development and implementation.

83. The CSC is tasked to formulate and administer programs relevant to the development and retention of a qualified and competent work force in the public service. Parallel to this, the performance evaluation system for procurement personnel should be linked to the competency standards and qualification requirements that will be established under the professionalization program and approved by the CSC.

### 2.3 Pillar III: Procurement Operations and Market Practices

84. Pillar III looks at the relationships and dynamics between the public and private sector participants in the public procurement system. A thriving public procurement market should have a competitive private sector that has confidence in the competence of the procuring entities at all levels to administer public procurement in accordance with the legislative and regulatory framework. Pillar III is made up of three indicators: Indicator 6 examines the efficiency of procurement operations and practice, Indicator 7 reviews the functionality of the public procurement market, and Indicator 8 looks at the existence of contract administration and dispute-resolution provisions.

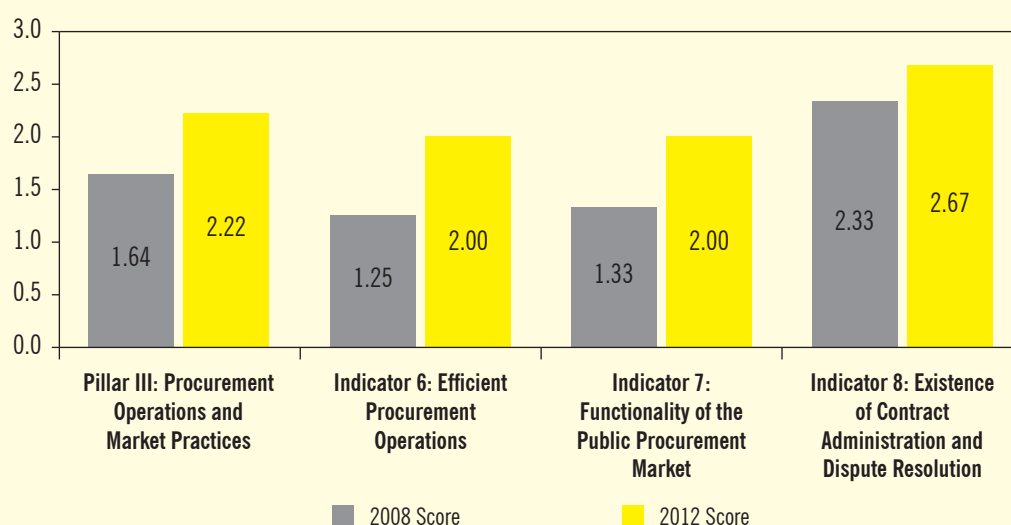
85. The procurement operations and market practices of the public procurement system (PPS) in 2012 indicates a substantial level of achievement, with a score of 2.22 (Table 13 and Graph 3). This is an improvement from the 2008 CPAR score of 1.64. Indicator 6 on the efficiency of procurement operations and practices, and Indicator 7 on the functionality of the public procurement market reflect less-than-full achievement with average scores of 2; albeit higher than the 2008 CPAR average scores of 1.25 for Indicator 6 and 1.33 for Indicator 7. The increase in scores are due to the availability of clearer guidelines for records management and provisions on delegating authority for procurement-related actions and decisions, and lesser systemic constraints encountered by the private sector in accessing public procurement contracts. Indicator 8, on contract administration and dispute resolution provisions, reveals substantial achievement of baseline standards, with an average score of 2.67. This is higher than the 2008 CPAR average score of 2.33, and is due to the presence of clearer procedures for undertaking contract administration responsibilities.

86. The results of the APCPI assessment for indicators 8, 9, and 10 show a number of challenges. First, the ratio of the value of actual procurements conducted to the value of approved APPs was only 50%, which means that only half of the planned items in the procurement plan were actually procured. This indicates that agencies may be planning beyond their requirements, and need to review the manner in which procurements are done, as the funds set aside for procurements are not properly utilized. Second, the ratio of failed biddings to the total number of procurement activities was relatively high (at 13%), possibly due to the

**Table 13** Summary of Baseline Indicator Scores for Pillar III: Procurement Operations and Market Practices

Indicators	2008 Score	2012 Score	Maximum Score
Indicator 6: Efficient Procurement Operations and Practice	1.25	2.00	3
Indicator 7: Functionality of the Public Procurement Market	1.33	2.00	3
Indicator 8: Existence of Contract Administration and Dispute Resolution Provisions	2.33	2.67	3
<b>Average Score</b>	<b>1.64</b>	<b>2.22</b>	<b>3</b>
Rating: 22/30 (73%), <i>substantially achieved</i>			

Source: CPAR Working Group, 2012.

**Graph 3** Procurement Operations and Market Practices

Source: CPAR Working Group, 2012.

lack of bidders, the inability to comply with eligibility or other requirements, or the weakness of agency procurement personnel in preparing clearer technical specifications and reasonable cost estimates.

87. The APCPI assessment also showed that most agencies complied with the prescribed timelines for the procurement of goods, infrastructure projects, and consultancy services, except for infrastructure projects with an approved budget for the contract (ABC) of P50 million and below, and that the average length of time to release payments for procurement contracts was 35 calendar days. Table 14 presents the results of the APCPI assessment for selected indicators in Pillar III.

### 2.3.1 Efficiency of Procurement Operations and Practices

#### ● Findings

88. The government received a rating of 67% compliance (less-than-full achievement of baseline standards) for Indicator 6. Some areas need further improvements to correct the weaknesses and gaps at both the national and local levels. Procurement operations capacity and practices depend on the staffing, knowledge, skills, and capabilities of the human resources involved, and the incentives and

controls in the systems that influence human behavior and institutional performance. The increase in scores from 1.25 in 2008 to 2.00 in 2012 can be explained by the existence of enhanced rules and regulations governing the management of procurement and contract management records, and office orders delegating procurement-related responsibilities (baseline indicator 6c). Table 15 provides a summary of the ratings for this assessment.

89. **Competency and qualification requirements for procurement personnel.** While Volume 1 of the generic procurement manuals (GPMs) defines the qualification, skills, and knowledge requirements for procurement personnel, there is still no systematic matching of skills against the requirements for competitive recruitment. The professionalization program recommends a career path for procurement practitioners, and identifies the specific competency and qualification requirements for procurement functions, which need to be approved by the CSC and the Department of Budget and Management (DBM). The program is expected to ensure that staff undertaking the procurement functions on an ad-hoc basis will have sufficient knowledge of procurement.

90. **Procurement training for government officials and the private sector.** In order to meet the increasing gap

**Table 14** Summary of Agency Procurement Compliance and Performance Indicator Results for Pillar III: Agency Procurement Operations and Market Practices

Assessment Conditions	Benchmark	2010 Results
<b>Indicator 8. Efficiency of Procurement Processes</b>		
(a) Percentage of total value of procurement against total value of approved annual procurement plans	50%	50% of APP
(c) Percentage of failed biddings and total number of procurement activities conducted	10%	13%
<b>Indicator 9. Compliance with Procurement Timeframes</b>		
(a) Average number of days to procure goods	28 CDs/124 CDs	101 CDs
(b) Average number of days to procure infrastructure projects with an approved budget for the contract of P50 million and below	28 CDs/113 CDs	121 CDs
(c) Average number of days to procure infrastructure projects with an approved budget for the contract of more than P50 million	28 CDs/144 CDs	126 CDs
(d) Average number of days to procure consulting services	34 CDs/170 CDs	154 CDs
<b>Indicator 10. Timely Payment of Procurement Contracts</b>		
(a) Payments are released upon submission of complete and required documents as provided for in the contract	30–45 CDs	35 CDs
<b>Indicator 11. Capacity Building for Government Personnel and Private Sector Participants</b>		
(a) There is a system within the agency to evaluate the performance of procurement personnel	Compliant	59% compliant
(b) Percentage of participation of procurement staff in annual procurement training	50%–70% Trained	73% trained
(c) Agency has activities to inform and update bidders on public procurement	Compliant	41% compliant
<b>Indicator 12. Management of Procurement and Contract Management Records</b>		
(a) The Bids and Awards Committee Secretariat has a system for keeping and maintaining procurement records	Fully Compliant	76% FC; 18% SC; 6% PC
(b) Implementing unit has and is implementing a system for keeping and maintaining contract management records	Fully Compliant	59% FC; 29% SC; 12% NC
<b>Indicator 13. Contract Management Procedures</b>		
(a) Agency has well defined and written procedures for quality control, acceptance, and inspection of goods, works, and services	Compliant	82% compliant
(b) Supervision of civil works is carried out by qualified construction supervisors (applicable for works only)	Compliant	85% compliant
(c) Agency implements Contractors Performance Evaluation System for its works projects and uses results to check contractors qualifications (applicable for works only)	Compliant	62% compliant
<b>Pillar III Score<sup>a</sup></b>	<b>3.00/1.00</b>	<b>1.85</b>
Rating: <i>Acceptable</i>		

CD = calendar days, FC = fully compliant, NC = noncompliant, PC = partially compliant, SC = substantially compliant.

<sup>a</sup> Benchmark score for indicators 11(a) and (c), and 13 is 3. Benchmark score for indicators 8–10, 11(b), and 12 is 1.

Source: CPAR Working Group, 2012.

**Table 15** Summary of Scores for Baseline Indicator 6: Efficient Procurement Operations and Practice

Subindicator	2008 Score	2012 Score	Maximum Score
6(a) – The level of procurement competence among government officials within the entity is consistent with their procurement responsibilities	1	1	3
6(b) – The procurement training and information programs for government officials and for private sector participants are consistent with demand	2	2	3
6(c) – There are established norms for the safekeeping of records and documents related to transactions and contract management	0	2	3
6(d) – There are provisions for delegating authority to others who have the capacity to exercise responsibilities	2	3	3
<b>Total Score</b>	<b>5</b>	<b>8</b>	<b>12</b>
<b>Average Score</b>	<b>1.25</b>	<b>2.0</b>	<b>3.0</b>
Rating: 8/12 (67%), <i>less-than-full achievement</i>			

Source: CPAR Working Group, 2012.

in training requirements, the GPPB conducts trainings for procurement personnel upon the request of procuring entities. In addition, civil society organizations (CSOs) offer training for their members who serve as observers in the procurement process. Private sector groups, such as the Philippine Constructors Association, the Confederation of Filipino Consulting Organizations (COFILCO), and the Philippine Institute of Civil Engineers, provide regular training in public procurement for their members. Three government agencies offer trainings for their suppliers and bidders: the Department of Health, the Department of Education (DepEd), and Bureau of Internal Revenue. The results of the APCPI assessment for Indicator 11b show that only 73% of the procurement personnel of the sampled agencies participated in the annual procurement training conducted by them, and only 41% of the sampled agencies have activities to inform and update bidders on public procurement.

**91. Procurement and contract records management.** General Circular No. 1 issued by the National Archive of the Philippines on January 2009 provides rules and regulations governing the management of government records and public archives, and specifies the list of documents that must be kept for operational purposes. These guidelines also cover procurement and supply records and specify the periods for keeping various types of procurement documents. The Commission on Audit (COA) issued Memorandum No. 2005-027 on 28 February 2005, which provides guidelines

on required documents to be submitted in the technical review and evaluation of goods, infrastructure projects, and consulting services. Procuring entities maintain the above records, but these are not consolidated in an integrated procurement records management system, as they are kept in different operating units.

92. Most procurement-related records are kept by the BAC Secretariat, while contract-related records may be found at the project management office or end-user unit. Further, the disbursement and payment records are normally filed with the finance or accounting office of the procurement entity. Records are generally kept for audit purposes. Of the sampled agencies in the APCPI assessment, 76% claim to have a system for keeping procurement records; while 59% claim to have a system for maintaining contract management records. Given that many procuring entities are not aware of the issuance by the National Archive of the Philippines, there is a need to inform all procuring entities about the existing records management norms.

**93. Delegation of procurement-related responsibilities.** Procurement-related responsibilities are generally delegated to the lowest competent levels through orders issued by head of the procuring entity (HOPE). Most government agencies have guidelines for the delegation and approval of procurement-related actions, and compliance with these guidelines is being monitored through internal control mechanisms.



**Table 16** Summary of Scores for Baseline Indicator 7: Functionality of the Public Procurement Market

Subindicator	2008 Score	2012 Score	Maximum Score
7(a) – There are effective mechanisms for partnerships between the public and private sector	2	2	3
7(b) – Private sector institutions are well organized and able to facilitate access to the market	1	2	3
7(c) – There are no major systemic constraints (e.g., inadequate access to credit, contracting practices) inhibiting the private sector's capacity to access the procurement market	1	2	3
<b>Total Score</b>	<b>4</b>	<b>6</b>	<b>9</b>
<b>Average Score</b>	<b>1.33</b>	<b>2.0</b>	<b>3.0</b>
Rating: 6/9 (67%), <i>less-than-full achievement</i>			

Source: CPAR Working Group, 2012.

### 2.3.2 Functionality of the Public Procurement Market

#### ● Findings

94. The government obtained a score of 2 (less-than-full achievement of baseline standards) for Indicator 7. This is an improvement on the 2008 CPAR score of 1.33, as some of the earlier constraints to private sector participation have been overcome. For instance, the lack of access to credit facilities has been addressed by the passage of the Magna Carta for Micro, Small and Medium Enterprises (MSMEs). The limited participation of private sector organizations in the public procurement consultation process, and the difficulties encountered in getting licenses and permits have also been addressed through the issuance of streamlined licensing and registration requirements. Table 16 provides a summary of the ratings for this assessment.

95. **Mechanisms for public–private partnerships in procurement.** The Government Procurement Reform Act (GPRA) encourages private sector participation in the procurement process by (i) using representatives from professional organizations and nongovernment organizations (NGOs) to serve as BAC observers in all stages of the procurement process to ensure transparency, and (ii) ensuring that a private sector representative sits in the GPPB and in its interagency technical working group. As discussed earlier, selected professional organizations

(the Philippine Constructors Association, COFILCO, and the Philippine Institute of Civil Engineers) provide trainings for their members who sit as BAC observers, while some government agencies conduct regular trainings for their suppliers and bidders. However, the level of competition in public bidding remains low, particularly in local government units (LGUs). There is still a need to conduct regular trainings for the private sector, and create greater awareness on the procedures and benefits of participating in public procurement, especially at the local level.

96. **Private sector constraints to market access.** The 2008 CPAR identified constraints that inhibit private sector access to the procurement market, including cumbersome eligibility requirements, difficulties in securing licenses and permits, lack of access to credit, and substantial delays in payments. Some of these problems have been addressed through the reduction in the number of required eligibility documents under the recent revision of the Implementing Rules and Regulations (IRR). These include the streamlining of licensing and registration procedures for contractors; the development of a one-stop shop, web-based system that integrates all to business registration, called the Philippine Business Registry; and an integrated regional registration through the National Economic Research and Business Assistance Centers.

97. The Magna Carta for MSMEs addresses the issue on lack of access to credit by providing for the mandatory

allocation of credit resources to MSMEs. In particular, all lending institutions are required to allocate at least 8% of their total loan portfolios to micro and small enterprises, and at least 2% for medium-sized enterprises. The Department of Public Works and Highways (DPWH) has also reduced the number of bidding requirements for infrastructure projects from 20 to 5, through simplified bidding procedures; and has adopted a new cost structure for determining the ABC, which minimizes leakages by reducing the allocation of indirect costs by as much as 8%. There is still a need to improve the systems and procedures for securing licenses and permits, and to streamline and link government registration procedures. One of the constraints to market access that was raised by CSOs during focus group discussions is the apparent interference by local government officials and politicians toward the procurement process. It appears that, despite efforts to make the process more transparent, there are still some local government officials who influence procurement to favor selected bidders or contractors. There were suggestions to strengthen project monitoring at the local government level to discourage the practice.

### 2.3.3 Contract Implementation and Completion

#### ● Findings

98. The government received a score of 2.67 for Indicator 8, as the contract administration and dispute resolution provisions

in the GPRA substantially meet the baseline standards. The increase in scores from 2.33 in 2008 to 2.67 in 2012 was brought about by the existence of key provisions on contract administration. These were complemented by a high level of compliance with Indicator 13 of the APCPI. While all the elements of a good dispute resolution process were met, including enforcing dispute resolution outcomes, there is still no mechanism to monitor the results of dispute resolution cases. Table 17 provides a summary of the scores for this Indicator.

99. **Contract administration.** There are explicit provisions in the procurement regulations on contract administration procedures, particularly for final acceptance, inspections, tests, quality control, and issuance of contract amendments, as found in the general conditions of contract (GCC) and in the guidelines on contract implementation for each type of procurement. The standard clauses in the GCC for tests, inspection, and contract amendments are based on internationally accepted standards, and are largely harmonized with those of ADB, the Japan International Cooperation Agency (JICA), and the World Bank. Agencies implementing infrastructure projects carry out the supervision of these projects through qualified construction supervisors, and the majority implement the Contractors Performance Evaluation System to check contractors' performance and qualifications. This is validated by the APCPI results for Indicator 13 (Table 14). Most sampled agencies followed

**Table 17** Summary of Scores for Baseline Indicator 8: Existence of Contract Administration and Dispute Resolution Provisions

Subindicator	2008 Score	2012 Score	Maximum Score
8(a) – Procedures are clearly defined for undertaking contract administration responsibilities that include inspection and acceptance procedures, quality control procedures, and methods to review and issue contract amendments in a timely manner	2	3	3
8(b) – Contracts include dispute resolution procedures that provide for an efficient and fair process to resolve disputes arising during the performance of the contract	3	3	3
8(c) – Procedures exist to enforce the outcome of the dispute resolution process	2	2	3
<b>Total Score</b>	<b>7</b>	<b>8</b>	<b>9</b>
<b>Average Score</b>	<b>2.33</b>	<b>2.67</b>	<b>3.00</b>
Rating: 8/9 (89%), <i>substantial achievement</i>			

Source: CPAR Working Group, 2012.

**Box 4** Summary of Recommendations for Pillar 3

- The Government Procurement Policy Board (GPPB), in close coordination with the Civil Service Commission and the Department of Budget and Management, should develop qualification standards for procurement personnel, and finalize and implement the proposed career stream for public procurement practitioners.
- The GPPB should issue a supplemental circular adopting the National Archives Office and Commission on Audit guidelines on the maintenance, safety, security, and custody of procurement and contract management records, including the existence of the necessary infrastructure to support such systems for all types of procurements and procuring entities.
- On the request of the private sector, the GPPB and the Department of Trade and Industry (DTI) should expand current initiatives on procurement training through a distance learning approach, to encourage more bidders to learn about the Government Procurement Reform Act under a more facilitative environment.
- The DTI, through the Philippine Trade Training Center, and other related training agencies should include modules on how to access government procurement opportunities in its entrepreneurship training for small and medium-sized enterprises (SMEs). The GPPB, in collaboration with the private sector, should likewise develop a primer on government procurement to assist SMEs. The communications plan should be implemented to include SMEs.
- The DTI should include an option under the Philippine Business Registry for the registration of business enterprises that want to get involved in government procurement. To improve information sharing among government agencies, the Philippine Government Electronic Procurement System should also link with other databases of related licenses and registration requirements. The GPPB should incorporate in the revised bidding documents procurement process flow charts, lists of requirements, tables of fees, and timelines for securing procurement-related licenses. In order to improve the licensing and registration system for contractors and consultants, the Philippine Contractors Accreditation Board licensing system should be digitized, and a system for the categorization and classification of government consultants should be developed and implemented.
- The Department of Public Works and Highways should include penalties for noncompliance with the detailed engineering guidelines in its Design Guidelines, Criteria and Standards, and should adopt such guidelines in all major infrastructure projects. The Commission on Audit should monitor compliance with these guidelines by including them in the Guide in the Audit of Procurement.

The foregoing recommendations are part of the 2012 Country Procurement Assessment Report Action Plan.

Source: CPAR Working Group, 2012.

the GPRA provisions on quality control; acceptance; and the inspection of goods, works and services. For agencies implementing infrastructure projects, 85% of works supervision was carried out by qualified construction supervisors, while 62% implemented the Contractors Performance Evaluation System for their projects. One of the recommendations of the 2008 CPAR Action Plan is to pilot value engineering as a policy for selected infrastructure projects costing over P50 million. The DPWH reports that value engineering is now conducted in all its foreign-assisted projects (FAPs). Procedures for the application of value engineering will be developed for all types of projects and funding sources under the revised Guidelines for Design and Build Projects. The release of final payments has also improved, as APCPI pilot agencies reported 90% compliance with contract provisions on payment, upon the complete submission of required documents. An area of

weakness that was also identified in the 2008 CPAR Action Plan is the inability of some agencies to comply with guidelines on detailed engineering, particularly the conduct of feasibility or preliminary engineering studies to establish the technical viability of projects.

100. **Dispute resolution.** All disputes arising from the implementation of contracts are required to be submitted for arbitration in accordance with Republic Act (RA) 876 (the Arbitration Law) and RA 9285 (the Alternative Dispute Resolution Act of 2004). Executive Order (EO) 1008 also created an arbitration machinery for construction disputes. Section 59 of RA 9184 states that the parties to a contract may agree in writing to other alternative modes of dispute resolution. The GCC has standard clauses pertaining to the settlement of disputes through arbitration. The government

allows international arbitration for contracts involving international competitive bidding, provided that such adherence to international arbitration is clearly stated in the conditions of the loan agreement and contract documents.

**101. Enforcement of dispute outcomes.** The Philippines is a member of the New York Convention on the Enforcement of Arbitral Awards, and was a signatory to the Arbitration Rules and Model Law on International Commercial Arbitration of the United Nations Commission on International Trade Law on 21 June 1985. The model law is incorporated in RA 9285 and Section 60 of RA 9184, and provides that arbitral awards are appealable by way of petition for review to the Court of Appeals. Arbitration as a dispute resolution mechanism is based on the mutual agreement of parties. It is assumed that both parties will honor the decision rendered by the duly appointed arbitrator. However, the party may still go to court for the enforcement of arbitral award. Foreign arbitral awards, although final and binding upon the parties, are not immediately executory in the Philippines, as these have to be confirmed by the regional trial court to be enforceable. Considering that foreign arbitral awards are subject to judicial review, the regional trial court may also reject, vacate, or set aside an award under specified grounds. A decision issued by the regional trial court assailing the foreign arbitral award is appealable to the Court of Appeals, and then to the Supreme Court under Rule 45 of the Rules of Court. Monitoring of outcomes of the dispute resolution cases continues to be weak due to the absence of procedures.

## **2.4 Pillar IV: Integrity and Transparency of the Public Procurement System**

102. Pillar IV focuses on the availability of mechanisms on, and the capacity for, independent control and audit of procurement operations to ensure accountability and compliance. It also looks at complaints systems, the ability to challenge decisions with administrative and judicial review bodies that possess appropriate levels of independence and authority to impose corrective measures and remedies, and the existence of mechanisms to enforce anticorruption measures. There are four indicators under Pillar IV: Indicator 9 on the existence of an effective control and audit system, Indicator 10 on the efficiency of appeals mechanisms, Indicator 11 on the degree of access to information, and Indicator 12 on ethics and anticorruption measures.

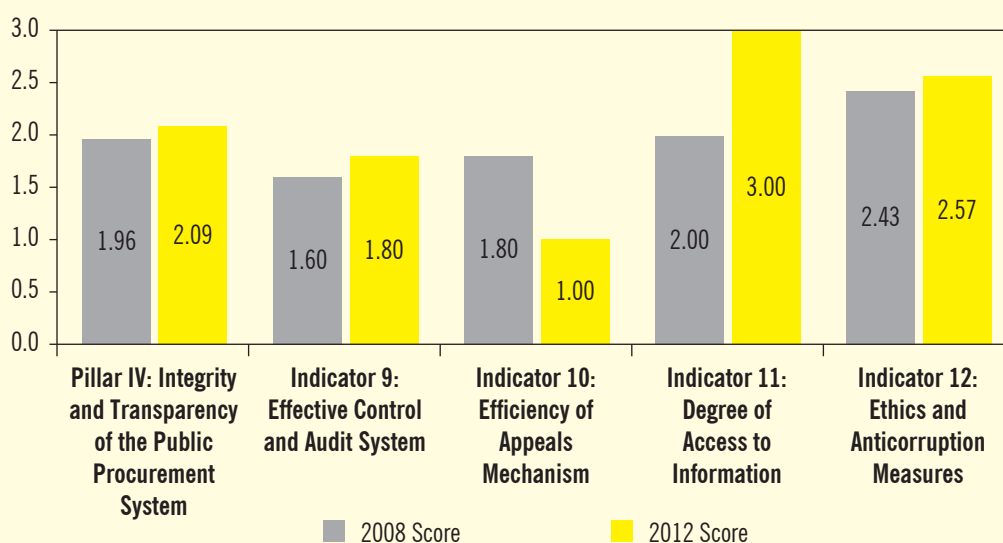
103. For the 2012 assessment, the government showed partial compliance with the baseline standards, having obtained a score of 2.09. This reflects a slight increase from the 2008 CPAR score of 1.96 (Table 18 and Graph 4). The government obtained an average score of 1.80, or partial achievement of baseline standards, for Indicator 9 on effective control and audit systems. This reflects a slight increase from the 2008 CPAR average score of 1.60, due to the development and implementation of the Guide in the Audit of Procurement (GAP), and a training program for external auditors. The government obtained an average score of 1.0, or limited achievement, for Indicator 10 on the efficiency of the appeals mechanism, which reflects a decline from the 2008 average score of 1.8, due to issues on the existence of an independent complaints review body. Indicator 11, on the degree of access to information, registered a score of 3, or full achievement of baseline standards. This is an increase from the 2008 CPAR average score of 2.0, due to compliance with all the conditions set for this indicator. Indicator 12, on ethics and anticorruption measures, showed an average score of 2.57 (substantial achievement), which is a slight increase from the 2008 CPAR average score of 2.43, due to the existence of special measures to prevent and detect fraud and corruption in public procurement.

104. The APCPI findings for this pillar show that agencies generally comply with the requirement to invite CSOs or professional associations to serve as observers in public bidding activities, but the frequency of CSO attendance is only 35% (Table 19). CSO participation as independent observers in the procurement process faces many challenges, particularly in the area of sustainability. The findings further show that 94% of sampled agencies have internal audit units, and that 69% of these agencies have reported that the internal audit units regularly conduct audits of procurement processes and transactions. Of the sampled agencies, 87% claimed that they comply with the number of days to resolve requests for reconsideration and protests, based on the prescribed timelines under the GPRA, but only 21% of these agencies submit all decisions to the GPPB and post these on the agency and GPPB websites. The low rate of compliance is due to the fact that most agencies are not aware of the directives to submit and post such decisions. In terms of compliance with anticorruption measures, 88% of agencies have specific anticorruption programs, such as integrity development action plans and integrity development reviews.

**Table 18** Summary of Baseline Indicator Scores for Pillar IV: Integrity and Transparency of the Public Procurement System

Indicators	2008 Score	2012 Score	Maximum Score
Indicator 9: Effective Control and Audit System	1.60	1.80	3
Indicator 10: Efficiency of Appeals Mechanism	1.80	1.00	3
Indicator 11: Degree of Access to Information	2.00	3.00	3
Indicator 12: Ethics and Anticorruption Measures	2.43	2.57	3
<b>Average Score</b>	<b>1.96</b>	<b>2.09</b>	<b>3</b>
Rating: 35/54 (65%), <i>partially achieved</i>			

Source: CPAR Working Group, 2012.

**Graph 4** Integrity and Transparency of the Public Procurement System

Source: CPAR Working Group, 2012.

### 2.4.1 Internal Control and Audit

#### Findings

105. Indicator 9 on effective control and audit systems reflected a rating of 60% compliance, or partial achievement of baseline standards. This indicates a minimal improvement from the previous assessment, as gaps in the internal control systems have not yet been fully addressed. The slight increase in the score from 1.60 in 2008 to 1.80 in 2012 was

brought about by the development and rollout of the GAP. There was no improvement in Indicator 9c, due to the absence of procurement-related internal control requirements that define the procedures for periodic reporting and compliance with findings. Table 20 shows the summary of scores for this indicator.

106. **Legal framework for internal and external control.** The Commission on Audit (COA) derives its mandate from the 1987 Constitution, and is authorized to audit all accounts



**Table 19** Summary of Agency Procurement Compliance and Performance Indicator Results for Pillar IV: Integrity and Transparency of the Agency Procurement Systems

Assessment Conditions	Benchmark	2010 Average Results <sup>a</sup>
<b>Indicator 14. Civil Society Participation in Public Bidding</b>		
(a) Civil society organizations or professional associations are invited for every public bidding activity	100% Compliant	94% compliant
(b) Percentage of civil society and/or professional organizations' attendance in public bidding activities	20% of activities attended	35% of activities attended
<b>Indicator 15. Internal and External Audit of Procurement Activities</b>		
(a) Creation and operation of internal audit unit as prescribed by the Department of Budget and Management (Circular Letter No. 2008-5, 14 April 2008)	Compliant	94% compliant
(b) Conduct of regular audit of procurement processes and transactions by internal audit unit	Compliant	69% compliant
(c) Internal audit recommendations on procurement-related matters are implemented within 6 months of the submission of the auditor's report	Compliant	69% compliant
(d) Agency Action on Prior Year's Audit Recommendations on procurement-related transactions	60%–70% Compliant	80% of recommendations
<b>Indicator 16. Capacity to Handle Procurement-Related Complaints</b>		
(a) The Bids and Awards Committee resolved Motion for Reconsiderations, Protests and Complaints within 7 calendar days as per Section 55 of the Implementing Rules and Regulations	Compliant	87% compliant
(b) All decisions on monitoring reports/complaints/protest are submitted to the Government Procurement Policy Board, and the dispositive portion are publicly posted in the agency and the board's websites	Compliant	21% compliant
<b>Indicator 17. Anticorruption Programs Related to Procurement</b>		
(a) Agency has specific anticorruption program related to integrity development (e.g., an integrity development action plan and/or an integrity development review)	Compliant	88% compliant
(b) Agency has specific policies and procedures in place for detection and prevention of corruption associated with procurement.	Compliant	63% compliant
<b>Pillar IV Score</b>	<b>1.00</b>	<b>2.02</b>
Rating: <i>Satisfactory</i>		

<sup>a</sup> The benchmark score for indicators 14 (a), 15 (a, b, and c), 16, and 17 is 3. The benchmark score for indicators 14 (b) and 15 (d) is 1.  
Source: CPAR Working Group, 2012.

pertaining to the utilization of government funds nationwide, including procurement-related transactions. The COA's power to conduct an external audit is further strengthened by the Government Auditing Code and the Government Accounting and Auditing Manual. Audits of national government agencies (NGAs) and LGUs are conducted on an annual basis. In terms of internal control, the Department of Budget and Management (DBM) issued Administrative Order 70 in March 2004 to strengthen the internal control systems

of agencies through the creation of internal audit services in all government agencies. The DBM also issued the National Guidelines on Internal Control Systems in October 2008 to guide all government agencies and LGUs in designing, implementing, and monitoring their internal control systems. This includes internal control and management procedures for processing of procurement actions. The Government Auditing Code and the Government Accounting and Auditing Manual discuss the procedures for internal control and

**Table 20** Summary of Scores for Baseline Indicator 9: Effective Control and Audit System

Subindicator	2008 Score	2012 Score	Maximum Score
9(a) – A legal framework, organization, policy, and procedures for internal and external control and audit of public procurement operations are in place to provide a functioning control framework	2	2	3
9(b) – Enforcement and follow-up on findings and recommendations of the control framework provide an environment that fosters compliance	2	2	3
9(c) – The internal control system provides timely information on compliance to enable management action	1	1	3
9(d) – The internal control systems are sufficiently defined to allow performance audits to be conducted	2	2	3
9(e) – Auditors are sufficiently informed about procurement requirements and control systems to conduct quality audits that contribute to compliance	1	2	3
<b>Total Score</b>	<b>8</b>	<b>9</b>	<b>15</b>
<b>Average Score</b>	<b>1.60</b>	<b>1.80</b>	<b>3.00</b>
Rating: 9/15 (60%), <i>partial achievement</i>			

Source: CPAR Working Group, 2012.

management of all financial transactions. In 2011, the DBM issued a circular requiring the use of the *Philippine Government Internal Audit Manual* (PGIAM) to explain and clarify the nature and scope of internal audit in the public sector. Training on the rollout of the PGIAM started in 2012. The GAP developed by COA follows a risk-based approach and has specific risk-based tools, but procurement audit has not yet been fully implemented. On 20 October 2011, the COA issued Resolution No. 2011-009, adopting the integrated results- and risk-based audit methodology, and the use of the *Integrated Results- and Risk-Based Audit Manual*, including the *Forensic Audit Manual*, as primary guides for the conduct of an integrated audit of agencies.

**107. Enforcement and follow-up on audit findings and recommendations.** Financial audits are carried out annually by the COA as part of its mandate to report on the accounts of all agencies and instruments of government to Congress and the President of the Philippines. Internal audits of procurement activities are likewise required to be carried out annually by the internal audit services of government agencies. COA resident auditors prepare their audit reports annually, but responses to the auditors' recommendations can take up to a year to be enforced. Audit findings that have not been

properly addressed are normally carried over to the next audit period, and are not reported again until the agency concerned fully complies with the audit recommendations. The audit report includes a section called Action on Prior Year's Audit Recommendations that monitors this activity. A 2010 review of audit reports of major procuring entities and LGUs shows that about 20%–30% of audit findings relate to procurement. These include noncompliance with the GPRA's provisions on procurement methods, the improper use of alternative methods, the preparation of unreasonable approved budgets for the contract (ABCs), splitting of contracts, failure to properly post-qualify contractors, and failure to prepare correct annual procurement plans (APPs).

**108.** The 2010 Audit Report on Official Development Assistance Projects identified procurement-related deficiencies in several FAPs, such as unrealistic targets, delays in procurement schedules, unclear criteria in evaluating technical proposals, delays in the review and evaluation of documents, incomplete deliverables, and contracting without covering appropriations. The APCPI assessment shows that 69% of agencies conduct regular internal audits of procurement transactions, 69% comply with audit findings and recommendations within 6 months of the submission of the auditor's report, and an average of 80% of

audit recommendations found in the Action on Prior Year's Audit Recommendations are implemented within the year.

**109. Internal audit units in national agencies and local government units.** Administrative Order 70 authorizes the creation of internal audit units (IAUs) in all government agencies. DBM Circular 2008-5, issued on 14 April 2008, provides guidelines on the organization and staffing of internal audit services, IAUs, and management divisions in all NGAs and government owned and controlled corporations (GOCCs). The World Bank has supported efforts to strengthen IAUs nationwide by assessing the quality of the internal audit function and developing an internal audit manual for national agencies in accordance with international standards. The Australian Agency for International Development likewise supported the development of the PGIAM. In 2011, IAUs existed in 67% of NGAs, 40% of constitutional commissions, 50% of legislative agencies, and 62% of GOCCs. Table 21 provides a breakdown of all government agencies with IAUs, showing a national compliance level of 62% as of 2011. The

APCPI results show that 94% of all sampled agencies had IAUs, as prescribed under Circular 2008-5. For the most part, these IAUs were found to be performing pre-audit functions, and were checking the completeness of supporting documents in a manner that did not meet international internal auditing standards. Moreover, the establishment of formal IAUs was affected by the delay in the approval of the Rationalization Plan of agencies. The 2008 CPAR states that more than 65% of LGUs (cities and municipalities) do not have IAUs.

**110. Internal control system and procedures.** Although the DBM issued the PGIAM in 2011 to guide internal auditors on the nature and scope of internal audit functions and the institutional arrangements, protocols, and processes for the conduct of internal audits, there appears to be limited information on procurement audits in the PGIAM. There is a need to review and propose amendments to the PGIAM to include specific procedures on internal audits of procurement, and mainstream the enforcement and follow-up of internal audit findings and recommendations. Once procurement

**Table 21** Government Agencies with Internal Audit Services, 2011

Government Entity	No. of Agencies Authorized to Establish IAS	No. of Agencies with IAU	No. of Agencies Yet to Create IAU	Percentage Compliance (%)
Departments	21	14	7	67
Constitutional commissions	5	2	3	40
Legislative agencies	2	1	1	50
Judicial agencies	1	1	0	100
Government owned and controlled corporations/ Government financial institutions	77	48	29	62
<b>Total</b>	<b>106</b>	<b>66</b>	<b>40</b>	<b>62</b>

Source: Department of Budget and Management Oversight Unit for Internal Audit.

**Table 22** Government Agencies with Internal Audit Services, March 2013

Government Entity	No. of Agencies Authorized to Establish IAS	No. of Agencies with IAU	No. of Agencies Yet to Create IAU	Percentage Compliance (%)
Departments	21	18	3	86
Constitutional commissions	5	2	3	40
Legislative agencies	2	1	1	50
Judicial agencies	1	1	0	100
Government owned and controlled corporations/ Government financial institutions	77	52	25	68
<b>Total</b>	<b>106</b>	<b>74</b>	<b>32</b>	<b>70</b>

Source: Department of Budget and Management Oversight Unit for Internal Audit.

becomes an inherent component of internal auditing, written standards for internal control units should be developed in accordance with international standards. Moreover, the timelines for reporting and monitoring compliance are not clear, and there is a need for the DBM to clarify the period for the implementation of approved audit findings and the issuance of audit follow-up reports. Oversight agencies, such as the DBM, the COA, and the Civil Service Commission (CSC), should complete and mainstream internal control systems in all government agencies, and monitor compliance among these agencies.

## 2.4.2 Efficiency of Appeals Mechanism

### ● Findings

111. Indicator 10 reflected a rating of 33% compliance, or significantly below baseline standards, because of the lack of an independent complaints review body, lack of access to decisions on appeal, and limited availability of records on which to base decisions. All these elements are essential to ensure the integrity of the public procurement system (PPS). The 2012 score of 1.00 is lower than the 2008 score of 1.8. This is mainly due to the findings of the protest mechanism study that no independent appeals mechanism exists. Table 23 provides a summary of the ratings for this assessment.

112. **Appeals process.** The GPRA allows decisions of the Bids and Awards Committee (BAC) to be questioned through the filing of a request for reconsideration. There are also clear procedures for the filing of protests. Protests are resolved strictly on the basis of records available with the BAC within a period of 7 days. The head of the procuring entity (HOPE) has the authority to resolve the protest and render a final decision up to the limit of his or her contract-approving authority. A protest may be filed after paying a nonrefundable protest fee of not less than 1.0% of the ABC. The fee requirement may discourage bidders from filing protest, particularly with respect to large value procurements. A protest mechanism study was conducted in 2010 with ADB and World Bank support, to review the existing appeals institutions for procurement under the GPRA.

113. The study concluded that the appeals process is not transparent and provides unclear procedures on the submission of evidence, pleadings, hearings, and remedies. The complainant is not given the right to present evidence beyond the documents submitted during the bidding process.

114. **Administrative review and enforcement of remedies.** The complaints review system has specific procedures, reasonable conditions, and timelines for decisions. The enforcement authority and mechanisms are

**Table 23** Summary of Scores for Baseline Indicator 10: Efficiency of Appeals Mechanism

Subindicator	2008 Score	2012 Score	Maximum Score
10(a) – Decisions are deliberated on the basis of available information, and the final decision can be reviewed and ruled upon by a body (or authority) with enforcement capacity under the law	3	1	3
10(b) – The complaint review system has the capacity to handle complaints efficiently and a means to enforce the remedy imposed	3	3	3
10(c) – The system operates in a fair manner, with outcomes of decisions balanced and justified on the basis of available information	2	0	3
10(d) – Decisions are published and made available to all interested parties and to the public	1	1	3
10(e) – The system ensures that the complaint review body has full authority and independence for resolution of complaints	0	0	3
<b>Total Score</b>	<b>8</b>	<b>5</b>	<b>15</b>
<b>Average Score</b>	<b>1.8</b>	<b>1.0</b>	<b>3.0</b>
Rating: 5/15 (33%), <i>poor or limited achievement</i>			

Source: CPAR Working Group, 2012.

clearly established under Sections 55 to 58 of Republic Act (RA) 9184. Due to the requirement in the GPRA that protests should be resolved strictly on the basis of records of the BAC, other available and potentially relevant sources of information are not utilized. The limited source of information also raises doubts on the quality of decisions taken on appeal. In addition, the provision for a higher judicial review is considered a difficult option, because of the slow pace of the judicial process. Therefore, there is no guarantee that remedies will be relevant and effective in correcting questionable decisions.

115. The protest mechanism study also notes that the GPRA does not clearly specify procedures to enforce remedies, and that there is generally no possibility of seeking a suspension of the decision or contract. In response to these findings, the protest mechanism study recommends (i) a review of the current procedures for the filing of complaints, so that these specify the grounds for the filing of requests for reconsideration and protests; (ii) drawing up of guidelines to explain that complaints can be made against substantive decisions, and are not simply based on compliance with formal requirements; (iii) inclusion of remedies that the BAC and the HOPE may impose to address breaches, such as the ability to annul individual acts; and (iv) the possibility of rendering decisions to correct and amend documentation. The APCPI findings show satisfactory compliance by BACs to resolve requests for reconsideration and protests, as prescribed by the GPRA. However, there were questions on the effectiveness of such protest mechanisms to resolve issues and complaints.

116. **Publication of decisions.** The publication of decisions on requests for reconsideration and protests was previously not mandatory and was left to the discretion of the BAC and the HOPE. This discretion led to a lack of transparency and accountability on decisions rendered. With the issuance of Executive Order 662-A, all NGAs, GOCCs, GFIs, state universities and colleges, and LGUs are directed to make all procurement-related information available to the Procurement Transparency Group and the general public on a timely basis, except those that are legally and judicially restricted. Decisions on complaints and protests are therefore mandated to be published or posted on the website of the agency concerned. However, not all agencies are aware of such requirement and the results show that most do not comply with the executive issuance.

117. **Complaints review body.** The HOPE is the first level of authority that reviews decisions of the BAC under the GPRA. However, there are views that the HOPE is not an independent review authority, as he or she is part of the procuring entity handling the procurement activity concerned. When an aggrieved bidder wants to appeal a decision or decisions of the HOPE, the Office of the President may serve as the independent administrative body that reviews procurement-related decisions under the Administrative Code of 1987. The GPRA further provides that decisions of the HOPE are subject to judicial review by the regional trial court.

118. During the conduct of the 2008 CPAR, the Organisation for Economic Co-operation and Development (OECD) clarified that the complaints mechanism refers to an independent administrative review body, rather than judicial review. The protest mechanism study found that the existing mechanism under the GPRA falls short in terms of independence and autonomy. One of the options recommended was for the Government Procurement Policy Board to act as the interim complaints review body, but this may conflict with its policy-making responsibilities. For these reasons, it was recommended that the government should consider establishing an independent complaints review body.

### 2.4.3 Degree of Access to Information

#### Findings

119. The government fully achieved the baseline standards for degree of access to procurement information under Indicator 11. It was found that procurement information (i) is easily accessible in media of wide circulation and availability; (ii) can be found at a centralized location; (iii) is relevant and complete; and (iv) helps interested parties to understand the procurement processes and requirements, and monitor outcomes, results, and performance. This reflects an improvement from the 2008 CPAR assessment results. However, an issue remains with respect to communicating the GPRA to LGUs. Therefore, there is a need to implement a strategic communication plan to increase awareness of the GPRA, especially in the LGUs. Table 24 provides a summary of the rating for this indicator.

120. **Publication of procurement information.** In the context of the Methodology for Assessing Procurement Systems (MAPS), public access to procurement information



**Table 24** Summary of Scores for Baseline Indicator 11: Degree of Access to Information

Subindicator	2008 Score	2012 Score	Maximum Score
11(a) – Information is published and distributed through available media with support from information technology when feasible	2	3	3
<b>Total Score</b>	<b>2</b>	<b>3</b>	<b>3</b>
<b>Average Score</b>	<b>2</b>	<b>3</b>	<b>3</b>
Rating: 3/3 (100%), <i>full achievement</i>			

Source: CPAR Working Group, 2012.

is essential to transparency and creates a basis for a social audit by interested stakeholders. As such, ease of access should be characterized by quality, relevance, and comprehensiveness of information on the PPS. To date, the Philippine Government Electronic Procurement System (PhilGEPS) website ([www.philgeps.net](http://www.philgeps.net)) serves as the primary source of information on public procurement, specifically on bid opportunities, contracts awarded, and other procurement-related statistics and updates. In addition, the GPPB website ([www.gppb.gov.ph](http://www.gppb.gov.ph)), provides information on procurement policies, guidelines, issuances, trainings, and workshops, and other reference materials on public procurement. It also provides a forum for real-time online discussions on procurement issues and concerns, through the online chat support and discussion board. Finally, it posts the names of companies and firms that are blacklisted and suspended from participating in government procurement. The Uniform Guidelines on Blacklisting requires all agencies to publish blacklisted company names on the GPPB website. The APCPI assessment shows that most agencies have easily accessible websites that provide minimum and up-to-date procurement information at no cost.

**121. Strategic communication plan.** The desired impact of the GPPB's proposed strategic communication plan is to provide information to show that procurement reforms are being implemented successfully. The 2008 CPAR initiated the preparation of the communications plan. The plan involved the conduct of a survey to gauge citizens' awareness of the GPRA. However, the plan remains unimplemented due to insufficient resources. Multilateral development banks (MDBs) may consider allocating resources to implement the strategic communication plan as part of capacity development technical assistance in their projects. One way to implement

the plan at the subnational level is to support the activities sponsored by university networks and the knowledge for development centers, which have high levels of interest in procurement reforms. Another avenue for communicating the implementation of transparency in public procurement is to review and scale-up the geo-tagging model developed by the Department of Agriculture for its Mindanao Rural Development Project. This project uses geo-tagging to enhance transparency in procurement and support the supervision of contracts that include farm-to-market roads, bridges, irrigation, agro-forestry, and marine sanctuary rehabilitation. Photographs of projects at different stages of implementation are geo-tagged, which allows bidders and other stakeholders, including the general public and civil society organizations (CSOs), to conduct virtual visits to projects in remote and conflict-affected areas.

**122. Public disclosure policy.** Civil society has been clamoring for a systematic and rationalized disclosure policy for procurement information. The proposed Freedom of Information Act was approved by the Senate on 14 December 2009, but still needs to be enacted. The latest version of the Freedom of Information Act filed in Congress includes a provision on the protection and/or disclosure of procurement-related proprietary, commercial, or financial information that is sensitive in nature. As such, there is a need to advocate for the passage of this bill in both houses of Congress.

## 2.4.4 Ethics and Anticorruption Measures

### Findings

**123.** The government received a rating of 86% compliance for Indicator 12, or almost full achievement of the baseline standards, as it has sufficient ethics and anticorruption

measures in place. This is an improvement from the 2008 CPAR rating. Table 25 provides a summary of the ratings for this assessment.

**124. Evidence of enforcement of rulings.** The GPPB has begun uploading to its website procurement-related Supreme Court decisions from 1959 to the present. The *Sandiganbayan*<sup>24</sup> (www.sb.judiciary.gov.ph) also posts on its website decisions and resolutions of cases from 2001 to the present. Further, the COA and the Office of the Ombudsman (OMB) share a database on their procurement-related cases. Nevertheless, there is a need to strengthen information gathering on procurement-related cases that have been prosecuted and decided upon. For example, a separate level of monitoring and analysis is needed to verify whether penalties were

enforced. There is also a need to organize information on the number of procurement-related graft cases filed, prosecuted, and resolved, which will allow stakeholders to monitor the enforcement of decisions.

**125. Special measures to prevent and detect fraud and corruption in public procurement.** The government has several special measures to prevent and detect fraud and corruption in public procurement. However, these initiatives need to be integrated into a comprehensive program to be more effective. They should also consider the findings and recommendations of both the internal (IAS) and external (COA) auditors. There are a number of activities led by the private sector that combat corruption. Under the Unified Code of Conduct for Business of the Integrity Initiative—a

**Table 25** Summary of Scores for Baseline Indicator 12: Ethics and Anticorruption Measures

Subindicator	2008 Score	2012 Score	Maximum Score
12(a) – The legal and regulatory framework for procurement, including tender and contract documents, includes provisions addressing corruption, fraud, conflict of interest, and unethical behavior and sets out (either directly or by reference to other laws) the actions that can be taken with regard to such behavior	3	3	3
12(b) – The legal system defines responsibilities, accountabilities, and penalties for individuals and firms found to have engaged in fraudulent or corrupt practices	3	3	3
12(c) – Evidence of enforcement of rulings and penalties exists	2	2	3
12(d) – Special measures exist to prevent and detect fraud and corruption in public procurement	2	3	3
12(e) – Stakeholders (private sector, civil society, and ultimate beneficiaries of procurement/end-users) support the creation of a procurement market known for its integrity and ethical behaviors	2	2	3
12(f) – The country should have in place a secure mechanism for reporting fraudulent, corrupt, or unethical behavior	2	2	3
12(g) – Existence of Codes of Conduct/Codes of Ethics for participants that are involved in aspects of the public financial management systems that also provide for disclosure for those in decision making positions	3	3	3
<b>Total Score</b>	<b>17</b>	<b>18</b>	<b>21</b>
<b>Average Score</b>	<b>2.43</b>	<b>2.57</b>	<b>3.00</b>
Rating: 18/21 (86%), <i>substantial achievement</i>			

Source: CPAR Working Group, 2012.

<sup>24</sup> The *Sandiganbayan* is the special anti-graft court of the Philippines, which has jurisdiction over criminal and civil cases involving graft and corrupt practices, and other offenses committed by public officers and employees, including those in GOCCs. (1987 Philippine Constitution, Article XI, Section 4)

campaign led by the private sector that aims to promote common ethical standards among various sectors of society—some businesses have agreed to avoid any involvement in procurement-related corrupt practices. This code also communicates rules and guidelines on giving or receiving gifts, entertainment, tokens of hospitality, and contributions to or from public and private organizations; and prohibits businesses' employees and all third parties engaged by their companies from offering, promising, giving, demanding, or accepting concessions—directly or indirectly—to obtain, retain, or secure any undue advantage in the conduct of business. They also committed to abide by existing laws (i.e., RA 6370 and RA 3019) when transacting with government agencies.

126. The Coalition Against Corruption, an alliance of the academe, business, CSOs, and the Catholic Church, in coordination with the Partnership for Transparency Fund, also made efforts to engage civil society groups in setting up public procurement monitors in the national and local levels. Better coordination of these anticorruption initiatives is needed. The efforts of the government and private sector (business enterprises, CSOs, professional associations, and Church-based groups) should be synchronized, and these should complement each other to create a meaningful impact in fighting corruption in public procurement.

127. Different government agencies have their own anticorruption programs. The OMB is the primary agency in the Constitution tasked to address graft and corruption in government, and it has embarked on a number of anticorruption initiatives:

- A lifestyle check of public servants, where the actual assets of officials holding sensitive positions are compared with their income from government service.
- The recovery of ill-gotten wealth and unlawfully acquired assets of government officials.
- The Integrity Development Review (IDR) which looks at how government agencies are internally addressing corruption and governance issues.
- A multisectoral anticorruption council that was launched in March 2007, involving the executive department, Congress, judicial and constitutional bodies, LGUs, and CSOs. The council serves as the consultative and coordinating body for the National Anti-Corruption Program of Action.

128. **Government performance on blacklisting.** The GPPB issued the Uniform Guidelines on Blacklisting and posts a consolidated blacklisting report on its website for the guidance of all government agencies. The Philippine Contractors Accreditation Board under the Construction Industry Authority of the Philippines has its own guidelines for blacklisting contractors under Sections 11–15 of RA 4566 (the Contractor's Licensing Law). If a contractor is found guilty of an offense, its license will be revoked or suspended for a fixed period of time. It may also be required to pay a fine. The blacklisting covers both government and private contracts. Government entities should also submit the names of blacklisted and suspended suppliers or contractors to the GPPB for publication on its website. As of 2011, there were 92 blacklisted contractors on the Philippine Contractors Accreditation Board list and 10 blacklisted suppliers. The most common offenses include (i) failure to complete contracts or projects; (ii) contract abandonment, or failure to comply with contractual obligations or any lawful instructions; (iii) intolerable negative slippage of more than 15%; (iv) falsification of public documents; (v) materials that do not comply with specifications; (vi) poor performance; and (vi) unsatisfactory quality of work. There was a significant decline in the number of blacklisted contractors since 2008 (from 182 in 2008 to 92 in 2011), but there was also an increase in the number of government agencies that reported blacklisted suppliers, from only 1 in 2008 to 10 in 2011. This is an indication of improved compliance with the blacklisting procedures and the requirement to submit the names of blacklisted firms to the GPPB. However, the situation is different for LGUs. As reported in the 2008 CPAR, not all LGUs are aware of the GPPB's Blacklisting Guidelines, and those that are aware seldom comply. While some LGUs admitted that some suppliers and contractors fail to perform under a contract, they only reprimanded them.

129. **Application of national blacklisting to multilateral development bank-funded projects.** Under their guidelines, the MDBs may agree to recognize the debarment process of borrowing countries within certain conditions. However, this option has not yet been exercised by the MDBs. On the other hand, Section 25.2 of the Implementing Rules and Regulations (IRR) of the GPRA requires a bidder to execute a sworn statement attached to its bid that "it is not blacklisted or barred from bidding by the government or any of its agencies, or LGUs, including foreign government or foreign or international financial institutions (IFIs), whose blacklisting rules have been

recognized by GPPB.” The conditions set by the IRR and the requirements imposed by the MDBs make it difficult to achieve harmonization in this area.

**130. Civil society organization and private sector participation in public procurement.** The GPRA requires the participation of civil society and private sector observers to ensure transparency, competition, accountability, and integrity of the procurement process. These organizations serve as independent sources of information that may be used to report actual violations of the law and possible improvements to the procurement policy. Several CSOs participate as observers, including Transparency International Philippines, Procurement Watch Incorporated, the Transparency and Accountability Network, Government Watch, the Abra Group for Good Governance, the Catholic Bishops Conference of the Philippines (CBCP)—*Sangguniang Laiko ng Pilipinas* (Laiko). The Makati Business Club has organized the Philippine Procurement Network, an association composed of several CSOs involved in public procurement.

131. In addition, professional organizations such as the Philippine Constructors Association, the National Confederation of Contractors Association, the Philippine Institute of Civil Engineers, the Confederation of Filipino Consulting Organizations (COFILCO), the Philippine Institute of Certified Public Accountants, and the Philippine Chamber of Commerce and Industry have representatives who participate as observers. All are involved in the procurement process in different government agencies and in various parts of the country. Some CSOs have conducted social audit and social control operations. In the area of capacity development, a CSO manual on procurement monitoring was developed and rolled out in 2012 in selected municipalities. The CBCP-Laiko has also developed a training manual (Observers for Good Governance) for its own observers.

132. Both the 2008 and 2012 CPARs found the sustainability of CSO engagement to be a major issue that hampers the involvement of observers in the procurement process. This is validated by the APCPI results, which show that only 35% of procurement activities are attended by CSOs and private sector observers. A workshop was organized by ADB on 11 June 2012 to discuss issues and concerns on the sustainability of CSO involvement in public procurement, and identify initiatives and mechanisms to ensure sustainable financing (Annex 5). The workshop recommended the

- development of a CSO participation framework to clarify the roles and contributions of CSOs in procurement monitoring in a manner that allows and respects the diverse philosophies and motivations of the CSO community;
- provision of common procurement monitoring deliverables, tools, procedures, standard manuals, and basic training content;
- establishment of a CSO registry, with the Government Procurement Policy Board Technical Support Office (GPPB-TSO) leading the process and engaging CSOs in setting registry parameters;
- improvement of CSO access to information about procurement activities, and technical and financial support, including incentives and recognition;
- conducting of an in-depth study to develop appropriate mechanisms for establishing sustainable financing and explore the establishment of a common fund from such options as (i) official development assistance, private sector, or savings from procurement; (ii) a small percentage of project cost; (iii) part of the fees paid by suppliers (e.g., documents, registration); (iv) funds embedded in the cost of a procurement monitoring project; and (v) a CSO participation fund from the Department of the Interior and Local Government; the study should provide details on the management structure of the common fund, the specific uses and disbursement of funds, the responsibilities of the CSOs, and mechanisms for transparency.

133. The Japan Social Development Fund supports a project that aims to strengthen the participatory engagement of communities in the regular activities of *barangay* and municipal BACs. The Transparency and Accountability Network and the GPPB are implementing this project. The project is intended to support the institutionalization of participatory procurement processes, whereby communities and civil society groups are expected to be involved in key elements of procurement processes, such as public biddings, canvassing, bid awards, contract monitoring, reporting, and oversight. It is hoped that a partnership to be developed among communities, CSOs, and LGUs for procurement reform will be mutually beneficial for all stakeholders, especially poor communities.

134. Another reason for the decline of CSO observers in public biddings is the difficulty encountered by many nongovernment organizations (NGOs) and individuals

**Box 5** Summary of Recommendations for Pillar 4

- The Government of the Philippines should review and propose supplementary guidelines to the *Philippine Government Internal Audit Manual* to include specific procedures on internal audit of procurement, and the enforcement of findings and recommendations, including timelines for compliance.
- The Government Procurement Policy Board (GPPB) should review the current policies and procedures for the filing of complaints and protests, taking into consideration the findings of the protest mechanism study, particularly the protest fee requirements.
- The GPPB should issue guidelines to reiterate or complement the requirement to submit decisions on procurement-related disputes and post the dispositive portion of such decisions on the websites of the GPPB and in the procuring entities concerned.
- The government should establish an independent complaint or protest review body, and develop its governing rules and procedures.
- The GPPB should conduct the survey on the experience and feedback of users of procurement information, and implement the Strategic Communication Plan for Procurement Reform.
- Civil society organizations (CSOs) should lead the advocacy for the passage of the Freedom of Information Act, which includes a provision on the protection and/or disclosure of procurement-related proprietary, commercial, or financial information of a sensitive nature.
- The GPPB, in collaboration with the Office of the Ombudsman and the Commission on Audit, should develop a database of procurement-related cases emanating from the Commission on Audit and referred to the Office of the Ombudsman, including cases filed and resolved.
- A study should be conducted to harmonize the rules of the government and international financial institutions on blacklisting or debarment.
- A unified framework and mechanism should be developed to sustain and ensure CSO participation in public procurement monitoring, based on a multisector approach that will include the possibility of accessing a national procurement fund. The CSOs should also be allowed to submit proposals on their sustainability and participation in the procurement process.
- The unified framework and mechanism discussed should likewise include (a) the review of the requirements for CSO participation under the Government Procurement Reform Act, (b) the establishment of a registration process for third-party monitors, and (c) the review and development of a proposed code of conduct on procurement monitoring in order to promote the involvement of more organizations and individuals at the local government level.
- The GPPB and procuring entities should require the names of nongovernment organization and CSO observers in agency procurement monitoring reports for the purpose of mapping by GPPB, and information sharing with procuring entities and CSOs.
- The GPPB should provide an online platform within the Philippine Government Electronic Procurement System for the submission and consolidation of observers' reports, with comments from the procuring entity, and disseminate standard and simplified templates for these reports.

The foregoing recommendations are part of the 2012 Country Procurement Assessment Report Action Plan.

Source: CPAR Working Group, 2012.

(particularly at the local level) in meeting the qualification requirements of IRR of the GPRA. The IRR requires observers to (i) be a member of an organization registered with the Securities and Exchange Commission or the Cooperatives Development Authority; (ii) possess knowledge, experience or expertise in procurement, or in the subject matter of the contract to be bid; and (iii) have no actual or potential conflict of interest in the contract to be bid. There are very few trained observers who fulfill these requirements in the municipalities

and *barangays*, and so there is a need to examine these requirements and explore ways to encourage more citizen involvement in the procurement process.

135. Corollary to this, the GPPB-TSO has no information on the number of available CSO observers in any given location, their fields of expertise and level of training, and their areas of operation. As such, there is a need to register and map CSOs throughout the country according to their expertise and location



in order to maximize their deployment and develop appropriate strategies to address the absence of observers in some areas. In LGUs, “special purpose” CSOs representing special interest groups remain largely unmonitored and unnoticed. There are reported cases where local government officials create their own CSOs or NGOs to use the legal provision on observers for their own benefit. There is therefore a need to establish the legitimacy of CSOs involved in public procurement monitoring and develop a code of conduct for observers.

136. One important concern that was raised pertained to the limited amount of information received by the GPPB-TSO from CSOs on their findings and participation in the procurement process. The responsibilities of CSO observers under the GPRA include the preparation of an observer’s report, which indicates their comments and findings on the procurement

activities of the BAC. Observers are expected to submit these reports to the HOPE, with copies to the GPPB and the OMB. If no report is submitted, there is a presumption that the BAC correctly followed the bidding procedures. These reports serve as a feedback mechanism to improve the procurement process, and a tool for the exchange and sharing of knowledge and information. However, compliance with the submission of the observer’s report is weak, and the enforcement of follow-up actions is not monitored. As a result, these reports cannot be properly utilized as a feedback mechanism. Some reasons for nonsubmission include (i) the lack of simple and standardized training on the GPRA for observers, including versions in Filipino or the local dialect; (ii) the absence of standardized formats for the observers’ reports; and (iii) the absence of a centrally accessible portal for the submission and consolidation of these reports.





“ One of the identified weaknesses under institutional and management capacity in this CPAR assessment is the absence of a defined staff performance evaluation process based on results and professional behavior. ”



# Country Risk Assessment

# 3

137. For the 2012 CPAR, the Philippine public procurement system (PPS) received a rating of medium or moderate risk. This is based on the levels of achievement obtained in the four pillars, which reflect international standards and baselines set through the Organisation for Economic Co-operation and Development–Development Assistance Committee (OECD-DAC) Methodology for Assessing Procurement Systems (MAPS). The four pillars received the following ratings:

**Pillar I:** Legislative and Regulatory Framework, 86% of the baseline or substantial achievement, low risk

**Pillar II:** Institutional Framework and Management Capacity, 69% of the baseline or partial achievement, medium or moderate risk

**Pillar III:** Procurement Operations and Market Practices, 73% of the baseline or substantial achievement, medium or moderate risk

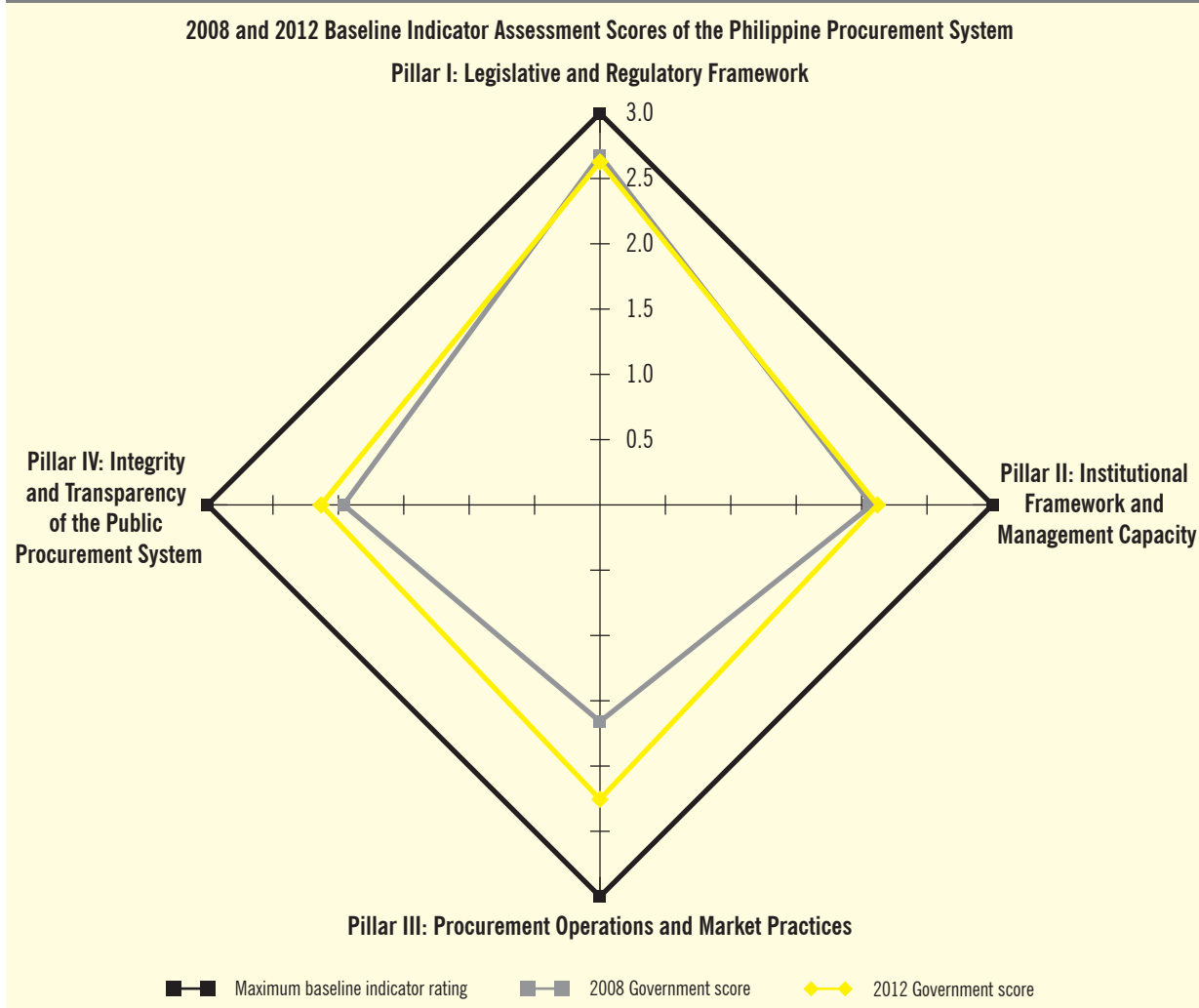
**Pillar IV:** Integrity and Transparency of the Public Procurement System, 65% of the baseline or partial achievement: medium or moderate risk

138. Figure 2 provides a graphical comparison of the Baseline Indicator (BLI) ratings for 2008 and 2012 for each pillar and shows the areas of weaknesses in the PPS.

139. **Risk analysis.** While there have been marked improvements in the BLI assessment at the country level, there are still a number of risks in the implementation and enforcement of some provisions of the GPRA. The most prominent of these risks is compliance at the local government level. Competitiveness at the LGU level remains low, particularly in second and third class municipalities and *barangays*, as evidenced by the limited compliance with the requirement to publish and post bid opportunities. The conduct of regular local elections every 3 years also results in a high turnover of trained procurement officials, and

there is a need to continuously train local officials to ensure continuity of the procurement function. Other reasons for low compliance are as follows: (i) contractors are required to undergo local accreditation in some municipalities prior to participation; (ii) some city governments require suppliers and contractors to secure a local business registration, effectively excluding those located outside the locality; (iii) suppliers are not interested in the small amounts of LGU contracts, and the remote location of many projects do not attract enough bidders; (iv) not all LGUs are aware of the Philippine Government Electronic Procurement System (PhilGEPS) website, and not all post the bidding results; (v) public officers within the LGUs have reported collusion among the bidders, as well as between bidders and officials, and political interference; and (vi) public officers have also reported monopolies among some suppliers. While measures are in place to address constraints to the participation of bidders, private sector confidence on the existence of equal treatment remains low, particularly at the local government level.

140. The APCPI results show the following concerns among national agencies: (i) there is a lower number of contracts procured through competitive bidding in terms of volume; (ii) despite an increase since 2008, the number of bidders who acquire and submit bids still does not meet the OECD-DAC BLI benchmark; (iii) very few procuring entities post contract awards and alternative methods of procurement at the PhilGEPS website; (iv) a very small number of procuring entities submit and post the procurement monitoring reports (PMRs); and (v) there is a decline in the number of CSOs observing the procurement processes because of CSOs' lack of resources and capacity to do so. Public awareness on the GPRA is very limited as a result of poor communication of the reform down to the local level. While the legal framework has been strengthened and the national rating has increased

**Figure 2** Baseline Indicator Assessment Scores, 2008 and 2012

Source: CPAR Working Group, 2012.

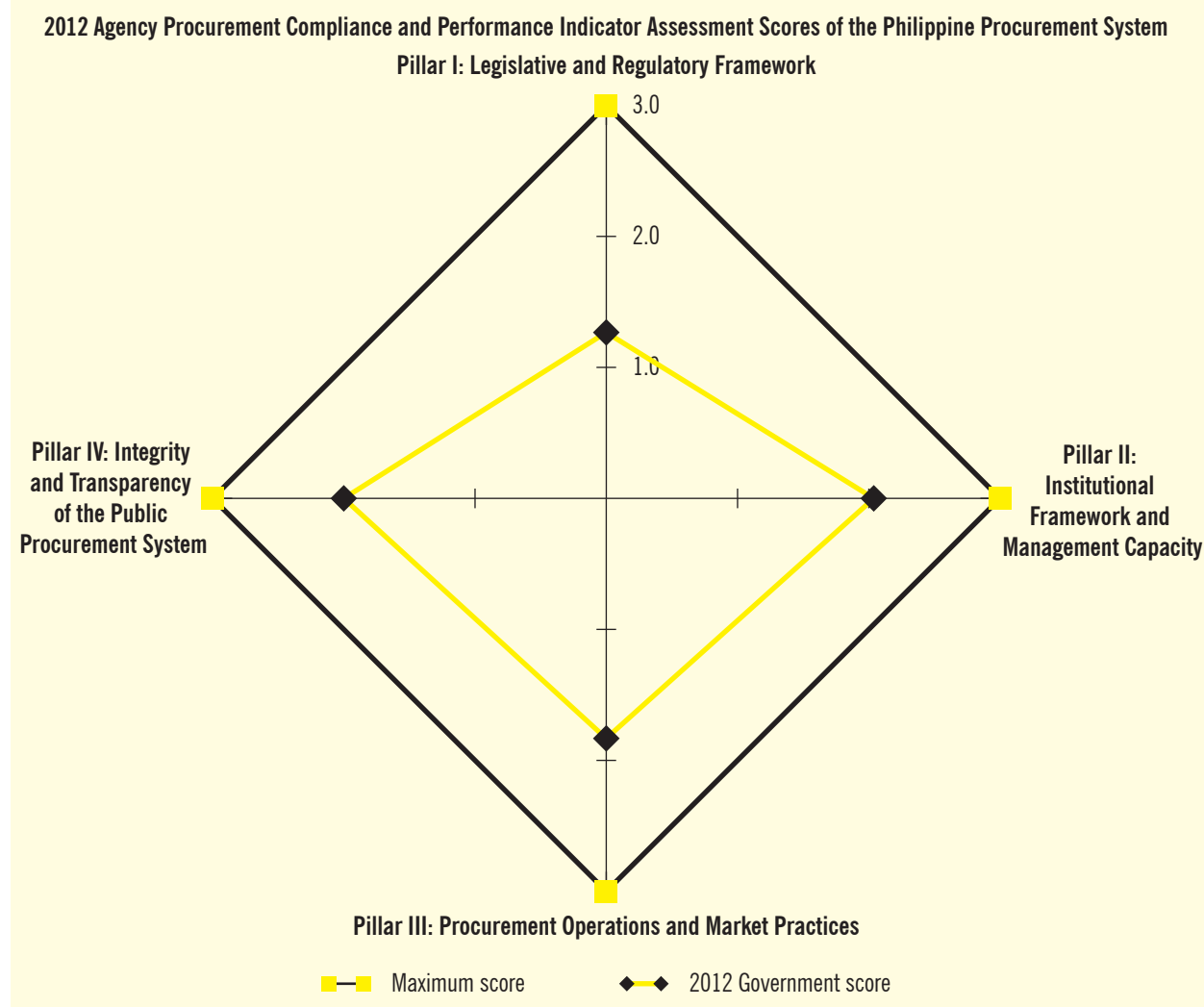
to 73% in 2012 from 67% in 2008, the implementation and enforcement of the GPRA remains weak. Table 26 presents the level of risk for each of the BLIs used for this assessment. It shows that national government agencies received a medium or moderate risk rating, while LGUs received a high risk rating.

**141. Mitigating risks.** Measures to mitigate risks at the country level were formulated in the 2012 action plan to improve the PPS, and are discussed in Section 5 of this report. For foreign-assisted projects (FAPs), measures that are intended to mitigate the country procurement risk are discussed in the procurement arrangements for these projects and presented in Section 4. Support from development partners to strengthen

the implementation and enforcement of the system is reflected in the funding resources pledged in the action plan. Specific project procurement risks will be based on the project capacity assessment normally conducted during project preparation. Moreover, an anticorruption plan on procurement is normally discussed and agreed with the executing or implementing agency, and incorporated in the loan agreement.

**142. Agency-level risk assessment.** Using the results of the APCPI assessment and scoring system, the overall risk at the agency level for performance and compliance (as represented by the sampled agencies) is moderate, based on the levels of achievement obtained. The APCPI ratings are as follows:

**Figure 3** Graphical Representation of the Agency Procurement Compliance and Performance Indicator Pillars for the Philippine Public Procurement System in 2012



Source: CPAR Working Group, 2012.

Pillar I: acceptable (moderate risk), Pillar II: satisfactory (low risk), Pillar III: acceptable (moderate risk), and Pillar IV: satisfactory (low risk). The risk ratings utilized are based on the agency compliance with the established benchmarks, where an acceptable rating meets the benchmarks while a satisfactory rating exceeds the benchmark. There are differences in the scoring system between the BLI and APCPI, but they generally fall within the same pillars. Moreover, the APCPI risk assessment can be used by multilateral development banks (MDBs) as a guide or benchmark, but should not replace the usual tools they use to assess the procurement capacities of executing and implementing agencies.

143. ADB's procurement capacity assessment looks at an executing or implementing agency's organizational and staff capacity, information management, procurement practices, effectiveness, and accountability measures. That of the World Bank analyzes the legal aspects and procurement practices, procurement cycle management, organizations and functions, support and control systems, record keeping, staffing, general procurement environment, and the private sector viewpoint. Both MDBs use the results of their capacity assessments to set prior review thresholds, develop the supervision plan (extent and depth of post review and audits) and the action plan to strengthen procurement capacity.



**Table 26** Level of Risk of the Philippine Public Procurement System by Indicator

Indicator	Achievement Level	Level of Risk		Mitigating Measures
		National	Local Government Unit <sup>a</sup>	
1. Presence and use of legal and regulatory instrument from highest level to detailed regulation and bidding documents	FA – 88%	L	L	Review possible amendments of the Government Procurement Reform Act to provide procedures for international competitive bidding and nationality requirements for joint ventures.
2. Existence, availability, and quality of implementing regulations and documentation	FA – 83%	L	M	Formulate clarificatory guidelines on the application of prequalification, rollout, and training on local government and barangay manuals
3. Procurement mainstreamed into the public sector governance system	FA – 83%	L	M	Integrate procurement and logistics procedures and business standards on processing and release of payments in the Financial Manual
4. Presence of a functional normative and/or regulatory body	SA – 75%	M	L	Remove contract review function of the Government Procurement Policy Board
5. Existence of institutional development capacity	PA – 50%	H	H	Implement Agency Procurement Compliance and Performance Indicator and ensure enforcement and compliance in all government agencies, implement professionalization program
6. Operational effectiveness and efficiency of the system at the entity level	SA – 67%	M	H	Finalize and implement proposed career stream for public procurement personnel, monitor compliance to records-keeping guidelines at the local level
7. Positive market response to procurement solicitations	SA – 67%	M	H	Conduct more procurement training for small and medium entrepreneurs at the local level, improve and streamline further registration and licensing requirements
8. Existence of contract administration and dispute resolution	FA – 89%	L	H	Monitor progress of dispute resolution cases; strengthen contract implementation monitoring by civil society organizations
9. Existence of effective control and audit system	PA – 60%	H	H	Formulate specific procedures on internal audit of procurement and enforcement of findings and recommendations
10. Efficient appeals mechanism	NA – 33%	H	H	Establish an independent complaint or protest review body, and develop its governing rules and procedures
11. Access to information	FA – 100%	L	H	Implement the strategic communication plan
12. Presence of ethics and anticorruption measures	FA – 86%	M	M	Develop and implement programs to sustain and ensure participation of civil society organizations in procurement monitoring
<b>Country Average</b>	<b>73%</b>	<b>M</b>	<b>H</b>	
<b>Agency Compliance</b>		<b>M</b>	<b>H</b>	

FA = full achievement, H = high, L = low, M = medium, NA = no achievement, PA = partial achievement, SA = substantial achievement.

<sup>a</sup> Data for the local government units were obtained by the World Bank from the results of the Agency Procurement Performance Indicators conducted in 2008 and the procurement capacity assessments of projects funded by local government units.

Source: CPAR Working Group, 2012.



“ Development partners, on the other hand, believe that eligibility screening, such as the use of the ABC as a contract ceiling, may restrict competition. ”

# Foreign-Assisted Projects

# 4

## 4.1 Legal Basis

144. The Government Procurement Reform Act (GPRA) recognizes the procurement procedures of international financial institutions (IFIs) if they are expressly indicated in the pertinent financing agreements, which are considered as executive or international agreements. The act specifically states that:

Any treaty or international or executive agreement affecting the subject matter of this Act to which the Philippine Government is a signatory shall be observed.<sup>25</sup>

145. The revised IRR further amplifies the observance of an international or executive agreement, but encourages the use of competitive bidding as a general policy in foreign-funded procurements. As a caveat, the revised IRR provides that:

Unless the Treaty or International or Executive Agreement expressly provides use of foreign government/foreign or international financing institution procurement procedures and guidelines, this IRR shall apply to Foreign-funded procurement for goods, infrastructure projects and consulting services by the Government of the Philippines... The Government of the Philippines negotiating panels shall adopt, as its default position, use of this IRR, or at the very least, selection through competitive bidding, in all Foreign-funded Procurement...<sup>26</sup>

146. The government also encourages negotiating panels to adopt the national procurement rules, or at least ensure the use of competitive bidding, for future agreements. This is an

offshoot of the government's experience with some bilateral agreements where financing is tied to specific contractors, suppliers, or consultants.

## 4.2 Harmonization

147. The 2008 Country Procurement Assessment Report (CPAR) reported that, since 2003, ADB, the Japan International Cooperation Agency (JICA), and the World Bank have agreed on six procurement areas for harmonization. Of the six, three were reported to have been accomplished. These are the Philippine Bidding Documents (PBDs), procurement manuals, and the procurement reporting format. Two areas, the IRR for FAPs and the training and certification program, were plotted and expected to be completed by 2009 and 2014, respectively. The last area for harmonization, the registration and licensing procedures with eligibility screening, was pursued between the Department of Public Works and Highways (DPWH) and the Construction Industry Authority of the Philippines–Philippine Contractors Accreditation Board, without the involvement of development partners. Table 27 presents the updates on the harmonization activities covering the IRR for FAPs, the training and certification program, PBDs, and the procurement manuals. Moreover, the Government Procurement Policy Board (GPPB) will issue the following manuals that are planned to be harmonized with ADB, JICA, and the World Bank: the LGU Procurement Manual, the Community Participation Manual, and the Procurement Observer's Guide.

148. **The Philippine Bidding Documents.** The latest version of the PBDs was issued on 17 December 2010 and became effective on 22 February 2011. With the exception

<sup>25</sup> RA 9184. Section 4.

<sup>26</sup> IRR of RA 9184. Section 4.3.



**Table 27** Updates on Harmonization Activities for the Government of the Philippines

Area	As of March 2012	Expected Completion Date	Funding Support
IRR	The revised IRR was issued on 22 July 2009 and became effective on 2 September 2009. The original agreement was to come up with an IRR-B for foreign-funded procurement, but the government later on decided to issue only one set of IRR for both locally-funded and foreign-assisted projects.	Done	World Bank
Training and Certification Program	15 modules for the Professionalization Program were developed, and a pilot training was conducted from May to August 2009. Participants in the training course established the Government Procurement Professionals of the Philippines. There are ongoing efforts to train trainers on updates to the Government Procurement Reform Act and to establish a procurement professionalization working group composed of the Government Procurement Policy Board, procurement practitioners, academe (Ateneo School of Government, University of the Philippines–National College of Public Administration and Governance, the Asian Institute of Management, the Local Government Academy, and the Philippine Trade Training Center) and CSO representatives that will formulate policies, develop training modules, and implement courses on public procurement and the certification of procurement personnel.	2014	World Bank
LGU Procurement Manual	The first edition of the manuals were harmonized with ADB, JICA, and the World Bank in July 2008. Due to the 2009 IRR amendment, the updated LGU Procurement Manual will be subjected to a harmonization process as well.	2013	World Bank
Community-Based Procurement Manual	To be harmonized with ADB, JICA, and the World Bank	2013	World Bank
CSO Procurement Guide	To be acceptable to ADB, JICA, and the World Bank	2013	ADB/World Bank

ADB = Asian Development Bank, CSO = civil society organization, IRR = Implementing Rules and Regulations, JICA = Japan International Cooperation Agency, LGU = local government unit.

Source: CPAR Working Group, 2012.

of the PBDs for consulting services, the PBDs for goods and works were harmonized with the procurement procedures of ADB, JICA, and the World Bank, and were accepted for use in the procurement contracts using the national competitive bidding (NCB) method funded by these institutions.

149. The fourth edition of the PBDs for goods and works are fully harmonized with the procurement procedures of JICA. For ADB and the World Bank, a chapter on FAPs is included in the PBDs, which refer to the use of their guidelines over government's procurement rules. For both goods and works, the World Bank follows the government's special conditions of contract, but uses a separate bid data sheet; while ADB has its separate set of rules, both contained in its bid data sheet and special conditions of contract.

150. With respect to consulting services, difficulties were encountered in the harmonization of conflicting provisions, in view of the number of varying rules or procedures between the government and the IFIs. Table 28 shows an improvement in the percentage of harmonized provisions in the PBDs for goods and works since the 2008 CPAR.

151. **Procurement manuals.** The GPMs are currently being revised to incorporate the changes in the revised IRR, and are expected to be issued along with the LGU and barangay manuals.

152. **National competitive bidding procurement annex to the loan agreement.** The 2008 CPAR noted that the number of government procurement rules considered unacceptable by ADB and the World Bank for their NCB procedures has drastically reduced. In particular, the World Bank reduced the

**Table 28** Number of Conflicting Paragraphs in the Philippine Bidding Documents

Bidding Documents	Works	Goods
Original number of conflicting paragraphs	128	145
Harmonized paragraphs (2008 Country Procurement Assessment Report)	101	117
Harmonized paragraphs (Philippine Bidding Documents fourth edition)	ADB = 9, World Bank = 14	ADB/World Bank = 15
Remaining unharmonized paragraphs	ADB = 18, World Bank = 13	ADB/World Bank = 13
Percent harmonized (to date)	ADB = 86%, World Bank = 90%	91%
Percent harmonized (2008 Country Procurement Assessment Report)	79%	81%
Increase in percentage of harmonized provisions from 2008	ADB = 7%, World Bank = 11%	10%

ADB = Asian Development Bank.

\* The Japan International Cooperation Agency has now agreed to use the country system for national competitive bidding, as well as the Philippine Bidding Documents, which are now 100% acceptable to it.

Source: CPAR Working Group, 2012.

original list of 27 unacceptable Government of the Philippines rules to 8, while ADB reduced it to 9. The remaining unacceptable procurement rules and practices were published as Annexes 8A and 8B of the 2008 CPAR, and have been appended as an NCB annex to the loan agreements of ADB and the World Bank. JICA has no NCB annex of unacceptable procurement rules, as it is now 100% harmonized with the government under its NCB method.

153. To update their NCB annexes, ADB and the World Bank conducted a review of their current NCB policies against the revised IRR of the GPRA. Using a checklist of 25 international procurement practices, the acceptable and remaining unacceptable government rules were identified. The checklist is in annexes 6, 7, and 8 of this report. Moreover, as a result of this review, ADB developed a revised NCB annex (Annex 9B) and the World Bank developed a revised NCB Annex (Annex 9A). They also agreed to include an item on the prequalification of bidders for large or complex works or highly specialized procurements consistent with the BLI finding that the GPRA does not adopt a prequalification process. ADB further added a number of conditions that were not clearly defined in the 2008 NCB Annex. These involve the nominal pricing of bidding documents, the minimum period for bid submission, the anticorruption provisions in the bidding documents, the rule on single bid submission, the rules for shopping, the requirements for participation by government owned and controlled corporations (GOCCs), and the provision for price adjustment.

154. **Procurement method threshold.** Aside from the reduction of the conditions for the use of NCB procedures, continuing harmonization is evidenced by an increase in the thresholds for NCB following government procedures. Table 29 shows the current thresholds per mode of procurement for procurement activities funded by ADB and the World Bank.

**Table 29** Threshold per Contract

Procurement Method	Category	Current Amount
International competitive bidding	ADB: Works	\$5,000,000 and above
	World Bank: Works	\$15,000,000 and above
International competitive bidding	ADB: Goods	\$1,000,000 and above
	World Bank: Goods	\$3,000,000 and above
National competitive bidding	ADB: Works	\$100,000 to below \$5,000,000
	World Bank: Works	Below \$15,000,000
National competitive bidding	ADB: Goods	\$100,000 to below \$1,000,000
	World Bank: Goods	Below \$3,000,000
Shopping	ADB: Works and Goods	Below \$100,000
	World Bank: Goods (off the shelf and commodities)	Not more than \$100,000
	WB: simple works	Not more than \$200,000

Source: CPAR Working Group, 2012.



“The government believes that the present system is the more appropriate approach for government procurements, especially for projects that are not highly complex or specialized.”



# Action Plan

# 5

155. This section of the report introduces all the existing and proposed initiatives and recommendations to address the areas for improvement in the public procurement system (PPS) as a result of the assessment conducted. The full list of recommendations is in Annex 1. The 2012 CPAR Action Plan provides a road map and agenda for procurement reforms to be undertaken by the government and its development partners during 2012–2016. The proposed actions are composed of (i) measures that were not implemented in the 2008 CPAR Action Plan; (ii) recommendations to deal with recurring and emerging issues, previous studies, and consultations with various stakeholders; (iii) issues raised during the BLI assessment workshops, and recommendations to address the subindicators that were not met; (iv) results of the agency procurement compliance and performance indicator (APCPI) assessment; and (v) additional recommendations and refinements introduced during subsequent action planning workshops. Annex 10 provides a summary of completed and ongoing activities under the 2008 CPAR.

156. The action plan prioritizes recommendations and identifies responsible entities, sources of funding, and implementation schedules. The implementation schedules are further classified into actions that can be implemented in the short term (2012–2013), medium term (2012–2014), and long term (2012–2016). These are categorized according to the following key results areas: (i) communications strategy for procurement, (ii) strengthening monitoring and enforcement, (iii) strengthening procurement capacity, and (iv) improvements in procurement processes and practices. The 2012 CPAR Action Plan was presented to the Government Procurement Policy Board (GPPB), which approved it on 30 March 2012. It was then presented to the Philippine Development Forum Sub-Working Group (PDF SWG) on Procurement, which endorsed it in 19 April 2012.





“The Coalition Against Corruption, an alliance of the academe, business, CSOs, and the Catholic church, in coordination with the Partnership for Transparency Fund, also made efforts to engage civil society groups in setting up public procurement monitors in the national and local levels.”

# Annex 1

## 2012 Action Plan for the Philippine Public Procurement System (as of March 2012)

Key Result Area	Recommended Action/Measure	BLI/APCPI Indicator	Specific Weaknesses	Responsible Entity	Funding Source	Schedule
I. Communications Strategy for Procurement	Advocate for the passage of the Freedom of Information Act that includes a provision on the protection and/or disclosure of proprietary, commercial, or financial information.	BLI 11(a)	Absence of a policy on the protection and/or disclosure of proprietary, commercial, personal, or financial information of a confidential or sensitive nature related to procurement	TAN, Congress	Government	2012–2013
	a. Review and implement Strategic Communication Plan for Procurement Reform.	BLI 11(a)	Need to implement communication plan and disseminate information on procurement reform	GPPB, PCA		2012–2013
	b. Conduct of survey on awareness of public procurement.					
II. Strengthening Monitoring and Enforcement	a. Finalize and implement APCPI in all government agencies and develop mechanisms to enforce compliance to its submission to GPPB and its posting at the agency and PhilGEPS websites.	BLI 5(a), 5(b) APCPI 7(b), (c)	Need to strengthen the procurement monitoring system to determine compliance with the GPRA at the agency level and to collect information for national procurement statistics	GPPB, PhilGEPS, procuring entities	World Bank	2012–2013
	b. Provide agencies with standard, simplified data gathering tools and formats for encoding and consolidation of required procurement-related information.		Need to enforce compliance in the submission of procurement monitoring information to the GPPB such as posting of annual procurement plans, contract award information and annual PMR			
	c. Develop mechanisms to ensure compliance to the preparation and submission of annual procurement plans, PMR to the GPPB and posting in PhilGEPS and the agency website.		Need to develop the mechanisms for the analysis of procurement-related information and linkage with other government-related databases			
	d. Link APCPI results with other government-related databases to improve decision making at the national level.					
	Establish linkages with COA resident auditors and/or civil society representatives to confirm validity of APCPI self-assessment reports.	BLI 5(b)	Need to verify and validate, through audit, the reliability of procurement information collected and monitored on national procurement	GPPB, COA		2012–2013

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## Annex 1 continued

Key Result Area	Recommended Action/Measure	BLI/APCPI Indicator	Specific Weaknesses	Responsible Entity	Funding Source	Schedule
	Issue supplemental circular adopting the NAP guidelines on the maintenance, safety, security, and custody of procurement and contract management records including the existence of the necessary infrastructure to support such a system.	BLI 6(c) APCPI 12(a), (b)	Need to inform procuring entities on the existing norms for the management of records and to monitor and enforce compliance to existing guidelines	GPPB		2012–2013
	a. Establish a covenant among oversight agencies to strengthen coordinative linkages on monitoring and enforcement of audit findings, compliance with the GPRA, and enforcement of the anticorruption laws.	BLI 8(c), 9(b)	Weak monitoring of outcomes of the dispute resolution cases due to lack of procedures	GPPB, COA, ODES, DBM, OMB, COST, private sector	World Bank IDF	2012–2014
	b. Develop database on procurement and graft-related cases.		Lack of organized information on the number of graft-related cases filed, prosecuted, and resolved	GPPB, OMB, ODES	World Bank IDF	
	Review and propose supplementary guidelines to the <i>Philippine Government Internal Audit Manual</i> to include specific procedures on internal audit of procurement and the enforcement of findings and recommendations.	BLI 9(a), 9(c), 9(e)	Lack of clear guidelines for the internal audit of procurement processes, for periodic reporting to management and for compliance to and enforcement of internal audit recommendations	DBM, COA, GPPB	GOP	2012–2014
	a. Conduct a pilot test on utilizing a portion of the funds for project monitoring and evaluation to mobilize CSOs as third-party monitors. This will include: (i) possibility of accessing a national procurement fund, (ii) the review of the requirements for CSOs in the GPRA, (iii) the establishment of an accreditation process for third party monitors, and (iv) the review and development of a proposed code of conduct on procurement monitoring.	BLI 12(e) APCPI 14(b)	Lack of regular pool of observers to service procuring entities due to lack of funds to sustain operations	IFIs, private sector, GPPB, CSOs	ADB	2012–2013
	b. CSOs to submit proposals to maintain their sustainability and participation in the procurement process.					
	Require names of NGO/CSO observers in agency PMRs for the purpose of mapping by GPPB and information sharing with procuring entities and CSOs.	BLI 12(e) APCPI 14(b)	Involvement of special purpose CSOs who represent special interests specially at the local government level	GPPB, CSOs	ADB	2012–2013
	Provide an online platform within the PhilGEPS for the submission and consolidation of observers' reports, with comments from the procuring entity, and disseminate standard, simplified templates for observers' reports.	BLI 12(e)	Weak compliance to the submission of observers' reports; lack of enforcement of follow-up action taken	GPPB, CSOs, PhilGEPS	ADB, World Bank	2012–2013

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## Annex 1 continued

Key Result Area	Recommended Action/Measure	BLI/APCPI Indicator	Specific Weaknesses	Responsible Entity	Funding Source	Schedule
III. Strengthening Capacity in Procurement	a. Establish a procurement professionalization working group that shall formulate policies, develop training modules, and implement courses on public procurement and on the certification of procurement personnel.	BLI 5(c), 6(a)	Need to develop a sustainable strategy to strengthen the capacity of government officials to understand and implement the procurement rules and regulations	GPPB, Training Institutions	World Bank	2012–2013
	b. Review and update the modules of the Asian Institute of Management to align with procurement-specific competency standards defined in the <i>Career Stream for Public Procurement Practitioners' Report</i> or other applicable studies.					
	c. Train trainers from various institutions and roll out professionalization module or program as a public–private partnership undertaking.					
	d. Develop system for the accreditation and monitoring of trainers and training institutions and to evaluate the conduct of professionalization program.					
	Develop training modules to carry out the APCPI self-assessment and roll out to procuring entities	BLI 5(a), 5(b)	Need to train procuring entity personnel on the conduct of the APCPI self-assessment			2012–2013
	a. Develop specific qualifications standards for procurement personnel.	BLI 5(d), 6(a)	Need to define the skills and knowledge competency requirements for specialized procurement jobs and to monitor compliance to standards among agencies	GPPB, CSC, DBM	World Bank IDF	2012–2014
	b. Finalize and implement the proposed career stream for public procurement practitioners.					
	Develop and implement a performance evaluation system specifically for procurement personnel.	BLI 5(d), APCPI 11	Lack of specific system to evaluate the performance of procurement personnel	GPPB, DBM, CSC		2012–2014
	Develop and implement the certification and testing program for procurement personnel, align this with the DBM approved procurement positions, and secure accreditation with appropriate government agencies for recognition of tests, certificate, and license on public procurement.	BLI 5(c), 6(a)	Need to develop a sustainable strategy to strengthen the capacity of government officials to understand and implement the procurement rules and regulations	GPPB, training institutions, CSC, Professional Regulation Commission (PRC)		2012–2014
	Expand current initiatives on procurement training for the private sector through a distance learning approach.	BLI 6(b), 7(a)	Absence of regular training programs on public procurement for private sector	GPPB, DTI, PCA	CoST	2012–2013
	a. Develop a primer to assist SMEs interested in participating in government procurement activities.	BLI 7(b)	Need to strengthen SME capacity to access procurement market at the local government level	GPPB, DTI, PCA	CoST	2012–2013
	b. Provide training for SMEs, goods manufacturers, suppliers, and consultants on how to access procurement opportunities through the regular programs of the PTC and other DTI-related training agencies.					

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## Annex 1 continued

Key Result Area	Recommended Action/Measure	BLI/APCPI Indicator	Specific Weaknesses	Responsible Entity	Funding Source	Schedule
	Develop and implement training programs for government cost estimators for all types of procurements.	BLI 1(f)	Need to develop capacity of procuring entity personnel to develop more credible government estimates	GPPB, DPWH, DOTC, PS-DBM, DTI	JICA	2012–2014
	Conduct training to local government officials on the use of the Local Government and <i>Barangay</i> Procurement Manuals.	BLI 2(e)	Need to train local government procurement officials on the generic procurement manuals to ensure better compliance to the GPRA	GPPB	World Bank	2012–2013
	a. Draft MOA between GPPB and COA for regular updating of the GAP.	BLI 9(b)	Need for capacity building for COA auditors on the analytical component of the GAP	GPPB, COA		2012–2013
	b. Train auditors on analytical tools and skills on further evidence gathering for case build-up, and eventual referral to procurement-related cases to OMB.			COA	World Bank	
	Develop training program on procurement for internal auditors.	BLI 9(d)	Lack of capacity building for internal auditors on procurement audit	DBM, COA, procuring entities	World Bank IDF	2012–2014
	Develop and conduct regular special training programs on fraud detection for purposes of prosecution (target: investigators, prosecutors, auditors)	BLI 12(d)	Need to train investigators, prosecutors and auditors on fraud detection	OMB, COA, DOJ, ODESIA	World Bank	2012–2014
	a. Issue circular or order requiring procurement practitioners to enroll in professionalization program.	BLI 5(c), 6(a)	Need to develop a sustainable strategy to strengthen the capacity of government officials to understand and implement the procurement rules and regulations	GPPB, training institutions		2012–2016
	b. Explore institutionalizing board examination for certified procurement professionals in coordination with the PRC.					
	a. Review the revised IRR to integrate all provisions on foreign bidders' participation in one section.	BLI 1(b)	Lack of appropriate standards and guidelines for international competitive bidding that are consistent with international standards	GPPB	World Bank	2012–2013
	b. Review possibility of amending GPRA to provide procedures for international competitive bidding.					
	c. Develop a primer for foreign bidders participating in government procurement in the Philippines.			GPPB, DOF		
	d. Issue the list of countries granting reciprocal rights to citizens, corporations, and associations of the Philippines.					
IV. Improvement in Procurement Processes and Practices	Conduct further study on the nationality requirement for joint ventures in line with international standards.	BLI 1(d)	Need to harmonize provisions on nationality requirements as provided for under RA 9184 vis-à-vis guidelines of IFIs	GPPB, NEDA, Economic Cluster	World Bank	2012–2013
	Promulgate necessary guidelines to implement Sections 23.6. and 24.6 of the revised IRR, and clarify the requirement regarding government corporate entities' independence from the GOP.	BLI 1(d)	Need to resolve the participation of government owned enterprises in competitive bidding as it relates to independence from the government	GPPB		2012–2013

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## Annex 1 continued

Key Result Area	Recommended Action/Measure	BLI/APCPI Indicator	Specific Weaknesses	Responsible Entity	Funding Source	Schedule
	Establish an independent complaint or protest review body, and develop its governing rules and procedures.	BLI 1(h), 10(a), 10(c)	Lack of independent administrative body or special court to review procurement-related complaints and appeals	GPPB	ADB	2012–2013
	Formulate clarificatory guidelines on the application of prequalification procedures	BLI 2(c)	Need to provide guidelines on when to apply the prequalification procedures	GPPB		2012–2013
	Include business standards on processing of invoices, faceless transactions, electronic submission, tracking and release of payments, and performance evaluation of personnel responsible for preparing and approving payments, in the GIFMIS and financial management manual being developed by the PFM Committee.	BLI 3(b)	Lack of published business standards for processing time for invoices by agencies that meet obligations under the contract	GPPB, PFM Inter-Agency Committee	AusAID	2012–2014
	a. Develop a generic Financial Management Manual that includes procurement and logistics processes. b. Fast track the implementation of the GIFMIS.	BLI 3(d)	Need to develop the system to integrate the procurement system within the budgetary and financial systems to provide information on the completion of major contracts	PFM Inter-Agency Committee (DOF, DBM, COA)	AusAID	2012–2014
	Review and amend EO 423 delegating contract review responsibilities to GPPB.	BLI 4(d)	Possible conflict in GPPB's duty to review contracts for negotiated procurement	GPPB		2012–2013
	a. Include an option for PhilGEPS registration in the DTI Philippine Business Registry. b. Interlink databases on government licenses issued. c. Incorporate in the bidding documents process flow, timelines, list of requirements, updated contact details, and table of fees for Philippine Contractors Accreditation Board (PCAB), Food and Drugs Administration or other required licenses and tax clearance. d. Digitize PCAB licensing system e. Develop and implement a categorization and classification system for consultants doing work for the government.	BLI 7(c)	Difficulties in securing licenses and permits	PhilGEPS, GPPB, DTI	CoST	2012–2014
	a. Finalize the DPWH design guidelines, criteria and standards to include guidelines for detailed engineering, penalties for noncompliance, and adoption in all major infrastructure projects. b. Include compliance to guidelines on detailed engineering in the GAP.	BLI 8(a)	Noncompliance of some agencies on detailed engineering guidelines	DPWH, COA	World Bank	2012–2016
	Review policies on the filing of protests including protest fee requirements	BLI 10(b)	Existence of policies that discourage filing of protest (protest fee requirement)	GPPB		2012–2013

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## Annex 1 continued

Key Result Area	Recommended Action/Measure	BLI/APCPI Indicator	Specific Weaknesses	Responsible Entity	Funding Source	Schedule
	Issue guidelines on the posting of decisions on procurement-related disputes in the GPPB and in the procuring entities websites to strengthen the implementation of Executive Order 662.	BLI 10(d)	Decisions are not mandated to be published nor posted in the website	GPPB		2012–2013
	a. Develop credible standards and guidelines for the preparation of ABC for common and uncommon use items.	BLI 1(f)	There is a need to improve guidelines and procedures in the preparation of government estimates and technical specifications	GPPB	ADB	2012–2014
	b. Share existing databases of agencies on prices using the PhilGEPS as possible repository. The DPWH should share their cost estimation system and prepare a template for the preparation of the program of work for civil works projects that can be used by all agencies and posted in the PhilGEPS website.			PhilGEPS DPWH		
	c. Develop system for the independent review of the accuracy and reasonableness of the ABC within the agency.			GPPB		
	d. Develop clear guidelines and standards for the preparation and review of technical specifications for common and uncommon use items, including considerations for green and sustainable public procurement.			GPPB	ADB	
	e. Compliance with the requirement to post contract awards, notices to proceed, and approved contracts at PhilGEPS.	APCPI 6(c),(d)				
	Conduct further studies on the ABC, such as: (i) effectiveness of ABC, and (ii) alternatives to the ABC as ceiling for contract award.	BLI 1(f)	The use of the ABC as ceiling for award is not an acceptable rule for foreign-funded contracts because it limits competition; imposes particular limitations in international bidding as international firms face higher costs than local ones	GPPB, DPWH, DOTC, PS-DBM, DOH, DepEd	ADB (study on accuracy of ABC)	2012–2013 (for accuracy of ABC) 2012–2014 (for alternatives to ABC)
	Conduct study IFI and GOP blacklisting guidelines for possible harmonization and implementation of cross-debarment.	BLI 12(b)	Need to harmonize blacklisting guidelines with those of IFIs	GPPB, PDF, World Bank	World Bank	2012–2013

ABC = approved budget for the contract, ADB = Asian Development Bank, APCPI = agency procurement compliance and performance indicator, AusAID = Australian Agency for International Development, BLI = baseline indicator, COA = Commission on Audit, CoST = Construction Sector Transparency Initiative, CSO = civil society organization, CSC = Civil Service Commission, DBM = Department of Budget and Management, DepEd = Department of Education, DOF = Department of Finance, DOH = Department of Health, DOJ = Department of Justice, DOTC = Department of Transport and Communications, DTI = Department of Trade and Industry, GAP = Guide in the Audit of Procurement, GIFMIS = Government Integrated Financial Management Information System, GOP = Government of the Philippines, GPPB = Government Procurement Policy Board, GPRA = Government Procurement Reform Act, IFI = international financial institution, IRR = Implementing Rules and Regulations, JICA = Japan International Cooperation Agency, NAP = National Archive of the Philippines, NEDA = National Economic and Development Authority, ODESALA = Office of the Deputy Executive Secretary for Legal Affairs, OMB = Office of the Ombudsman, PCA = Philippine Constructors Association, PCAB = Philippine Contractors Accreditation Board, PDF = Philippine Development Forum, PFM = public financial management, PhilGEPS = Philippine Government Electronic Procurement System, PMR = procurement monitoring reports, PRC = Professional Regulation Commission, PS = Procurement Service, PTTC = Philippine Trade Training Center, RA = Republic Act, SMEs = small and medium-sized enterprises, TAN = Transparency and Accountability Network.

Source: CPAR Working Group, 2012.

## Annex 2

# Composition of Country Procurement Assessment Report Working Group

### **Country Champions and Other In-Country Stakeholders**

Undersecretary Laura B. Pascua, Department of Budget and Management

Executive Director Dennis S. Santiago, Cochair, Government Procurement Policy Board – Technical Support Office

### **Development Partners**

#### **Asian Development Bank**

Yinguo Huang and Xavier Humbert, Cochairs  
Claudia Buentjen  
Jose Luis Syquia (Team Leader)  
Galia Ismakova  
Helena Ireen Baylon

#### **World Bank**

Samuel Haile Selassie  
Cecilia Vales  
Noel Sta. Ines  
Dominic Aumentado  
Rene Manuel

#### **Japan International Cooperation Agency**

Floro Adviento  
Kota Yasumura  
Patrick San Juan  
Flerida Chan  
Cristina Santiago

#### **Government Representatives**

Richard Moya, Department of Budget and Management  
Aida N. Carpentero, Department of Education

Ardeliza R. Medenilla, Department of Public Works and Highways

Theresa G. Vera, Department of Health

Ireneo Vizmonte, Department of Trade and Industry

Noel Salumbides, Department of Trade and Industry

Antonio V. Molano, Jr., Department of Public Works and Highways

Arnaldo C. Reyes, Department of Science and Technology

Peter Paul Gianan, Department of Science and Technology

Estanilao C. Granados, Jr., Procurement Service

Sixto Antonio, Procurement Service

Fiorello R. Estuar, Private Sector Representative, Government Procurement Policy Board

### **Philippine Government Electronic Procurement System**

Rosa Maria Clemente  
Joele H. Eayte

### **Civil Society Representatives**

Manolito P. Madrasto, Philippine Constructors Association

Reylynne Dela Paz, Transparency and Accountability Network

Toix Cerna, Transparency and Accountability Network

### **Government Procurement Policy Board – Technical Support Office**

Dennis Lorne S. Nacario

Jennifer M. Torril

Bryan S. Bigalbal

Allyson S. Goleetian

Warren Paul A. Nicdao

Andy G. Matula

Liza E. Vega

Katrina L. Paala

Rocilyn C. Azcarraga

Val Cyrus R. Cerdina



## **Meeting Participants**

### **Focus Group Discussion on Civil Society Organizations Related Concerns, 8 November 2011**

Edward Gacusana, Makati Business Club  
Polly Dichoso, Bishops-Businessmen's Conference for Human Development  
Rechie Tugawin, Government Watch  
Telibert Laoc, National Movement for Free Elections  
Caroline Belisario, Procurement Watch  
Edgardo J.T. Tirona, Sangguniang Laiko ng Pilipinas  
Gladys Selosa, ANSA-EAP  
Vien Suerte Cortez, ANSA-EAP  
Reylynne F. Dela Paz, Transparency and Accountability Network  
Joy Acheron, Government Watch

### **Focus Group Discussion on Competency and Performance Standards for Procurement Personnel, 9 November 2011**

Redentor Zapata Jr., Professional Regulation Commission  
Robert Ong, Professional Regulation Commission  
Ardeliza R. Medenilla, Department of Public Works and Highways  
Debbie Rabi, Department of Health  
Myrna S. Chua, Department of Budget and Management

### **Focus Group Discussion on Professionalization Program for Procurement Personnel, 9 November 2011**

Aida N. Carpentero, Department of Education  
Edmund Talle, Government Procurement Professionals of the Philippines, Inc. (GPPPI)  
Yolanda Villanueva, GPPPI  
Joele H. Eayte, GPPPI  
Ruth Romano, GPPPI  
Edna Estifania A. Co, University of the Philippines-National College of Public Administration and Governance (UP-NCPAG)  
Mark Anthony Gamboa, UP-NCPAG  
Novel V. Bangsil, UP-NCPAG  
Herisadel P. Flores, UP-NCPAG  
Aurma Manlangit, Ateneo School of Government  
Karen Barmi, Ateneo School of Government  
Rechie Tugawin, G-WATCH, Ateneo School of Government

### **Focus Group Discussion on Licensing and Joint Venture Requirements of Bidders, 10 November 2011**

Theresa G. Vera, Department of Health  
Aida N. Carpentero, Department of Education  
Ardeliza R. Medenilla, Department of Public Works and Highways  
Ramon F. Allado, Philippine Contractors Accreditation Board  
Sergie Retome, Philippine Contractors Accreditation Board  
Leilanie del Prado, Construction Industry Authority of the Philippines  
Maria Victoria Gregorio, Department of Public Works and Highways  
Ireneo Vizmonte, Department of Trade and Industry  
Patricia Rosales, Philippine Constructors Association

### **Focus Group Discussion on Public-Private Partnerships and Procurement, 10 November 2011**

Catherine Gonzales, Department of Transportation and Communications  
Al S. Bitangcol III, Public-Private Partnership Center  
Cherry-Anne N. Austria, Public-Private Partnership Center  
Neil G. Ortile, Public-Private Partnership Center  
Moreno Maranon, Department of Public Works and Highways  
Ramonito Jimenez, Department of Public Works and Highways  
Ardeliza R. Medenilla, Department of Public Works and Highways  
Maria Victoria Gregorio, Department of Public Works and Highways  
Dodjie Aumentado, World Bank

### **Focus Group Discussion on Private Sector Related Concerns, 14 November 2011**

Nilda Catalan, Bureau of Micro, Small and Medium Enterprise Development, Department of Trade and Industry  
Rodolfo Penalosa, Confederation of Filipino Consulting Organizations (COFILCO)  
Ronaldo Elepano, Jr., Philippine Constructors Association  
Estelita Yambao, CECOPHIL  
Verna Faye Manlangit, COFILCO

### **Focus Group Discussion on Commission on Audit Related Concerns, 14 November 2011**

Arcadio B. Cuenco, Jr., Commission on Audit  
Aida Maria Talavera, Commission on Audit  
Cecilia Vales, World Bank

## Annex 3

# Loan Portfolio and Lending Program of Major International Financing Institutions in the Philippines (as of 31 December 2011)

## A. ADB Loan Portfolio and Lending Program

### Loans

Loan No.	Project Title	Effectiveness Date	Closing Date	Net Loan Amount (\$ million)
2507	Philippine Energy Efficiency	10/31/11	6/30/13	31.1
1772	Infrastructure for Rural Productivity Enhancement Sector Project	02/02/04	06/30/11	65.2
2311	Integrated Coastal Resource Management Project	01/29/07	06/30/13	33.8
2465	Agrarian Reform Communities II	03/04/09	06/30/15	70.0
2137	Health Sector Development Project	01/12/05	12/31/11	13.0
2515	Credit for Better Health Care	08/19/09	08/19/15	57.7
2662	Social Protection Support	01/12/11	03/31/16	400.0
2715	Financial Market Regulation and Intermediation Program	06/27/11	04/15/12	200.0
2840	Justice Reform Program	2/15/2012	3/31/2012	300.0
2836	Road Sector Institutional Development Project	7/20/12	6/30/2016	62.0
<b>Total</b>				<b>1,232.8</b>

### Grants

Grant No.	Project Title	Effectiveness Date	Closing Date	Net Grant Amount (\$ million)
0071	Integrated Coastal Resources Management	06/29/07	06/30/13	9.0
0142	Philippine Energy Efficiency	05/28/09	06/30/13	1.5
0148	Enhancing Midwives' Entrepreneurial and Financial Literacy	11/27/09	06/30/13	0.4
0162	Typhoon Ketsana (Ondoy) Project	10/01/09	03/31/10	3.0
0279	Tropical Storm Washi (Sendong) Project	12/26/11	06/23/12	3.0
<b>Total</b>				<b>13.9</b>

## Technical Assistance

TA No.	Project Title	Effectiveness Date	Closing Date	Net TA Amount (\$'000)
7074	Strengthening Provincial and Local Planning and Expenditure Management Phase 2	04/30/08	07/31/11	650.0
7190	Harmonization and Development Effectiveness	01/05/09	12/31/12	900.0
7332	Support to Policy Formulation in the Philippines	08/12/09	03/31/12	225.0
7482	Support for the Preparation of the Harmonized Sector Assessments, Strategies and Roadmaps for the Philippines	12/12/09	03/31/12	225.0
7654	Structural Transformation Study of the Philippine Economy	11/18/10	05/31/12	150.0
7796	Strengthening Public–Private Partnership in the Philippines	03/24/11	07/31/13	9,700.0
7806	Results Oriented Strategic Planning and Development Management for Inclusive Growth	04/13/11	04/30/13	1,000.0
7809	Support to Local Government Revenue Generation and Land Administration Reforms	05/19/11	09/30/13	1,500.0
7912	Strategic Policy Actions for Successful Structural Transformation and Inclusive	10/24/11	11/30/12	225.0
7754	Mitigation of Climate Change Through Increased Energy Efficiency and the Use of Clean Energy	02/24/11	08/30/12	925.0
7781	Rural Community-Based Renewable Energy Development in Mindanao	04/27/11	08/31/13	2,000.0
7109	Integrated Natural Resources and Environmental Management SDP	09/10/08	06/30/12	1,141.0
7258	Agusan River Basin Integrated Water Resources Management	06/19/09	05/30/11	1,180.0
7716	Decentralized Framework for Sustainable Natural Resources and Rural Infrastructure Management	01/18/11	12/30/13	1,300.0
7257	Public–Private Partnership in Health	05/14/09	11/30/12	1,000.0
7513	Computer Access Membership Program	08/11/10	04/30/13	500.0
7586	Capacity Development for Social Protection	10/12/10	07/13/12	800.0
7587	Strengthened Gender Impacts of Social Protection	09/02/10	01/31/13	300.0
7733	Support for Social Protection Reform	01/12/11	01/31/13	1,400.0
7955	Education Improvement Sector Development Program	12/09/11	12/31/12	1,500.0
7138	Improving Public Expenditure Management	12/18/08	03/30/12	800.0
7210	Supporting Governance in Justice Sector Reform in the Philippines	01/10/09	05/31/12	2,000.0
7451	Support to Local Government Financing	01/29/10	06/30/12	700.0
7870	Strengthening Institutions for an Improved Investment	11/26/11	01/31/14	1,000.0
7434	Strengthening Transparency and Accountability in the Road Subsector	01/15/10	03/31/12	1,000.0
7122	Water District Development Sector Project	10/09/08	12/31/11	1,200.0
7683	Urban Water Supply and Sanitation	01/19/11	03/31/12	2,000.0
<b>TOTAL</b>				<b>35,321.0</b>

Source: Asian Development Bank.

## B. Japan International Cooperation Agency Official Development Assistance Portfolio

### Loans

Loan No.	Project Title	Effectiveness Date	Closing Date	Loan Amount (¥ million)
PH-P220	Rural Road Network Dev. Project (Phase III)	09/25/2001	03/31/2012	6,205
PH-P221	Help for Catubig Agricultural Advancement Project	01/23/2002	01/23/2013	5,210
PH-P228	CNS/ATM Systems Development Project	02/21/2003	05/21/2017	22,049
PH-P231	Urgent Bridges Construction Project for Rural Development	09/24/2002	09/24/2011	18,488
PH-P235	ARMM Social Fund for Peace and Development Project	04/04/2004	12/06/2012	2,470
PH-P236	Arterial Road Bypass Project (I) (Plaridel and Cabanatuan)	07/29/2004	07/29/2012	6,223
PH-P237	Central Mindanao Road Project	04/06/2004	12/31/2011	3,717
PH-P239	Pasig Marikina River Channel Improvement Project (Phase II)	06/21/2007	06/21/2015	8,529
PH-P241	Pinatubo Hazards Urgent Mitigation Project (Phase III)	04/15/2008	04/15/2015	7,604
PH-P242	Agrarian Reform Infrastructure Support Project (Phase III)	04/15/2008	04/15/2017	11,802
PH-P243	Environmental Development Project	01/07/2009	01/07/2016	24,846
PH-P244	Agriculture Credit Support Project	03/23/2010	03/23/2017	14,608
PH-P245	Logistics Infrastructure Development Project	12/24/2009	12/24/2016	30,380
PH-P246	Post Ondoy and Pepeng Short Term Rehabilitation Project	09/21/2010	09/21/2013	9,912
PH-P247	Road Upgrading and Preservation Project	07/21/2011	07/21/2023	40,847
<b>Total</b>				<b>212,890</b>

### Technical Cooperation

Project Title	Amount (¥ million)
Improvement of Quality Management for Highway and Bridge Construction and Maintenance	130.2
Irrigation Association Strengthening and Support Project	174.5
Strengthening of Flood Forecasting and Warning System for Dam Operations	218.8
Strengthening of Local Health Systems in the Province of Benguet	380.0
Capacity Development for Water Quality Management	724.0
Strengthening of Flood Management Functions of the Department of Public Works and Highways	386.0
Capacity Development on Tourism Statistics in Local Government Units	147.5
Capacity Development Program for Metro Iloilo-Guimaras Economic Development Council and Banate Bay Resource Management Council, Inc.	304.6
Creation on Non-Handicapping Environment for Persons with Disabilities in Rural Areas	119.0
Enhancement of Local Governance and Community Empowerment in Micro-Watersheds in Misamis	186.0
Small Water Districts Improvement Project	1,049.5
ARMM Human Capacity Development Project	428.6
Philippine Coast Guard Education and Human Resource Management System Development Project	231.0
ASEAN University Network/Southeast Asia Engineering Education Development Network Phase 2	20.6

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Table continued

Project Title	Amount (¥ million)
Project on Capability Building for a Comprehensive National Competition Policy	16.0
Prevention and Control of Leptospirosis in the Philippines	167.6
The Project on System Loss Reduction for Philippine Electric Cooperatives	30.0
Enhancement of Earthquake and Volcano Monitoring and Effective Utilization of Disaster Mitigation Information in the Philippines	180.0
Project on Enhancing the Capacity for Collection and Application of Fingerprints	33.5
Comprehensive Etiological and Epidemiological Study on Acute Respiratory Infections in Children	105.1
Capacity Development on Transportation Planning and Database Management in the Philippines	126.3
Capacity Development Project for Improvement of Safety and Efficiency for Air Navigation System	118.7
(Individual Expert) Advisor to Chief, Philippine National Police	33.1
(Individual Expert) Police Administration	12.7
Strengthening Maternal and Child Health Services in Eastern Visayas	151.3
(Individual Expert) Coast Guard Administration	15.9
Project on Integrated Coastal Ecosystem Conservation and Adaptive Management under Local and Global Environmental Impacts in the Philippines	194.1
(Individual Expert) Planning and Policy Advisor on Agribusiness Development	14.2
(Individual Expert) Public Health Program Coordinator	38.2
(Individual Expert) Integrated Transport Implementation and Management	18.0
(Individual Expert) Senior Advisor for Regional Development of ARMM	37.5
<b>Total</b>	<b>5,792.5</b>

## General Grant Aid

Project Title	Amount (¥ million)
Project for the Improvement of Meteorological Radar	3,372.0
Improvement of Aurora Memorial Hospital	1,089.0
Rehabilitation of Flood Forecasting and Warning Systems in the Pampanga and Agno River Systems	1,155.0
Project for Flood Disaster Mitigation in Camiguin Island	1,013.0
Food Aid Program (MINDANAO)	57.2
<b>Total</b>	<b>6,686.2</b>

## Development Study

Project Title	Amount (¥ million)
Development Study on Promotion of Local Industry in ARMM	239.7
An Analytical Study of the Non-Investment Incentive Laws of the Philippines	18.5
Study on Integrated Water Resource Management in the Pampanga River Basin	264.7
Master Plan Study on Airport Strategies in the National Capital Region	5.8
Study for Improvement of Water Supply and Sanitation in Metro Cebu	272.6
Local Governance and Rural Empowerment for Davao Region	297.2
<b>Total</b>	<b>1,098.5</b>



### Nongovernment Organization Projects

Project Title	Amount (¥ million)
Safe Vegetables Promotion Project in Benguet	42.4
Project to protect children's rights by children on/off streets	14.3
TB Control and Prevention Project in Socio-economically Unprivileged Areas in Metro Manila, in the Philippines	17.6
Improving Financial Access of Small Scale Farmers in Mindanao	6.2
Negros Silk Industry Support Project	8.1
Income Generation Through the Development and Management of an Agro-Forestry Farm in Barangay Catablingan, General Nakar, Quezon	8.6
Community Based Rehabilitation Project on Health and Livelihood	12.2
Aftercare Rehabilitation of Drug Addicts in Manila	10.0
Formation of Health and Sanitation Support Systems for Minorities in the Amnay Area	18.9
Rabies Prevention and Control Project in Marinduque, Catanduanes, Cebu and Camiguin	38.0
Food Security Based on Permaculture Development Model for Indigenous Mangyans in the Amnay Area	17.0
Watershed Reforestation and Environmental Education Program	12.6
Empowering the Community Through Improving Access to Basic and Quality Education for Reconstruction and Peace Building	4.0
<b>Total</b>	<b>209.9</b>

Source: Japan International Cooperation Agency.

## C. World Bank

### Loan Portfolio

Sector	Project Name	Effectiveness Date	Closing Date	Net Loan Amount (\$ million)
<b>EASHH</b>	2nd Women's Health and Safe Motherhood	12/28/05	06/30/13	16.0
	National Program Support for Health Sector Reform	03/27/07	03/31/12	110.0
	EC Trust Funds for Health Sector Reform	06/04/07	06/30/12	8.6
	<b>Subtotal – EASHH</b>			<b>134.6</b>
<b>EASHE</b>	National Program Support for Basic Education	01/01/07	12/31/12	200.0
	Support for Basic Education Reform	06/20/08	12/31/12	37.7
	<b>Subtotal – EASHE</b>			<b>237.7</b>
<b>EASHS</b>	Social Welfare and Development Reform	02/19/10	6/30/14	405.0
	<b>Subtotal – EASHS</b>			<b>405.0</b>
<b>EASPS</b>	Participatory Irrigation Development Project	11/03/09	03/31/15	70.4
	Land Administration and Management Project II	10/11/05	03/30/12	15.4
	Mindanao Rural Development Project II	07/03/07	12/31/12	83.8

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Table continued

Sector	Project Name	Effectiveness Date	Closing Date	Net Loan Amount (\$ million)
	GEF-Mindanao Rural Development Project II	10/16/09	12/31/14	6.4
	National Program Support for Environmental and Natural Resource Management	11/27/07	12/31/12	50.0
	GEF-Environmental and Natural Resource Management Project	11/27/07	12/31/12	7.0
	Laguna de Bay Institutional Strengthening Project	04/02/04	04/30/14	15.0
	National Roads Improvement and Management Project II	04/16/09	12/31/12	232.0
	Rural Power Project	9/25/2009	12/31/2012	50.0
	GEF-Electric Cooperative Loss Reduction	11/5/2004	12/31/2013	12.0
	Support for Strategic Local Development and Investment Project	02/28/07	6/30/2012	100.0
	Manila Third Sewerage Project	03/06/06	06/30/12	64.0
	Regional Infrastructure Project	10/11/12	11/30/2016	50.0
	GEF-Manila Third Sewerage Project	08/16/07	11/30/2012	5.0
	ARMM Social Fund	11/05/10	05/31/13	61.6
	KALAH-I-CIDSS	02/24/11	05/31/14	156.5
	Mindanao Trust Fund	03/30/06	12/31/12	8.8
	GEF-Integrated POPs	06/24/11	6/30/2016	8.6
	GEF-Climate Change Adaptation	01/31/11	12/15/2015	5.0
	GEF-Chiller Energy	01/05/11	1/1/2017	3.6
	CAT-DDO	12/15/11	10/31/2014	500.0
	<b>Subtotal – EASPS</b>			<b>1,505.1</b>
<b>EASPR</b>	Support for Tax Administration	06/25/07	06/30/201	11.0
<b>LEGES</b>	Judicial Reform Support	12/04/03	06/30/12	21.4
	<b>Subtotal-EASPR</b>			<b>32.4</b>
	<b>Subtotal Active Loans (FY2012)</b>			<b>2,314.8</b>
	<b>Closed in FY2012</b>			
	Development Policy Loan	8/8/2011	3/31/2012	250.0
	GEF-Rural Power Project	05/06/2004	12/31/2011	9.0
	<b>Closed in FY2011</b>			
	Ozone Depletion Substance Phase-out (Montreal Protocol)	10/06/94	06/30/11	30.0
	GFR	08/27/10	12/31/10	450.0
	Second Agrarian Reform Communities Development	07/31/09	12/31/10	60.0
	<b>Subtotal – Closed in FY2011</b>			<b>540.0</b>
	<b>Closed in FY2010</b>			
	Metro Manila Urban Transport	12/06/01	03/31/10	60.0
	<b>Subtotal – Closed in FY2010</b>			<b>60.0</b>

ARMM = Autonomous Region in Muslim Mindanao, CAT-DDO = Development Policy Loan with Catastrophe Deferred Drawdown Option, EASHE = East Asia Sector for Health and Education, EASHH = East Asia Sector for Human Development, EASHS = East Asia Sector for Human and Social Development, EASPR = East Asia Sector for Poverty Reduction, EASPS = East Asia Sector for Sustainable Development, FY = fiscal year, GEF = Global Environment Facility, KALAH-I-CIDSS = Kapit-bisig Laban sa Kahirapan-Comprehensive and Integrated Delivery of Social Services, LEGES = Legal Department East Asia and Pacific. Source: World Bank.

## Annex 4

# Summary of 2010 Agency Procurement Compliance and Performance Indicator Assessment Ratings for 17 Agencies

Assessment Conditions	Average All Agencies	DAR	DA	DA-NIA	DBM-PS	DepEd	DOE	DENR
<b>PILLAR I. COMPLIANCE WITH LEGISLATIVE AND REGULATORY FRAMEWORK</b>								
<b>Indicator 1. Competitive Bidding as Default Procurement Method</b>								
(a) Percentage of public bidding contracts in terms of value of total procurement	73	86	82	96	80	70	69	14
(b) Percentage of public bidding contracts in terms of volume of total procurement	16	0.68	7	1	54	21	27	0.84
<b>Indicator 2. Alternative Methods of Procurement</b>								
(a) Percentage of alternative modes of contracts in terms of value of total procurement	27	14	18	4	20	30	31	86
(b) Percentage of Shopping contracts in terms of value of total procurement	10	13	1	2	...	0.51	...	37
(c) Percentage of Negotiated Procurement in terms of value of total procurement	15	...	18	1	4	18	29	31
(d) Percentage of Direct Contracting in terms of value of total procurement	4	1	0.38	1.28	12	12	2	2
(e) Percentage of Repeat Order contracts in terms of value of total procurement	1	0.29	0.43	...	3	0.10	...	0.51
(f) Percentage of Limited Source contracts in terms of value of total procurement	...	...	...	...	...	...	...	...
<b>Indicator 3. Competitiveness of the Bidding Process</b>								
(a) Average number of bidders who acquired bidding documents	7	5	4	7	5	27	No Data	6
(b) Average number of bidders who submitted bids	5	5	4	5	2	5	No Data	5
(c) Average number of bidders who passed bid evaluation	3	2	3	4	2	5	No Data	4

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Annex 4 **continued**

Assessment Conditions	Average All Agencies	DAR	DA	DA-NIA	DBM-PS	DepEd	DOE	DENR
<b>PILLAR II. AGENCY INSTITUTIONAL FRAMEWORK AND MANAGEMENT CAPACITY</b>								
<b>Indicator 4. Presence of Procurement Organizations</b>								
(a) Creation and operation of Bids and Awards Committee(s) or BAC(s)	100% compliant	Compliant	Compliant	Compliant	Compliant	Compliant	Compliant	Compliant
(b) Creation and operation of a BAC Secretariat or Procurement Unit	100% compliant	Compliant	Compliant	Compliant	Compliant	Compliant	Compliant	Compliant
<b>Indicator 5. Procurement Planning and Implementation</b>								
(a) APP is prepared for all types of procurement	82% compliant	Compliant	Compliant	Compliant	No Data	Compliant	Compliant	Compliant
<b>Indicator 6. Use of Government Electronic Procurement System</b>								
(a) Agency registered with PhilGEPS	100% compliant	Compliant	Compliant	Compliant	Compliant	Compliant	Compliant	Compliant
(b) Percentage of bid opportunities posted at PhilGEPS	106% compliant	86	100	23	84	63	No Data	96
(c) Percentage of contract award information posted at PhilGEPS	53% compliant	0	No Data	7	100	60	No Data	88
(d) Percentage of contract awards procured through alternative methods posted in PhilGEPS	35% compliant	...	97	3	49	49	No Data	2
<b>Indicator 7. System for Disseminating and Monitoring Procurement Information</b>								
(a) Presence of website that provides minimum, up-to-date procurement information easily accessible at no cost	94% compliant	Compliant	Compliant	Compliant	Compliant	Compliant	Compliant	Compliant
(b) Preparation of Procurement Monitoring Reports and submission to GPPB	41% compliant	Compliant	Not Compliant	Not Compliant	Not Compliant	Compliant	Not Compliant	Not Compliant
(c) Posting of Procurement Monitoring Report in agency website	18% compliant	Not Compliant	Not Compliant	Not Compliant	Not Compliant	Not Compliant	Not Compliant	Not Compliant
<b>PILLAR III. PROCUREMENT OPERATIONS AND MARKET PRACTICES</b>								
<b>Indicator 8. Efficiency of Procurement Processes</b>								
(a) Percentage of total value of procurement against total value of approved APPs	50% of APP	89	17	24	72	8	75	12
(b) Percentage of total number of contracts awarded against total number of procurement activities done through public bidding	172	88	77	50	68	100	322	43
(c) Percentage of failed biddings and total number of procurement activities conducted	13	14	12	7	31	2	No Data	2

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# Summary of 2010 Agency Procurement Compliance and Performance Indicator Assessment Ratings for 17 Agencies

## Annex 4 continued

Assessment Conditions	Average All Agencies	DAR	DA	DA-NIA	DBM-PS	DepEd	DOE	DENR
<b>Indicator 9. Compliance with Procurement Timeframes</b>								
(a) Average number of days to procure goods	101 CDs	45 CDs	98 CDs	111	33 CDs	121	No Data	136 CDs
(b) Average number of days to procure infrastructure projects with ABC of P50 million and below	121 CDs	...	98 CDs	181	...	81	No Data	136 CDs
(c) Average number of days to procure infrastructure projects with ABC above P50 million	126 CDs	...	...	...	...	...	No Data	136 CDs
(d) Average number of days to procure consulting services	154 CDs	38 CDs	75 CDs	...	...	...	No Data	278 CDs
<b>Indicator 10. Timely Payment of Procurement Contracts</b>								
(a) Payments are released upon submission of complete and required documents as provided for in the contract	35 CDs	NLT 30 CDs	30-45 CDs	7	3-5 CDs	More than 45	90 CDs	37.5
<b>Indicator 11. Capacity Building for Government Personnel and Private Sector Participants</b>								
(a) There is a system within the agency to evaluate the performance of procurement personnel	59% compliant	Compliant	Compliant	Not Compliant	Compliant	Not Compliant	Not Compliant	Compliant
(b) Percentage of participation of procurement staff in annual procurement training	73% trained	81%	100%	100%	Not Compliant	80%	No Data	87% Trained
(c) Agency has activities to inform and update bidders on public procurement	41% of pilot agencies	Compliant	Not Compliant	Compliant	Compliant	Compliant	Not Compliant	Compliant
<b>Indicator 12. Management of Procurement and Contract Management Records</b>								
(a) The BAC Secretariat has a system for keeping and maintaining procurement records	76% FC; 18% SC; 6% Partially Compliant	Fully Compliant	Fully Compliant	Fully Compliant	Fully Compliant	Substantially Compliant	Substantially Compliant	Fully Compliant
(b) Implementing Unit has and is implementing a system for keeping and maintaining contract management records	59% FC; 29% SC; 12% Not Compliant	Substantially Compliant	Fully Compliant	Not Compliant	Fully Compliant	Substantially Compliant	Substantially Compliant	Fully Compliant
<b>Indicator 13. Contract Management Procedures</b>								
(a) Agency has well defined and written procedures for quality control, acceptance and inspection of goods, works and services	82% compliant	Compliant	Compliant	Compliant	Compliant	Compliant	Compliant	Not Compliant
(b) Supervision of civil works is carried out by qualified construction supervisors (applicable for works only)	85% compliant	...	Compliant	Compliant	...	No Data	Compliant	Not Compliant
(c) Agency implements Contractors Performance Evaluation System for its works projects and uses results to check contractors qualifications (applicable for works only)	62% compliant	...	Compliant	Compliant	...	No Data	Compliant	Not Compliant

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## Annex 4 continued

Assessment Conditions	Average All Agencies	DAR	DA	DA-NIA	DBM-PS	DepEd	DOE	DENR
<b>PILLAR IV. INTEGRITY AND TRANSPARENCY OF AGENCY PROCUREMENT SYSTEM</b>								
<b>Indicator 14. Civil Society Participation in Public Bidding</b>								
(a) Civil society organizations or professional associations are invited for every public bidding activity	94% compliant	100%	100% Compliant	100%	100% Compliant	100%	Compliant	100% Compliant
(b) Percentage of civil society and/or professional organizations' attendance in public bidding activities	35%	43%	37%	23%	2%	23%	No Data	60% of activities
<b>Indicator 15. Internal and External Audit of Procurement Activities</b>								
(a) Creation and operation of internal audit unit as prescribed by DBM (Circular Letter No. 2008-5, 14 April 2008)	94% compliant	Compliant	Compliant	Compliant	Compliant	Compliant	Compliant	Compliant
(b) Conduct of regular audit of procurement processes and transactions by internal audit unit	69% compliant	Compliant	Compliant	Compliant	Compliant	Compliant	Not Compliant	Not Compliant
(c) Internal audit recommendations on procurement-related matters are implemented within 6 months of the submission of the auditor's report	69% compliant	Compliant	Compliant	No Data	Not Compliant	Not Compliant	Compliant	Not Compliant
(d) Agency Action on Prior Year's Audit Recommendations on procurement-related transactions	80% of recommendations	92	86	47	100	No data	86	95
<b>Indicator 16. Capacity to Handle Procurement-Related Complaints</b>								
(a) The BAC resolved Motion for Reconsiderations, Protests and Complaints within seven (7) calendar days as per Section 55 of the IRR	87% compliant, 8 CDs average	Within 7 CDs	Within 7 CDs	19	Within 7 CDs	10 CDs	7 CDs	Within 7 CDs
(b) All decisions on MRs/complaints/protest are submitted to GPPB, and dispositive portion are publicly posted in the agency and GPPB websites	21% compliant	Not Compliant	Not Compliant	Compliant	Not Compliant	Not Compliant	Compliant	Not Compliant
<b>Indicator 17. Anticorruption Programs Related to Procurement</b>								
(a) Agency has specific anticorruption program related to integrity development (e.g., IDAP or IDR)	88%	IDR	IDAP	IDAP	IDR	IDAP	IDAP	IDAP & IDR
(b) Agency has specific policies and procedures in place for detection and prevention of corruption associated with procurement.	63%	Not Compliant	Compliant	Compliant	No Data	Compliant	Not Compliant	Compliant

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# Summary of 2010 Agency Procurement Compliance and Performance Indicator Assessment Ratings for 17 Agencies

## Annex 4 continued

Assessment Conditions	DENR-LLDA	DOF-BIR	DOH	DPWH	DSWD	DOTC	LWUA	Marikina	SC-APJR	Valenzuela
<b>PILLAR I. COMPLIANCE WITH LEGISLATIVE AND REGULATORY FRAMEWORK</b>										
<b>Indicator 1. Competitive Bidding as Default Procurement Method</b>										
(a) Percentage of public bidding contracts in terms of value of total procurement	85	68	51	97	83	99	79	92	37	52
(b) Percentage of public bidding contracts in terms of volume of total procurement	1	8	41	6	4	32	1	31	14	20
<b>Indicator 2. Alternative Methods of Procurement</b>										
(a) Percentage of alternative modes of contracts in terms of value of total procurement	15	32	49	3	17	0.84	21	8	64	48
(b) Percentage of Shopping contracts in terms of value of total procurement	6	0.41	1	0.50	1	0.28	12	5	63	13
(c) Percentage of Negotiated Procurement in terms of value of total procurement	8	21	37	2	7	0.56	2	8	...	33
(d) Percentage of Direct Contracting in terms of value of total procurement	1	12	11	0.87	...	...	6	2	1.02	1.03
(e) Percentage of Repeat Order contracts in terms of value of total procurement	...	...	0.03	...	...	...	...	0.10	...	0.91
(f) Percentage of Limited Source contracts in terms of value of total procurement	...	...	...	...	...	...	...	...	...	...
<b>Indicator 3. Competitiveness of the Bidding Process</b>										
(a) Average number of bidders who acquired bidding documents	5	4	6	8	13	5	2	12	6	1
(b) Average number of bidders who submitted bids	6	3	4	7	3	5	2	11	4	1
(c) Average number of bidders who passed bid evaluation	1	1	1	4	3	3	2	10	4	1
<b>PILLAR II. AGENCY INSTITUTIONAL FRAMEWORK AND MANAGEMENT CAPACITY</b>										
<b>Indicator 4. Presence of Procurement Organizations</b>										
(a) Creation and operation of Bids and Awards Committee(s) or BAC(s)	Compliant	Compliant	Compliant	Compliant	Compliant	Compliant	Compliant	Compliant	Compliant	Compliant
(b) Creation and operation of a BAC Secretariat or Procurement Unit	Compliant	Compliant	Compliant	Compliant	Compliant	Compliant	Compliant	Compliant	Compliant	Compliant
<b>Indicator 5. Procurement Planning and Implementation</b>										
(a) APP is prepared for all types of procurement	Compliant	Compliant	Compliant	Compliant	Compliant	Not Compliant	Compliant	Not Compliant	Compliant	Compliant
<b>Indicator 6. Use of Government Electronic Procurement System</b>										
(a) Agency registered with PhilGEPS	Compliant	Compliant	Compliant	Compliant	Compliant	Compliant	Compliant	Compliant	Compliant	Compliant
(b) Percentage of bid opportunities posted at PhilGEPS	95	100	100	100	100	71	100	382	100	100
(c) Percentage of contract award information posted at PhilGEPS	1	53	100	82	100	0.49	1.57	0	100	100

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Annex 4 **continued**

Assessment Conditions	DENR-LLDA	DOF-BIR	DOH	DPWH	DSWD	DOTC	LWUA	Marikina	SC-APJR	Valenzuela
(d) Percentage of contract awards procured through alternative methods posted in PhilGEPS	0	2	58	0.19	43	99	0.71	0	20	99.87
<b>Indicator 7. System for Disseminating and Monitoring Procurement Information</b>										
(a) Presence of website that provides minimum, up-to-date procurement information easily accessible at no cost	Not Compliant	Compliant	Compliant	Compliant	Compliant	Compliant	Compliant	Compliant	Compliant	Compliant
(b) Preparation of Procurement Monitoring Reports and submission to GPPB	Not Compliant	Compliant	Compliant	Compliant	Not Compliant	Not Compliant	Not Compliant	Not Compliant	Compliant	Compliant
(c) Posting of Procurement Monitoring Report in agency website	Not Compliant	Compliant	Compliant	Compliant	Not Compliant	Not Compliant	Not Compliant	Not Compliant	Not Compliant	Not Compliant
<b>PILLAR III. PROCUREMENT OPERATIONS AND MARKET PRACTICES</b>										
<b>Indicator 8. Efficiency of Procurement Processes</b>										
(a) Percentage of total value of procurement against total value of approved APPs	76	73	81	21	54	8	26	106	17	99
(b) Percentage of total number of contracts awarded against total number of procurement activities done through public bidding	50	100	135	85	61	85	100	1379	97	88
(c) Percentage of failed biddings and total number of procurement activities conducted	7	47	13	0.91	36	4	14	16	3	5
<b>Indicator 9. Compliance with Procurement Timeframes</b>										
(a) Average number of days to procure goods	...	49.55 CDs	117 CDs	111 CDs	77 CDs	136	70 CDs	No Data	207 CDs	124
(b) Average number of days to procure infrastructure projects with ABC of P50 million and below	...	...	162 CDs	111 CDs	...	125	...	No Data	...	113
(c) Average number of days to procure infrastructure projects with ABC above P50 million	67 CDs	...	56 CDs	140 CDs	...	141	126 CDs	No Data	...	144
(d) Average number of days to procure consulting services	n/a	37 CDs	143 CDs	315 CDs	...	166	...	...	...	170
<b>Indicator 10. Timely Payment of Procurement Contracts</b>										
(a) Payments are released upon submission of complete and required documents as provided for in the contract	10 CDs	15–30 CDs	NLT 30 CDs	After 45 CDs	No Data	Not Compliant	30 CDs	30–45	30–45	No Data
<b>Indicator 11. Capacity Building for Government Personnel and Private Sector Participants</b>										
(a) There is a system within the agency to evaluate the performance of procurement personnel	Not Compliant	Compliant	Compliant	Compliant	Compliant	Not Compliant	Compliant	Not Compliant	Compliant	Not Compliant
(b) Percentage of participation of procurement staff in annual procurement training	8	90	100	90	29	No Data	100	54	100	No Data

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# Summary of 2010 Agency Procurement Compliance and Performance Indicator Assessment Ratings for 17 Agencies

## Annex 4 continued

Assessment Conditions	DENR-LLDA	DOF-BIR	DOH	DPWH	DSWD	DOTC	LWUA	Marikina	SC-APJR	Valenzuela
(c) Agency has activities to inform and update bidders on public procurement	Not Compliant	Compliant	Compliant	Not Compliant	None	Not Compliant	Not Compliant	Not Compliant	Not Compliant	Not Compliant
<b>Indicator 12. Management of Procurement and Contract Management Records</b>										
(a) The BAC Secretariat has a system for keeping and maintaining procurement records	Fully Compliant	Fully Compliant	Fully Compliant	Partially Compliant	Fully Compliant	Fully Compliant	Fully Compliant	Substantially Compliant	Fully Compliant	Fully Compliant
(b) Implementing Unit has and is implementing a system for keeping and maintaining contract management records	Substantially Compliant	Fully Compliant	Fully Compliant	Substantially Compliant	Fully Compliant	Fully Compliant	Fully Compliant	Not Compliant	Fully Compliant	Fully Compliant
<b>Indicator 13. Contract Management Procedures</b>										
(a) Agency has well defined and written procedures for quality control, acceptance and inspection of goods, works, and services	Compliant	Compliant	Compliant	Compliant	No Data	Compliant	Compliant	Not Compliant	Compliant	Compliant
(b) Supervision of civil works is carried out by qualified construction supervisors (applicable for works only)	Compliant	Compliant	Compliant	Compliant	...	Compliant	Compliant	Compliant	...	Compliant
(c) Agency implements Contractors Performance Evaluation System for its works projects and uses results to check contractors qualifications (applicable for works only)	Not Compliant	Compliant	Compliant	Compliant	...	Compliant	Not Compliant	Not Compliant	...	Compliant
<b>PILLAR IV. INTEGRITY AND TRANSPARENCY OF AGENCY PROCUREMENT SYSTEM</b>										
<b>Indicator 14. Civil Society Participation in Public Bidding</b>										
(a) Civil society organizations or professional associations are invited for every public bidding activity	100% Compliant	100%	100%	100%	100%	100%	100%	Compliant	Not Compliant	100% Compliant
(b) Percentage of civil society and/or professional organizations' attendance in public bidding activities	No Data	41	19	83	11	6	70	2	17	85% of activities
<b>Indicator 15. Internal and External Audit of Procurement Activities</b>										
(a) Creation and operation of internal audit unit as prescribed by DBM (Circular Letter No. 2008-5, 14 April 2008)	Compliant	Compliant	Compliant	Compliant	Compliant	Compliant	Compliant	Not Compliant	Compliant	Compliant
(b) Conduct of regular audit of procurement processes and transactions by internal audit unit	Not Compliant	Not Compliant	Compliant	Compliant	Compliant	Not Compliant	Compliant	...	Compliant	Compliant
(c) Internal audit recommendations on procurement-related matters are implemented within 6 months of the submission of the auditor's report	...	Compliant	Compliant	Compliant	Compliant	...	Compliant	...	Compliant	No Data

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Annex 4 **continued**

Assessment Conditions	DENR-LLDA	DOF-BIR	DOH	DPWH	DSWD	DOTC	LWUA	Marikina	SC-APJR	Valenzuela
(d) Agency Action on Prior Year's Audit Recommendations on procurement-related transactions	No Data	100%	Compliant	92%	78%	87%	27%	76%	87%	62%
<b>Indicator 16. Capacity to Handle Procurement-Related Complaints</b>										
(a) The BAC resolved Motion for Reconsiderations, Protests and Complaints within seven (7) calendar days as per Section 55 of the IRR	n/a	6.33 CDs	Within 7 CDs	Within 7 CDs	Within 7 CDs	7	n/a	7	7	7
(b) All decisions on MRs/ complaints/protest are submitted to GPPB, and dispositive portion are publicly posted in the agency and GPPB websites	n/a	Not Compliant	n/a	Not Compliant	Not Compliant	Not Compliant	n/a	Not Compliant	Compliant	Not Compliant
<b>Indicator 17. Anticorruption Programs Related to Procurement</b>										
(a) Agency has specific anticorruption program related to integrity development (e.g., IDAP or IDR)	Not Compliant	IDAP	IDAP	IDAP	IDAP	IDAP	IDAP	Not Compliant	IDAP	Citizen's Charter
(b) Agency has specific policies and procedures in place for detection and prevention of corruption associated with procurement.	Not Compliant	Compliant	Compliant	Not Compliant	Compliant	Not Compliant	Compliant	Compliant	Compliant	Citizen's Charter

ABC = approved budget for the contract, APP = annual procurement plan, BAC = Bids and Awards Committee, BIR = Bureau of Internal Revenue, DBM = Department of Budget and Management, DENR = Department of Environment and Natural Resources, DepEd = Department of Education, DOF = Department of Finance, DOH = Department of Health, DOTC = Department of Transport and Communications, DPWH = Department of Public Works and Highways, GPPB = Government Procurement Policy Board, IDAP = integrity development action plan, IDR = integrity development review, PhilGEPS = Philippine Government Electronic Procurement System, PS = Procurement Service.

Source: CPAR Working Group, 2012.



## Annex 5

# Recommendations and Agreements on Civil Society Organization Participation

Issues	Recommendations	Comments/Agreements
1. Sustainability of civil society organization (CSO) participation in public procurement monitoring	<ul style="list-style-type: none"> <li>Pilot test the utilization of a portion of project funds allocated for monitoring and evaluation components of foreign-assisted or locally-funded projects to provide support for CSO participation.</li> <li>Set up a national procurement integrity endowment or investment fund where private companies can contribute funds to support CSO participation in public procurement monitoring.</li> <li>Develop database of volunteer observers with appropriate basic training on the Government Procurement Reform Act (GPRA).</li> <li>Explore the possibility of tapping retirees, community-based volunteers, and the academe as volunteers in procurement monitoring</li> </ul>	<ul style="list-style-type: none"> <li>Bid out monitoring and evaluation of foreign-assisted projects to CSOs.</li> <li><i>Allocate percentage of earnings from sale of bid documents to CSO training</i></li> </ul>
2. Absence of a guide in observing public biddings	<ul style="list-style-type: none"> <li><i>Develop a guide on the conduct of third-party observation, defining the role of observers in relation to promoting transparency and accountability.</i></li> <li><i>Issue standard checklists for observers with substantial information for monitoring and policy agencies.</i></li> </ul>	<ul style="list-style-type: none"> <li><i>Reports should not only cover the procedures, but also the actual conditions and problems</i></li> <li><i>A standard checklist and a narrative of observation</i></li> </ul>
3. Availability, quality, and other related concerns on training on GPRA	<ul style="list-style-type: none"> <li><i>Government Procurement Policy Board-Technical Support Office to develop a simple and standard training module on the GPRA for CSO training</i></li> <li>Finalize, pilot test, and roll out CSO Manual for Procurement Monitoring</li> </ul>	<ul style="list-style-type: none"> <li><i>Central management is needed in order to set the focus, and manage the whole program. Provide for an avenue to consolidate findings. Trainings using the vernacular in the case of the barangays.</i></li> <li><i>Customized trainings for barangays.</i></li> </ul>
4. Submission and utilization of observers' report	<ul style="list-style-type: none"> <li>Institutionalize validation of observers report and enforce Section 13.4(b) of the Revised Implementing Rules and Regulations for observers to submit their report to procuring entity, copy furnished the Government Procurement Policy Board and OMB or Resident OMB.</li> <li>Provide an online platform within the PhilGEPS for submission and consolidation of observers' reports</li> <li><i>Institutionalize a mechanism for gathering, summarizing and establishing trends based on existing reports.</i></li> <li>Include Commission on Audit and/or Resident COA and Internal Audit Units and/or Services in the recipients of observers' report.</li> </ul>	<ul style="list-style-type: none"> <li><i>An alliance or coalition of CSOs with consolidated reports shall be a force to reckon with as they synthesize the reports, and rate agencies based on these.</i></li> <li><i>Empower CSOs through the use of their reports.</i></li> <li><i>The alliance, coalition, or network of CSOs should be nationwide so that an oversight agency can easily touch base with an observer in the region.</i></li> </ul>

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Annex 5 **continued**

Issues	Recommendations	Comments/Agreements
5. Legitimacy of special purpose CSOs involved in public procurement activities, specially at local level	<ul style="list-style-type: none"> <li>• Establish an accreditation process for observers</li> <li>• Invite or mainstream special purpose nongovernment organizations to provincial procurement network</li> <li>• Set up multistakeholder provincial procurement networks or provincial procurement integrity councils that shall indirectly provide check and balance among CSOs.</li> <li>• Review and improve proposed code of conduct on procurement monitoring.</li> <li>• Require names of nongovernment organization and CSO observers in agency procurement monitoring reports. These data shall be shared by the Government Procurement Policy Board to CSO networks for validation.</li> <li>• Enforce and ensure that all observers sign declaration of conflict of interest.</li> <li>• Organizations to endorse and vouch for credibility and integrity of observers</li> </ul>	

Note: Issues in *italics* are carried over from 2008 Country Procurement Assessment Report.

Source: CPAR Working Group, 2012.

## Annex 6

# Comparison of Government of the Philippines, ADB, and World Bank Procurement Rules

### A. Checklist Comparing Republic Act 9184 Procedures and ADB and World Bank Policies

Issues	RA 9184		ADB and World Bank Policy	Remarks
	Yes	No		
1. Are there eligibility restrictions based on nationality of bidder and/or origin of goods (other than primary boycotts)?	✓		Eligibility restrictions based on nationality of bidders are not allowed.	There is an eligibility requirement of 60% Filipino ownership for procurement of goods and consulting services, and 75% Filipino ownership for procurement of infrastructure projects. Unacceptable. Retain in the national competitive bidding (NCB) Annex as an unacceptable rule.
2. Are there primary boycotts which are established by law?		✓	Asian Development Bank (ADB): No boycotts are allowed.  World Bank: Only primary boycotts are acceptable.	The law has no policy on boycott. Acceptable.
3. Are bidding opportunities advertised in the local press?	✓		ADB: Advertisement is required for contracts estimated to cost \$500,000 or more for goods and related services, and \$1,000,000 or more for civil works.  World Bank: Advertisement is required for all public bidding.	The law requires advertisement of invitations to bid/request for expression of interest for contracts undertaken through competitive bidding (except for contracts with an approved budget for the contract [ABC] of P2 million and below for procurement of goods, P5 million and below for procurement of infrastructure projects, P1 million and below or those whose duration is 4 months or less for consulting services), and posting of all bidding opportunities, except certain alternative methods of procurement. Acceptable.
4. Are prospective bidders allowed at least 30 days for bid preparation (except for commodities/small goods contracts)?		✓	ADB: A period of at least 28 days for bid preparation is required.  World Bank: A period of at least 30 days for bid preparation is required.	As a general rule, the earliest possible time for bid preparation is less than 30 days. However, if the procuring entity determines that by reason of the method, nature, or complexity of the contract to be bid or when international participation will be more advantageous to the Government of the Philippines, the time for bid preparation is more than 30 days. Unacceptable. Retain in the NCB Annex as an unacceptable rule.

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## Annex 6 continued

Issues	RA 9184		ADB and World Bank Policy	Remarks
	Yes	No		
5. Are contractors/suppliers prequalified for large/specialized contracts?		✓	Prequalification of bidders for large/specialized contracts is required.	There is no prequalification under the law. Unacceptable. Include in the NCB Annex the prequalification process of bidders for large, specialized, or highly complex contracts.
6. Are minimum experience, technical and financial requirements (for pre- or post-qualification) explicitly stated in the documents?	✓		Minimum experience, technical and financial requirements should be explicitly stated in the bidding documents.	Yes, the minimum experience, technical, and financial requirements are explicitly stated in the bidding documents. Acceptable.
Registration should not be used as a substitute for advertisement when open competition is required. However, when advertising for civil works, borrowers could indicate the required minimum category of contractor specified in the registration system.	✓		Registration system showing category of contractors is required.	There is a registration of contractors that captures basic qualification data. Acceptable.
7. Is an invitation to prequalify advertised for each procurement involving large or complex potential contracts?		✓	Invitation to prequalify is required.	There is no prequalification process under the law, thus no invitation to prequalify is advertised. Unacceptable. Include the advertisement of invitation to prequalify in the NCB Annex.
8. Are joint ventures with local firms required for foreign firms' eligibility?	✓		Forcing foreign firms to form joint ventures with local firms for reasons of eligibility is not allowed.	In order to meet the eligibility requirement on Filipino ownership, foreign firms are compelled to form joint ventures with local firms. Unacceptable. Retain in the NCB Annex as an unacceptable rule.
9. Are joint venture partners jointly and severally liable?	✓		Joint venture partners are jointly and severally liable.	Yes. Acceptable.
10. Are there set limitations to the number of firms who can bid for a contract?		✓	Limitations on the number of firms are not allowed.	The law does not set limitations on the number of firms who can bid for a contract. Acceptable.
11. Are parastatals allowed to bid?	✓		Government-owned enterprises are allowed to bid if they (i) are financially autonomous, (ii) operate under commercial law, and (iii) are independent from borrower and its purchasing contracting authority.	Government corporate entities are eligible to participate in competitive bidding if they can establish that they (a) are legally and financially autonomous, (b) operate under commercial law, and (c) are not dependent agencies of the Government of the Philippines or the procuring entity. Acceptable for the World Bank. Include in the NCB Annex of ADB, and delete the word "the Government of the Philippines" from condition (c). It should be: "not dependent agency of the procuring entity, the executing agency or the implementing agency."

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Annex 6 **continued**

Issues	RA 9184		ADB and World Bank Policy	Remarks
	Yes	No		
12. Are bidders required to register with a local or federal authority as a prior condition for bidding?	✓		Registration with a local authority as a precondition to bidding should be discouraged.  Acceptable only if registration criteria and process are cost reasonable/efficient and qualified foreign firms are not precluded from competing.	For infrastructure projects, persons and entities meeting the 75% Filipino ownership may participate in public bidding if he has been issued a license by the Philippine Contractors Accreditation Board to engage or act as a contractor.  Unacceptable.  Retain in the NCB Annex as an unacceptable rule.
13. Are extensions to bid validity allowed?	✓		Extension to bid validity may be allowed if justified by exceptional circumstances.	Yes, extension of bid validity is allowed for valid reasons.  Acceptable.
14. Are there restrictions on the means of delivery of bids?		✓	Restriction on the means of delivery of bids is not allowed, except when bidders have to submit physical samples, then they can be required to deliver bids by mail, by courier, by hand, etc.	There are no restrictions on the means of delivery of bids.  Acceptable.
15. Is preference given to suppliers or contractors based on region or locality of registration, small size, ethnic ownership, etc?	✓		Preference based on region or locality of registration is not allowed.	Preference to domestically produced and manufactured goods, supplies, and materials that meet the specified or desired quality, in accordance with the provisions of Commonwealth Act No. 138, is adopted in the GPRA.  There is also preference to domestic entities, subject to certain conditions. The award shall be made to the lowest domestic bidder or lowest domestic entity, provided his bid is not more than 15% in excess of the lowest foreign bid.  Unacceptable and to be retained in the NCB Annex as an unacceptable rule.
16. Are there restrictions on sources of labor and material?		✓	Restriction on sources of labor and materials is not allowed, except for unskilled labor, if available locally.	There are no restrictions on sources of labor and materials in the law.  Acceptable.
17. Is public bid opening required? Does it occur immediately or closely following the bid submission deadline?	✓		Public opening of bids is required, the conduct of which should immediately or closely follow the bid submission deadline.	Yes, public or competitive bidding is the primary mode of procurement. The opening of bids is done on the same day of the deadline for bid submission.  Acceptable.

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## Annex 6 continued

Issues	RA 9184		ADB and World Bank Policy	Remarks
	Yes	No		
18. Is a “two envelope” bid opening procedure permitted for procurement of goods or works?	✓		<p>ADB: Two-envelope bidding is allowed.</p> <p>World Bank: Two-envelope bidding should be discouraged. Allowed only if (i) domestic law precludes use of one envelope, and (ii) adequate safeguards are provided against retaining second envelope unopened and incorporated in the two-envelope procedures and effective bid protest mechanisms are already in place for the due processing of bid complaints.</p>	While the law requires two envelopes, the envelopes are required to be opened on the same day of the bid opening. Transparency is achieved. Acceptable.
19. Is automatic rebidding required if too few bids are received?		✓	<p>ADB: Automatic rebidding is not acceptable.</p> <p>World Bank: Automatic rebidding is acceptable, provided all responsive bidders are allowed to bid, the process is efficient and no serious delays result.</p>	<p>The law allows award to a lone bidder provided it is responsive.</p> <p>Acceptable for the World Bank. Unacceptable for ADB. Retain the provision in the NCB Annex of ADB that if a lone bidder obtains bidding documents, bid opening and evaluation shall not proceed and it shall be considered a failure of bidding.</p>
20. Is bracketing used in bid evaluation?	✓		<p>ADB: Bracketing is not allowed.</p> <p>World Bank: Using ABC as a ceiling is allowed under certain conditions.</p>	ABC is used as a ceiling for acceptable bid prices. For foreign-funded procurement, ABC shall be applied as a ceiling provided the following conditions are met: (a) Bidding documents are obtainable free of charge on a freely accessible website. If payment is required, it could be made upon submission of bids. (b) The procuring entity has procedures in place to ensure that the ABC is based on recent estimates, and that the estimates are based on adequate detailed engineering and reflect the quality, supervisions, and risk-inflationary factors, as well as prevailing market prices. (c) The procuring entity has trained cost estimators, and in case of infrastructure projects, trained quantity surveyors. (d) The procuring entity has established a system to monitor and report bid prices relative to ABC and engineer’s or procuring entity’s estimate. (e) The procuring entity has established a monitoring and evaluation system for contract implementation to provide a feedback on actual total costs of goods and works.

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Annex 6 **continued**

Issues	RA 9184		ADB and World Bank Policy	Remarks
	Yes	No		
Are bid evaluation criteria other than price allowed?		✓	Bid evaluation criteria other than price are allowed only if quantified in monetary terms.	<p>However, the Government of the Philippines and the foreign government or foreign or international financial institution may agree to waive the foregoing conditions.</p> <p>Acceptable for the World Bank. Unacceptable for ADB. Retain in the NCB Annex of ADB as an unacceptable rule.</p> <p>No bid evaluation criterion, other than price, is required.</p> <p>Acceptable.</p>
21. Is award made to lowest evaluated qualified and responsive bidder?	✓		Award should be made to the lowest evaluated qualified and responsive bidder.	<p>The law mandates that award be made to the lowest calculated and responsive bid.</p> <p>Acceptable.</p>
22. Are price negotiations conducted with winning bidders prior to contract signature?		✓	Price negotiation is not allowed, except where the bid price is substantially above market or budget levels and then only if negotiations are carried out to try to reach a satisfactory contract through reduction in scope and/or reallocation of risk and responsibility, which can be reflected in a reduction in contract price, subject to the Bank's prior approval.	<p>The law prohibits negotiation with the lowest calculated and responsive bidder.</p> <p>Acceptable.</p>
23. Are price adjustment provisions generally used?		✓	Price adjustment is not required, except for delivery of goods or completion of works, extending beyond 18 months.	<p>Price adjustment is allowed when the cost of the awarded contract is affected by any applicable new law, ordinance, regulation, or other acts of the government promulgated after bid opening and under extraordinary circumstances with prior approval of the Government Procurement Policy Board.</p> <p>Acceptable for the World Bank. Include in the NCB Annex of ADB that price adjustment shall be allowed for contracts extending beyond 18 months.</p>

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## Annex 6 continued

Issues	RA 9184		ADB and World Bank Policy	Remarks
	Yes	No		
24. Are the terms and conditions used in goods and works procurement generally appropriate for the size and nature of contract intended?	✓		The terms and conditions to be used in goods and works procurement should be appropriate for the size and nature of the contract. To be acceptable, they should be balanced, reasonable, and clearly address the most important issues that lead to problems during performance, e.g., risk allocation, payment, inspection, completion or acceptance, insurance, warranties changes, contract remedies, force majeure, governing law, and termination.	The size and nature of the contract are the bases for the terms and conditions specified in the bidding documents. Acceptable.
25. Are contract scope and/or conditions modified during implementation?	✓		Contract scope and/or conditions may be modified during implementation, but the Bank's approval is required for changes in those contracts that were subject to prior review under the loan agreement.	Amendment to order (for procurement of goods) and variation orders (for procurement of infrastructure projects), are allowed under certain conditions. Acceptable. Retain the rule in the NCB Annex that for contracts subject to prior review, any modification that would result to an aggregate increase of more than 15% should be subject to the Bank's prior approval.

Sources: Asian Development Bank, Government of the Philippines, World Bank.

## Annex 7

# Review of the World Bank's National Competitive Bidding Procurement Annex

Current Version	Result of Review Using Checklist	Remarks/Proposed Changes
1. Eligibility screening shall not be applied. However, bids that do not contain any of the following documents will not pass the documentary compliance check: (i) evidence of the required financial, technical, or production capability; (ii) audited financial statements; (iii) credit line, or cash deposit certificate; (iv) bid security; and (v) authority of the bid signatory.	Eligibility screening is not acceptable. Retain the same wording.	None.
2. A ceiling may be applied to bid prices provided the following conditions are met: (a) Bidding documents are obtainable free of charge on a freely accessible website. (b) The agency has procedures in place to ensure that the Approved Budget for the Contract (ABC) is based on engineer's estimate. (c) The agency has trained cost estimators on estimating prices and analyzing bid variance. (d) The agency has established a system to monitor and report bid prices relative to ABC and engineer's estimate.	Following harmonization process, these proposed conditions in using the ABC were included in the Revised Implementing Rules and Regulations of Republic Act 9184 (or the Government Procurement Reform Act [GPRA]), for foreign-funded procurement.	Delete.
3. Domestic or regional preferences will not be applied in the evaluation of bids, and other preference in effect in the Philippines will not be used except with prior concurrence of the Bank.	There is preference on domestically-produced and manufactured goods, supplies, and materials that meet the specified or desired quality, and to domestic entities subject to certain conditions, under the GPRA. But regional or provincial preference is not in effect anymore.  Retain the provision in the National Competitive Bidding (NCB) Annex.	Delete the word "regional."
4. In case of contracts for prior review, modification exceeding 15% of contract amount and material changes in the conditions during implementation require prior Bank concurrence.	Modification of the contract scope/conditions is allowed under certain conditions in the GPRA. Acceptable.  Retain the rule in the NCB Annex that for contracts subject to prior review, any modification that would result to an aggregate increase of more than 15% should be subject to the Bank's prior concurrence.	Clarify in the NCB Annex that the "more than 15% increase of the original contract amount" is on an aggregate basis.

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## Annex 7 continued

Current Version	Result of Review Using Checklist	Remarks/Proposed Changes
<p>5. Foreign suppliers and contractors shall be allowed to participate, if interested, without first being required to associate with, or enter into joint venture with local firms.</p> <p>Moreover, foreign bidders shall be allowed to bid, even without registration, licensing, and other government authorizations, leaving compliance with these requirements for after award and before signing of contract.</p>	<p>In order to meet the eligibility requirement on Filipino ownership, foreign firms are compelled to form joint ventures with local firms.</p> <p>Unacceptable. Retain the provision in the NCB Annex.</p> <p>For infrastructure projects, persons or entities meeting the 75% Filipino ownership may participate in public bidding if he has been issued a license by the Philippine Contractors Accreditation Board to engage or act as a contractor.</p> <p>Unacceptable. Retain the provision in the NCB Annex.</p>	<p>None.</p> <p>None.</p>
<p>6. For works contract, the experience qualification requirement shall be: (i) at least one previous contract at 80% of the estimated cost of the contract being procured; and (ii) an annual turnover from all works averaged over the last 3 years equal to 100% of the estimated cost of the contract being procured.</p>	<p>For foreign-funded procurement, the Government of the Philippines and the foreign government or international financial institutions (IFIs) may agree on another track record requirement, other than that specified in the GPRA. Thus, the current version should be retained as it specifies the World Bank's track record requirement for works procurements.</p>	<p>None.</p>
<p>7. Alternative procurement methods defined in the implementing rules and regulations, such as limited source bidding, direct contracting and shopping, are acceptable. The use of the other alternative methods will require prior Bank concurrence.</p>	<p>Acceptable. Retain in the NCB Annex.</p>	<p>Update reference to "implementing rules and regulations" into "Revised Implementing Rules and Regulations (2009)."</p>
<p>8. A period of at least 30 days for bid preparation shall be required.</p>	<p>Under the GPRA, as a general rule, the earliest possible time for bid preparation is less than 30 days. However, if the procuring entity determines that by reason of the method, nature, or complexity of the contract to be bid, or when international participation will be more advantageous to the government, the time for bid preparation is more than 30 days.</p> <p>Unacceptable. Retain the provision in the NCB Annex.</p>	<p>None.</p>

Source: World Bank.



## Annex 8

# Review of ADB's National Competitive Bidding Procurement Annex

Current Version	Result of Review Using Checklist	Remarks/Proposed Changes
<b>1. Eligibility</b>		
Eligibility screening shall not be applied. However, bids that do not contain any of the following documents will not pass the documentary compliance check: (i) evidence of the required financial, technical, or production capability; (ii) audited financial statements; (iii) credit line, or cash deposit certificate; (iv) bid security; and (v) authority of the bid signatory.	Eligibility screening is not acceptable. Retain the same wording.	None.
National sanction lists may be applied only with prior approval of the Asian Development Bank (ADB).	Retain in the National Competitive Bidding (NCB) Annex.	None.
<b>2. Advertising</b>		
Bidding of NCB contracts estimated at \$500,000 or more for goods and related services or \$1,000,000 or more for civil works shall be advertised concurrently with the general procurement notices on ADB's website.	The Government Procurement Reform Act (GPRA) requires posting of procurement opportunities (except for contracts with an approved budget for the contract (ABC) of P2 million and below for procurement of goods, P5 million and below for procurement of infrastructure projects, P1 million and below or those whose duration is 4 months or less for consulting services) at the website prescribed by the foreign government or international financial institution (IFI). This is acceptable.  Retain in the NCB Annex, the requirement of posting the procurement notices on the ADB's website.	None.
<b>3. Price of Bidding Document</b>		
The price of bidding documents should be nominal, covering only reproduction and mailing or courier costs.	There is no ceiling or clear-cut guidelines in the pricing of bidding documents under the GPRA. Retain the provision in the NCB Annex as it encourages minimal pricing.  Retain the provision in the NCB Annex and include a ceiling or maximum amount for pricing the bidding documents.	None. Indicate that the price of bidding documents shall be in accordance with the Government Procurement Policy Board guidelines on the sale of bidding documents.

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Annex 8 **continued**

Current Version	Result of Review Using Checklist	Remarks/Proposed Changes
<p><b>4. Price Ceiling</b></p> <p>The approved budget for the contract (ABC) may be published, but it shall not be stated or implied that bid prices may not exceed the ABC, or that bid evaluation will in any way take into account the ABC. The ABC, budgetary allocation, ceiling price, or similar estimates of contract value may not be used to reject bids without prior concurrence of ADB.</p>	<p>The ABC is used as a ceiling for acceptable bid prices. For foreign-funded procurement, the ABC shall be applied as a ceiling provided the following conditions are met: (a) Bidding documents are obtainable free of charge on a freely accessible website. If payment is required, it could be made upon submission of bids. (b) The procuring entity has procedures in place to ensure that the ABC is based on recent estimates, and that the estimates are based on adequate detailed engineering and reflect the quality, supervisions, and risk-inflationary factors, as well as prevailing market prices. (c) The procuring entity has trained cost estimators, and in case of infrastructure projects, trained quantity surveyors. (d) The procuring entity has established a system to monitor and report bid prices relative to the ABC and engineer's or procuring entity's estimate. (e) The procuring entity has established a monitoring and evaluation system for contract implementation to provide a feedback on actual total costs of goods and works.</p> <p>However, the Government of the Philippines and the foreign government/foreign or IFI may agree to waive the foregoing conditions.</p> <p>This is unacceptable. Retain the provision in the NCB Annex.</p>	None.
<p><b>5. Preferences</b></p> <p>(i) No preference of any kind shall be given to domestic bidders or for domestically manufactured goods.</p> <p>(ii) Suppliers and contractors shall not be required to purchase local goods or supplies or materials.</p> <p>(iii) Foreign suppliers and contractors from ADB member countries shall be allowed to participate, if interested, without first being required to associate with, or enter into joint venture with, local firms.</p> <p>(iv) Foreign suppliers or contractors from ADB member countries shall be allowed to bid, without registration, licensing, and other government authorizations, leaving compliance with these requirements for after award and before signing of contract.</p>	<p>Preference to domestically produced and manufactured goods, supplies, and materials that meet the specified or desired quality, in accordance with the provisions of Commonwealth Act No. 138, is adopted in the GPRA. There is also preference to domestic entities, subject to certain conditions. The award shall be made to the lowest domestic bidder or lowest domestic entity, provided his bid is not more than 15% in excess of the lowest foreign bid.</p> <p>Unacceptable. The provision should be retained in the NCB Annex.</p> <p>In order to meet the eligibility requirement on Filipino ownership, foreign firms are compelled to form joint ventures with local firms.</p> <p>Unacceptable. Retain the provision in the NCB Annex.</p> <p>For infrastructure projects, persons or entities meeting the 75% Filipino ownership may participate in public bidding if he has been issued a license by the Philippine Contractors Accreditation Board to engage or act as a contractor.</p> <p>Unacceptable. Retain the provision in the NCB Annex.</p>	<p>None.</p> <p>None.</p> <p>None.</p> <p>None.</p>

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Annex 8 **continued**

Current Version	Result of Review Using Checklist	Remarks/Proposed Changes
<p>6. <b>Experience Qualification</b></p> <p>For works contract, the experience qualification requirement shall be: (i) at least one previous contract at 80% of the estimated cost of the contract being procured, and (ii) an annual turnover from all works averaged over the last 3 years equal to 100% of the estimated cost of the contract being procured.</p>	<p>For foreign-funded procurement, the Government of the Philippines and the foreign government or IFI may agree on another track record requirement, other than that specified in the GPRA. Thus, the current version should be retained as it specifies ADB's track record requirement for works procurements.</p>	<p>None.</p>
<p>7. <b>Anticorruption Provisions in Bidding Documents</b></p> <p>Anticorruption provisions in the Instruction to Bidders section of ADB standard bidding documents (SBDs) shall be incorporated into NCB bidding documents including those under Corrupt Practices and Eligible Bidders clauses of the SBDs.</p>	<p>The Philippine Bidding Documents (PBDs) for goods, infrastructure projects and consulting services have essentially adopted the anticorruption provisions on "corrupt practices" and "conflict of interest (in relation to eligible bidders)" of ADB Standard Bidding Documents (SBDs), but several provisions and definitions have not been reconciled and included in the PBDs, such as: definition of "collusive practice" under ADB's SBDs varies with the definition provided in the PBD; the PBDs do not include the provisions under Clause 3.1 (c and d), Instruction to Bidders of ADB's SBDs; the PBDs do not include the statement under Clause 4.4, Instruction to Bidders of ADB's SBDs.</p> <p>The provision should be retained in the NCB Annex.</p>	<p>None.</p>
<p>8. <b>Bidding Period</b></p> <p>Bidders shall be given a minimum period to prepare and submit bids of 4 weeks, counted from the date of invitation to bid or the date of availability of bidding documents, whichever is later.</p>	<p>As a general rule, the earliest possible time for bid preparation is less than 30 days. However, if the procuring entity determines that by reason of the method, nature, or complexity of the contract to be bid, or when international participation will be more advantageous to the government, the time for bid preparation is more than 30 days.</p> <p>Unacceptable. Retain the provision in the NCB Annex.</p>	<p>None.</p>
<p>9. <b>Single Bid Submission</b></p> <p>When a lone bidder obtains a bidding document and submits bids at the deadline for bid submission under a post-qualification bidding, bid opening and evaluation shall not proceed but it shall be considered a failure of bidding. Before taking any alternative procurement action, a proper assessment of the cause of lack of participation shall be made and ADB prior approval shall be sought for any proposal subsequent action.</p>	<p>The law allows award to a lone bidder provided it is responsive. This is unacceptable. Retain the provision in the NCB Annex that if a lone bidder obtains bidding documents, bid opening and evaluation shall not proceed and it shall be considered a failure of bidding.</p>	<p>None.</p>

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Annex 8 **continued**

Current Version	Result of Review Using Checklist	Remarks/Proposed Changes
<b>10. Shopping Method</b> If included as a procurement method in the procurement plan, shopping shall be undertaken in accordance with ADB Procurement Guidelines (April 2010, as amended from time to time).	The procedural guidelines for shopping procurements under the Guidelines for Shopping and Small Value Procurement (Government Procurement Policy Board Resolution No. 09-2009) and under ADB Procurement Guidelines have remaining differences. To follow one set of procedural guidelines, retain the provision in the NCB Annex.	None.
<b>11. Contract Amendment</b> In case of contracts for prior review, modifications exceeding 15% of contract amount and material changes in the conditions during implementation require prior ADB concurrence.	Amendment to order (for procurement of goods) and variation orders (for procurement of infrastructure projects), are allowed under certain conditions, in the GPRA. This is acceptable. Retain the rule in the NCB Annex that for contracts subject to prior review, any modification that would result to an aggregate increase of more than 15% should be subject to ADB's prior approval.	Clarify in the NCB Annex that the "modification in excess of 15%" is on an aggregate basis.

Source: Asian Development Bank.

## Annex 9A

# The World Bank's National Competitive Bidding Requirements

1. Eligibility screening shall not be applied. However, bids that do not contain any of the following documents will not pass the documentary compliance check: (i) evidence of the required financial, technical, or production capability, (ii) audited financial statements, (iii) credit line, or cash deposit certificate, (iv) bid security, and (v) authority of the bid signatory.
2. Domestic preference will not be applied in the evaluation of bids, and other preference in effect in the Philippines will not be used except with prior concurrence of the Bank.
3. In case of contracts for prior review, modification resulting to an aggregate increase of more than 15% of the original contract amount and material changes in the conditions during implementation, require prior Bank concurrence.
4. Foreign suppliers and contractors shall be allowed to participate, if interested, without first being required to associate with, or enter into joint venture, with local firms. Moreover, foreign bidders, shall be allowed to bid, even without registration, licensing, and other government authorizations, leaving compliance with these requirements for after award and before signing of contract.
5. For works contract, the experience qualification requirement shall be: (i) at least one previous contract at 80% of the estimated cost of the contract being procured, and (ii) an annual turnover from all works averaged over the last three years equal to 100% of the estimated cost of the contract being procured.
6. Alternative procurement methods defined in the Revised Implementing Rules and Regulations (2009) such as Limited Source Bidding, Direct Contracting and Shopping are acceptable. The use of the other alternative methods will require prior Bank concurrence.
7. A period of at least thirty (30) days for bid preparation shall be required.
8. Prequalification of bidders shall be required for large or complex works or highly specialized procurements. The invitation to prequalify shall be advertised concurrently on the Bank's external website.

Source: World Bank.

## Annex 9B

# ADB's National Competitive Bidding Annex to Procurement Plan

### 1. Eligibility

- (i) Eligibility screening shall not be applied. However, bids that do not contain any of the following documents will not pass the documentary compliance check:
  - (a) evidence of the required financial, technical, or production capability; (b) audited financial statements; (c) credit line, or cash deposit certificate; (d) bid security; and (e) authority of the bid signatory.
- (ii) National sanction lists may be applied only with prior approval of the Asian Development Bank (ADB).

### 2. Advertising

Bidding of national competitive bidding (NCB) contracts estimated at \$500,000 or more for goods and related services or \$1,000,000 or more for civil works shall be advertised concurrently with the general procurement notices on ADB's website.

### 3. Price of Bidding Document

The price of bidding documents should be nominal, and the sale of bidding documents should cover only reproduction and mailing/courier costs.

### 4. Price Ceiling

The approved budget for the contract (ABC) may be published, but it shall not be stated or implied that bid prices may not exceed the ABC, or that bid evaluation will in any way take into account the ABC. The ABC, budgetary allocation, ceiling price, or similar estimates of contract value may not be used to reject bids without prior concurrence of ADB.

### 5. Preferences

- (i) No preference of any kind shall be given to domestic bidders or for domestically manufactured goods.
- (ii) Suppliers and contractors shall not be required to purchase local goods or supplies or materials.
- (iii) Foreign suppliers and contractors from ADB member countries shall be allowed to participate, if interested, without first being required to associate with, or enter into joint venture with, local firms.
- (iv) Foreign suppliers or contractors from ADB member countries shall be allowed to bid, without registration, licensing, and other government authorizations, leaving compliance with these requirements for after award and before signing of contract.

### 6. Experience Qualification

For works contract, the experience qualification requirement shall be: (i) at least one previous contract at 80% of the estimated cost of the contract being procured, and (ii) an annual turnover from all works averaged over the last 3 years equal to 100% of the estimated cost of the contract being procured.

### 7. Anticorruption Provisions in Bidding Documents

Anticorruption provisions in the Instruction to Bidders section of ADB standard bidding documents (SBDs) shall be incorporated into NCB bidding documents including those under Corrupt Practices and Eligible Bidders clauses of the SBDs.



## **8. Bidding Period**

Bidders shall be given a minimum period to prepare and submit bids of 4 weeks, counted from the date of invitation to bid or the date of availability of bidding documents, whichever is later.

## **9. Single Bid Submission**

When a lone bidder obtains a bidding document and submits bids at the deadline for bid submission under a post-qualification bidding, bid opening and evaluation shall not proceed but it shall be considered a failure of bidding. Before taking any alternative procurement action, a proper assessment of the cause of lack of participation shall be made and ADB prior approval shall be sought for any proposal subsequent action.

## **10. Shopping Method**

If included as a procurement method in the Procurement Plan, shopping shall be undertaken in accordance with ADB Procurement Guidelines (April 2010, as amended from time to time).

## **11. Contract Amendment**

In case of contracts for prior review, modifications exceeding 15% of contract amount and material changes in the conditions during implementation require prior ADB concurrence.

## **12. Prequalification**

Prequalification of bidders shall be required for large or complex works or highly specialized procurements. The invitation to prequalify shall be advertised concurrently with the general procurement notices on ADB's website.

## **13. Participation by Government-Owned Enterprises**

Government-owned enterprises are eligible to participate in competitive bidding if they can establish that they (a) are legally and financially autonomous; (b) operate under commercial law; and (c) are not dependent agencies of the procuring entity, or the executing agency, or the implementing agency.

## **14. Price Adjustment**

For contracts with long delivery or completion periods, generally beyond 18 months, including major civil works contracts, price adjustment provisions shall be provided.

Source: Asian Development Bank.

## Annex 10

# Status of Actions Agreed in 2008 Country Procurement Assessment Report Update (as of December 2011)

Indicator	Specific Weaknesses	Status of Activities/Actions to Be Undertaken	Responsible Agencies, Funding and Timetable
<b>Legislative and Regulatory Framework Achieves Agreed Standards</b>	Lack of IRR governing procurement of foreign-funded projects	a. <b>Accomplished.</b> The revised IRR of Republic Act 9184 was issued in August 2009 and now covers foreign-funded procurement activities. b. <b>For 2012 Action Plan</b> , GPPB will review the blacklisting guidelines of international financial institutions for possible harmonization and implementation of cross debarment.	GOP, PDF (World Bank, ADB, CIDA) 2 years 2007–2009
	The legal framework does not provide for the extension of time frames even if foreign bidders are expected to compete	<b>Accomplished.</b> The revised IRR adopted acceptable time frames for activities where foreign bidders may compete.	GOP, PDF (World Bank, ADB, CIDA)
<b>Existence of Complaint and Review Mechanism for Procurement</b>	Lack of independent administrative body or special court to review procurement-related complaints and appeals	a. A Study on Protest Mechanism was finalized in April 2010. b. In March 2010, the GPPB agreed to act as the review body through an independent panel. c. <b>For 2012 Action Plan</b> , a review of the recommendations from the Protest Mechanism Study will be conducted to determine those that can be immediately implemented and those that will need legislation or amendments to existing guidelines. d. <b>For 2012 Action Plan</b> , GOP will review the policy on appointing GPPB as the interim independent complaint review body.	GPPB, World Bank 2008
<b>Existence of Implementing Rules and Documentation</b>	Lack of implementing rules and regulations and harmonized bid documents for specialized procurements	a. <b>Accomplished.</b> The GPPB revised and approved the PBDs for Goods and Infrastructure Projects (as harmonized with development partners) in December 2010; PBDs for information and communication technology projects were developed based on World Bank and European Union Directives on Information and Communication Technology; PBDs for Procurement of Textbooks and Manuals have been approved by GPPB based on instructions and scope of work for small and medium-sized enterprises.	GPPB, GOP, CIDA Base guidelines and harmonization 2010
	Differences in procurement practices and operations of LGUs were not reflected in the provisions of the existing law	a. <b>Accomplished.</b> The GPPB approved the Local Government Procurement Manual in November 2007 and is currently being revised with the DILG.	GPPB, LGU leagues, COA, DBM, ADB, World Bank, 2007 Harmonization, 2008

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## Annex 10 continued

Indicator	Specific Weaknesses	Status of Activities/Actions to Be Undertaken	Responsible Agencies, Funding and Timetable
	<i>Barangay</i> officials say the GPRA may not be applicable to the nature of their procurements	a. <b>Accomplished.</b> The GPPB has approved the <i>Barangay</i> Procurement Manuals in 2008.	GPPB, LGU leagues, COA, DBM, World Bank, ADB, 2008
<b>Procurement Mainstreamed into Budget and Financial Processes</b>	Agencies do not prepare multiyear plans that are linked to the annual budget process or to the preparation of annual procurement plans	a. DBM Circular Letter 2005-12 establishes guidelines on contracting for multiyear projects. b. <b>For 2012 Action Plan</b> , the GOP will develop clear regulations and guidelines for multiyear contracts that will integrate budgeting, expenditure, and procurement program.	GPPB, DBM, GOP December 2007
	There is no system linking financial management system and the procurement system to ensure enforcement of law	a. EO 55 dated 6 September 2011 was issued directing the automation of the financial processes and created a PFM Committee that will eventually integrate procurement into the financial management system. Government Financial Management Information System Resolution 01-2011 requires DBM, COA, and the Bureau of Treasury to issue a reporting system that captures budget utilization and identify variances. b. <b>For 2012 Action Plan</b> , a generic financial management manual will be developed that includes procurement and logistics processes with financial management. c. <b>For 2012 Action Plan</b> , the implementation of the Government Financial Management Information System will be fast tracked. d. <b>For 2012 Action Plan</b> , business standards for processing of invoices will be developed.	DBM, COA, European Community grant 2011
<b>Normative Procurement Body has Appropriate Organization, Funding and Staffing</b>	Although, the GPPB does not have to justify its activities before Congress, its financial stability is not secured by the legal framework	<b>Accomplished.</b> The Government Procurement Policy Board Technical Support Office is now an attached agency of the DBM per the 2010 General Appropriations Act.	GOP, DBM 2010
<b>Existence of System for Collecting and Disseminating Procurement Information</b>	Lack of compliance with requirements to submit procurement information. Feedback mechanism has not been established to monitor procurement activities	a. The GPPB has developed and revised the APCPI system to evaluate procurement performance at the agency level. Once approved, the APCPI will provide the procurement-related information and will link other government related databases to improve decision making at the national and agency levels. b. <b>For 2012 Action Plan</b> , the GPPB will finalize and implement APCPI and provide guidelines on validation of information submitted by agencies in the APCPI.	GPPB, World Bank
	Lack of analysis of procurement information carried out on a national scale	<b>For 2012 Action Plan</b> , GPPB will ensure compliance to submission of APCPI and link other government-related databases to improve decision making at the national and agency levels.	GPPB, COA

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Annex 10 **continued**

Indicator	Specific Weaknesses	Status of Activities/Actions to Be Undertaken	Responsible Agencies, Funding and Timetable
<b>Existence of Training for Government and Private Sector Participants</b>	Need to develop a sustainable strategy to develop the capacity of government officials to understand and implement the procurement rules and regulations	a. The Asian Institute of Management developed 15 modules, with pilot training conducted during May–August 2009. b. There are ongoing efforts to train trainers on updates to the GPRA. c. <b>For 2012 Action Plan</b> , the modules of the Asian Institute of Management will be reviewed and revised to align with competency and certification requirements. d. <b>For 2012 Action Plan</b> , a procurement professionalization working group will be established to formulate policies, develop training modules and implement courses on public procurement and on the certification of procurement personnel. e. <b>For 2012 Action Plan</b> , trainers will be trained and the revised training modules rolled out. f. <b>For 2012 Action Plan</b> , the certification and testing program for procurement personnel will be developed and implemented. g. <b>For 2012 Action Plan</b> , the accreditation and monitoring systems for trainers and training institutions will be developed and implemented.	GPPB World Bank, ADB
<b>Existence of Quality Control Standards to Evaluate Procurement Staff Performance</b>	Need to define the skills and knowledge competency requirements for specialized procurement jobs and to monitor compliance with standards among agencies	a. <b>For 2012 Action Plan</b> , specific qualifications standards for procurement personnel will be developed and approved by DBM and CSC. b. <b>For 2012 Action Plan</b> , the proposed career stream for public procurement practitioners will be finalized and implemented.	GPPB, CSC, DBM, CESB
	There is a need to jump start the utilization of value engineering in infrastructure as provided for in the Medium-Term Philippine Development Plan to ensure the most cost-efficient designs and avoid overpricing of projects	a. <b>Accomplished.</b> Value engineering is conducted by DPWH on all its foreign-assisted projects.	DPWH, GPPB, and NEDA Infracom GOP

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Annex 10 **continued**

Indicator	Specific Weaknesses	Status of Activities/Actions to Be Undertaken	Responsible Agencies, Funding and Timetable
<b>Existence of Norms for Safekeeping of Records</b>	Lack of established norms for the safekeeping of records and documents related to procurement transactions and contract management that must be kept at the operational level	a. The NAP issued General Circular No. 1 on January 2009 providing for rules and regulations governing the management of government records that cover procurement and supply records. The Commission on Audit issued Memorandum No. 2005-027 on 28 February 2005 providing guidelines on the required documents to be submitted in the technical review and evaluation of infrastructure projects, goods, and consulting services. b. <b>For 2012 Action Plan</b> , GPPB will issue guidelines on the maintenance and safekeeping of procurement and contract management records and conditions to public access to procurement information.	GPPB, COA, NAP
<b>Private Access Sector to Procurement Market</b>	Absence of organized efforts to address the capacity of small and medium enterprises to encourage their participation in procurement and to help new entries into procurement marketplace	a. Private sector groups such as the Philippine Constructors Association, the Confederation of Filipino Consulting Organizations, and the Philippine Institute of Civil Engineers provide training on public procurement to its members on a regular basis and the Department of Health, the Department of Education, and the Bureau of Internal Revenue provide training for its suppliers on a regular basis. b. <b>For 2012 Action Plan</b> , training on public procurement will be included in the programs for micro-, small, and medium-sized enterprises through the PTTC and other DTI-related training agencies.	DTI, GPPB
<b>Existence of Constraints to Private Sector Access to Procurement Market</b>	Many constraints inhibit private sector access to the procurement market, such difficulties in getting licenses and permits	a. Licensing and registration procedures for contractor's licenses and registration for government projects have been streamlined and the DTI has established one-stop-shops for the registration of business requirements. b. <b>For 2012 Action Plan</b> , mechanisms to ensure timely payments of contracts by Procuring Entities will be developed.	DTI, PCAB
<b>Efficient Processes to Resolve Procurement-Related Disputes</b>	Lack of procedures to monitor the outcome of dispute resolution cases. The anticorruption program requires better coordination at a higher level. There are no special measures to prevent and detect fraud and corruption in public procurement.	a. <b>For 2012 Action Plan</b> , a covenant among oversight agencies (GPPB, COA, PAGC, DBM, OMB) will be established to strengthen coordinative linkages on monitoring and enforcement of audit findings, and compliance with the GPRAs.	GPPB, COA, PAGC, DBM, OMB
	There is no organized information on the number of graft-related cases filed, prosecuted, and resolved.	a. There is an existing database of procurement-related fraud cases emanating from COA and referred to OMB. b. <b>For 2012 Action Plan</b> , a database on procurement-related fraud cases will be developed.	GPPB, COA, OMB

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## Annex 10 continued

Indicator	Specific Weaknesses	Status of Activities/Actions to Be Undertaken	Responsible Agencies, Funding and Timetable
	Although there are written standards for the internal controls, there is no periodic reporting to management to ensure compliance with the standards.	a. The DBM has issued National Budget Circular 2011-5 dated May 19, 2011 requiring the use of the <i>Philippine Government Internal Audit Manual</i> . The manual was completed in October 2011. b. <b>For 2012 Action Plan</b> , the training program on procurement for internal auditors will be developed and rolled out.	DBM, AusAID
	Need to strengthen knowledge of auditors on procurement	a. Accomplished. The COA developed the Guide in the Audit of Procurement. With the training on the guide now institutionalized, about 900 auditors have been given training as of this period.	COA, World Bank
	Decisions are not mandated to be published nor posted in the website.	a. The GPPB website shows excerpts of agencies' decisions on requests for reconsideration and protests filed by bidders. b. <b>For 2012 Action Plan</b> , GPPB will issue guidelines on the posting of decisions on procurement-related disputes in its website or in the procuring entities website.	GPPB
	Existence of policies that discourage filing of protest (protest fee requirement)	a. <b>For 2012 Action Plan</b> , policies on the filing of protests including protest fee requirements will be reviewed.	GPPB
	Lack of communication plan for dissemination of information on procurement reform	a. GPPB approved its communication plan in April 2009. b. <b>For 2012 Action Plan</b> , the communication plan will be implemented.	GPPB, World Bank
	Absence of a policy on the protection and/or disclosure of proprietary, commercial, personal, or financial information of a commercial and sensitive nature related to procurement	a. <b>For 2012 Action Plan</b> , CSOs will advocate for the passage of the Freedom of Information Act that includes a provision on the protection and/or disclosure of proprietary, commercial, or financial information of a commercial and sensitive nature related to procurement.	TAN December 2010
	Need to train investigators, prosecutors and auditors on fraud detection	a. The COA has recently conducted trainings on forensic audit for more than 1,000 auditors. b. <b>For 2012 Action Plan</b> , special training programs on fraud detection for purposes of prosecution will be developed and conducted.	GPPB, OMB, COA, World Bank

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## Annex 10 continued

Indicator	Specific Weaknesses	Status of Activities/Actions to Be Undertaken	Responsible Agencies, Funding and Timetable
	Need to expand the network of third-party observers and strengthen their capacity to participate in the procurement process	a. The CSO Manual on Procurement Monitoring has been drafted and is expected to be rolled out and piloted by the first quarter of 2012 in 12 municipalities).	GPPB, CSO, World Bank, JSDF
	Weak compliance with the submission of observers' reports; lack of enforcement of follow-up action taken	a. Several CSOs submit the observers' report directly to the head of the procuring entity but there is no exact information on the number of CSOs submitting observers' reports. b. <b>For 2012 Action Plan</b> , an online platform within the PhilGEPS will be provided for submission and consolidation of observers' reports. c. <b>For 2012 Action Plan</b> , the validation of observers' report will be institutionalized and Section 13.4(b) of the revised IRR for observers to submit their report to procuring entity, copy furnished the GPPB and OMB or resident OMB will be enforced.	GPPB, OMB, COA
	Some agencies do not comply with guidelines on detailed engineering.	a. COA Guide on Audit of Procurement checks for agency compliance with detailed engineering guidelines. b. The DPWH is in the process of updating its DPWH Design Guidelines, Criteria and Standards (Orange Book) that includes the review and updating of the detailed engineering guidelines, funded by the World Bank under NRIMP 2.c. The DILG is in the process of preparing a new set of detailed engineering guidelines for local roads.	COA

ADB = Asian Development Bank, APCPI = agency procurement compliance and performance indicator, AusAID = Australian Agency for International Development, CESB = Career Executive Service Board, CIDA = Canadian International Development Agency, COA = Commission on Audit, CSC = Civil Service Commission, CSO = civil society organization, DBM = Department of Budget and Management, DILG = Department of the Interior and Local Government, DPWH = Department of Public Works and Highways, DTI = Department of Trade and Industry, GFMS = Government Financial Management Information System, GOP = Government of the Philippines, GPPB = Government Procurement Policy Board, GPRA = Government Procurement Reform Act, IRR = Implementing Rules and Regulations, JSDF = Japan Social Development Fund, LGU = local government unit, NAP = National Archive of the Philippines, NEDA = National Economic and Development Authority, NRIMP = National Roads Improvement and Management Program, OMB = Office of the Ombudsman, PAGC = Presidential Anti-Graft Commission, PBD = Philippine Bidding Document, PCAB = Philippine Contractors Accreditation Board, PDF = Philippine Development Forum, PhilGEPS = Philippine Government Electronic Procurement System, TAN = Transparency and Accountability Network.

<sup>1</sup> Data for the LGUs were obtained by the World Bank from the results of the Agency Procurement Performance Indicators conducted in 2008 and the procurement capacity assessments of LGU-funded projects.

Source: CPAR Working Group, 2012.

## Philippines: Country Procurement Assessment Report 2012

Proper public procurement practices directly reflect good governance. Transparent and effective procurement practices minimize expenditure and create opportunity. Procurement is an enormous component in the process by which governments build infrastructure, such as schools and hospitals. It involves the management of significant amounts of money and is therefore often the cause for allegations of corruption and government inefficiency. The difference between getting public procurement right and doing it wrong has the potential to be either highly rewarding, or highly damaging. In some nations, reforms implemented to improve the efficiency of public procurement have resulted in savings of 1% of a country's gross domestic product. One can see why public procurement is so significant to the development of a country and its people.

### About the Asian Development Bank

ADB's vision is an Asia and Pacific region free of poverty. Its mission is to help its developing member countries reduce poverty and improve the quality of life of their people. Despite the region's many successes, it remains home to two-thirds of the world's poor: 1.7 billion people who live on less than \$2 a day, with 828 million struggling on less than \$1.25 a day. ADB is committed to reducing poverty through inclusive economic growth, environmentally sustainable growth, and regional integration.

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