

ASIAN DEVELOPMENT BANK



PROJECT PROCUREMENT-RELATED REVIEW REPORT

**Loan 2368-SAM (SF)
Grant 0087-SAM (SF)
Government of Australia Grant 0101-SAM
JICA Loan 8232**

POWER SECTOR EXPANSION PROJECT

This report has been redacted in accordance with Asian Development Bank's Public Communications Policy (PCP) issued in 2011. In particular, it excludes confidential and other information in accordance with paragraph 70 of the PCP.

Office of Anticorruption and Integrity
June 2012

A Project Procurement-Related Review (PPRR) is

a review undertaken by OAI on ongoing ADB-financed projects, to confirm compliance with applicable ADB policies, guidelines, and the loan agreement, with a focus on preventing and detecting integrity violations (<http://www.adb.org/site/integrity/integrity-violations>) involving ADB-related activities as defined under ADB's *Anticorruption Policy* as amended (<http://www.adb.org/documents/anticorruption-and-integrity-policies-and-strategies>) and ADB's *Integrity Principles and Guidelines* (<http://www.adb.org/documents/integrity-principles-and-guidelines>).

ADB's *Anticorruption Policy* requires all parties, including staff, borrowers, beneficiaries, bidders, consultants, suppliers, and contractors to observe the highest ethical standards when participating in ADB-related activities. The Policy supports ADB's obligation, in accordance with Article 14(xi) of the Agreement Establishing the Asian Development Bank, to ensure that the proceeds of ADB financing are used only for intended purposes.

The PPRR assesses internal controls in place, identifies irregularities and instances of noncompliance, inspects the project outputs, and recommends enhancements to mitigate or eliminate opportunities for fraud, corruption, or abuse of resources and to help improve development effectiveness of future projects.

A Project Procurement-Related Review is not

an evaluation to assess development effectiveness of ADB's ADB-funded projects. It does not review project outcomes or development impact, which can only be assessed after the finalization of a project.

CURRENCY EQUIVALENTS

| | | |
|--------|---|------------|
| \$1.00 | = | WST 2.2252 |
| \$1.00 | = | NZD 1.2250 |
| \$1.00 | = | EUR 0.7001 |

ABBREVIATIONS

| | | |
|------|---|--|
| ADB | - | Asian Development Bank |
| EPC | - | Electric Power Corporation |
| ICB | - | International Competitive Bidding |
| NTB | - | National Tenders Board |
| OAI | - | ADB Office of Anticorruption and Integrity |
| PARD | - | ADB Pacific Department |
| PMU | - | project management unit |
| PPRR | - | project procurement-related review |
| PSEP | - | Power Sector Expansion Project |
| TEC | - | Tender Evaluation Committee |
| TER | - | Tender Evaluation Report |

NOTE

In this report, \$ refers to US dollars.

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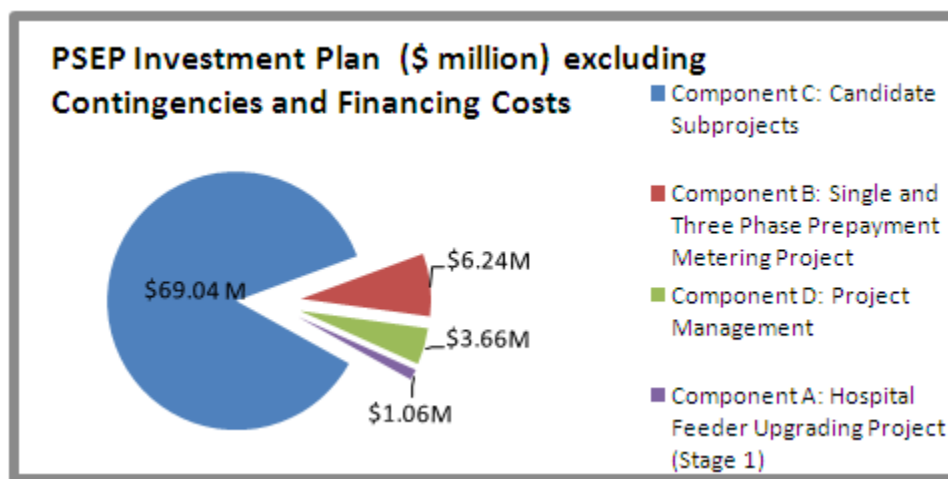
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I. OVERVIEW

1. The Office of Anticorruption and Integrity (OAI), Asian Development Bank (ADB) conducted a project procurement-related review (PPRR) of Samoa's Power Sector Expansion Project (PSEP, the Project) from May to September 2011.¹ This report documents findings and makes recommendations as a result of the PPRR.

2. ADB has a long history with Samoa's power sector. It has lent \$47.66 million or 27% of its total \$175.37 million lending to Samoa as of 31 December 2010 to support Samoa's power sector over the last 40 years.^{2&3} PSEP is valued at \$100 million and co-financed by ADB through Loan 2368(SF) (\$26.61 million) and Grant 0087(SF) (\$15.38 million), the Government of Australia (AusAID) through ADB-administered Grant 0101 (\$8 million), and the Japan International Cooperation Agency (JICA) through Loan 8232 (\$38 million); the remaining \$12 million is financed by Samoa's Electric Power Corporation (EPC). The ADB-financed and administered loan and grant agreements were signed 11 December 2007. The loan became effective 19 June 2008, and is scheduled to close on 31 December 2016. The Ministry of Finance is the executing agency while the EPC is the implementing agency.

3. PSEP was developed in accordance with ADB's Country Partnership Strategy for 2008-2012 for Samoa, which has been aligned to the Strategy for the Development of Samoa 2008-2012, Samoa's key planning document. The PSEP (i) supports EPC's Project Investment Plan to meet growing demand; (ii) improves operational efficiency of EPC; (iii) improve financial performance of EPC; and (iv) establishes effective regulation of the power sector. The ADB Loan 2368(SF), ADB Grant 0087(SF) and JICA Loan 8232 will be on-lent to by the Government of Samoa to the EPC to support its 2008-2015 Investment Plan. The ADB-administered AusAID Grant 0101 will be used to convert a portion of the EPC loan to a grant subject to the timely implementation of subprojects.⁴



Source: PSEP Project Administration Memorandum

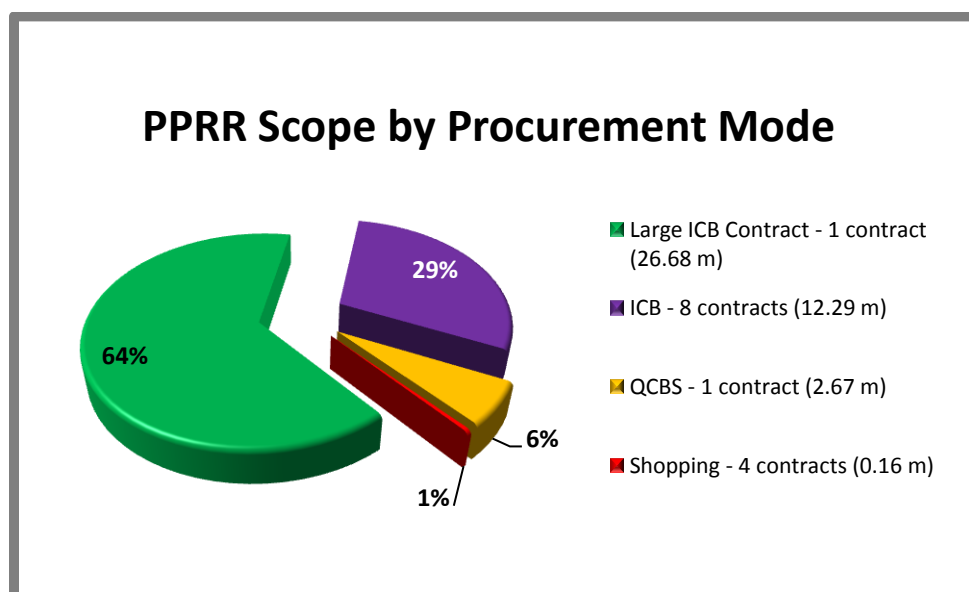
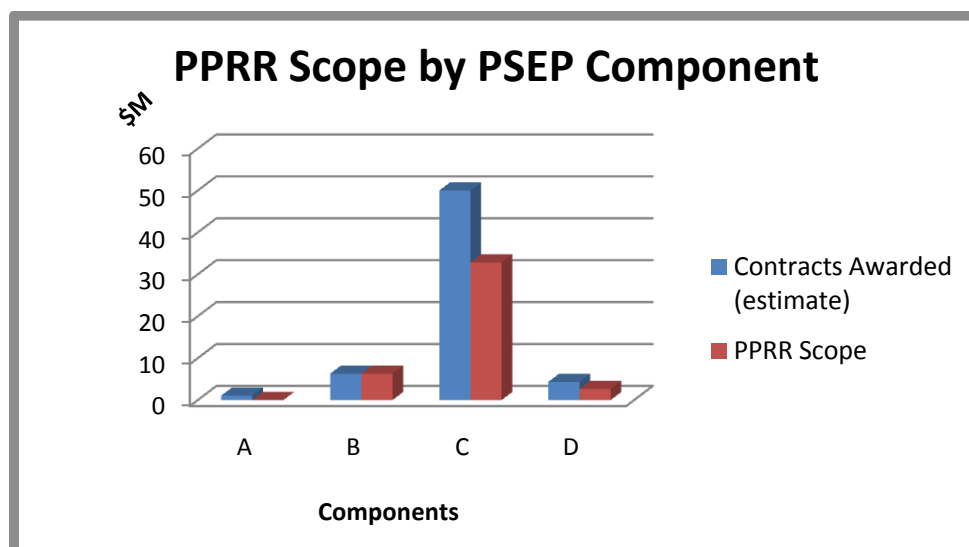
¹ The PPRR Team comprised OAI staff members, representatives from Samoa's Audit Office and engaged consultants.

² ADB Fact Sheet as of 31 December 2010. April 2011.

³ Development Effectiveness Brief: Samoa – Building a More Resilient Economy 2011. In 1972 it funded the establishment of the Electric Power Corporation (EPC), and in 1993, ADB co-financed the construction of the principal hydro electricity source, the Afulilo dam.

⁴ As of the date of writing, while the trigger for conversion of part of the EPC loan to grant is part of PSEP's Project Administration Memorandum, the mechanics of the trigger remains to be agreed and finalized. More project background is provided at Appendix 1.

4. The PPRR⁵ included review of procurement processes covering 14 contracts awarded under PSEP, and inspected assets arising from these. Its scope covered 73% or \$23.23 million of total ADB financing of \$32.52 million as of 31 May 2011. The following provides PPRR scope by component and by procurement mode:⁶



5. PSEP takes into account lessons learnt from the Power Sector Improvement Project (PSIP) implemented during October 2002 to May 2006, which failed to achieve the envisaged impact due to associated risks not adequately identified during project preparation and implementation. The project, valued at \$7.0 million, was eventually terminated, with only a total \$0.51 million drawn down.

6. PSEP is a large undertaking in all senses, and if not undertaken in a fully professional manner, delays and cost overruns, at worst project failure, may result. The PPRR Team

⁵ PPRR Objectives, Scope and Methodology is described at Appendix 2.

⁶ Acronyms are as follows: QCBS = Quality- and Cost-Based Selection; ICB = International Competitive Bidding.

recognizes the challenges inherent in a narrow market such as Samoa. At approximately midpoint in its project life, PSEP has progressed much farther than PSIP. This is commendable especially given the complexity of PSEP. To ensure continued progress, ADB's Pacific Department (PARD), EPC and PSEP's project management unit (PMU) should take into consideration major PPRR findings and recommendations to ensure that inherent risks are properly managed and project management is optimum.

II. FINDINGS

7. Major findings pertain to procurement issues, in particular the integrity of the bid evaluation process, and critical elements of internal controls over project management. PPRR findings were discussed and agreed with PSEP's PMU, and their clarifications and input taken into account.

ICB Procurement Findings Pertaining to Fiaga Diesel Power Station

8. The Fiaga Diesel Power Station, a subproject under Category C, is the largest subproject under PSEP. The largest ICB procurement exercise was covered through the PPRR, which resulted in two contract awards:

| Contractor / Contract | Goods and Services | \$ million |
|-------------------------------------|---|------------|
| Bidder A – Lot A / SAM-PSEP-12/03-A | Powerhouse and new generators | 26.68 |
| Bidder B – Lot B / SAM-PSEP-12/03-B | Electrical Equipment and power transformers | 4.25 |

9. The Tender Evaluation Report (TER) was submitted to ADB on 21 September 2010. At the time of the PPRR, contract implementation was still in early stages as the major component – purchase and installation of the powerhouse generators – was not scheduled till February 2012.⁷ Findings are summarized as follows:

- a. The winning bid by Bidder A required the inclusion of Firm X's financials to meet bid financial performance criteria, *even though* Firm X is involved only through association and not as a joint venture partner. It provided a letter of intent⁸ – separate to the bid submission – dated three days prior to the bid deadline, upon clarifications sought by the PMU. This was endorsed by both ADB's Central Operations Services Office and Office of the General Counsel on after extended discussions. However, both the TER and ADB's Procurement Committee memorandum could have contained further elaboration documenting the justification for accepting Firm X's letter of intent after bid submission deadline,

⁷ We understand that this has been further delayed to June 2012 due to extra works including earthworks, structures and steelworks, to ensure the foundation/framework ensure the integrity of the foundation with respect to the weight of the generators.

⁸ The letter stated, "Firm X, manufacturer and supplier of 5.77MW 18KU80A diesel engine power plant, hereby announce our intention of joining consortium of Bidder A for the purpose of supplying four (4), diesel engine units for the power station located at Fiaga, Upolo Island, Samoa."

considered crucial given the very high value procurement involved and the significance of this exceptional situation to the procurement decision.⁹

- b. Bidder A (including Firm X) along with other bidders in this procurement exercise did not provide audited financial statements at the time of bid submission, as required per bid requirements. The PMU did not follow this up either through clarifications with the bidders at the time.
- c. The TER contains numerous errors and inconsistencies which should have been questioned by ADB during its prior review. Major ones include:
 - Only one bid for each Lot was considered substantially responsive, and yet EPC officers visited factories of the two lowest bidders (being Bidder A and Bidder C), as part of the evaluation process.¹⁰ We understand that visits were made based on PMU's initial assessment that both bids were substantially responsive when considering only the technical criteria. Subsequently, upon feedback from ADB, Bidder C's bid was considered substantially non-responsive on financial criteria, but this explanation was not included in the TER.
 - Alternative bids from Bidder C for Lot B were erroneously identically priced in the TER, when in fact they were different.¹¹
 - Financial performance information for Firm X of Bidder A was erroneously included in Lot B evaluation, when it was not involved in any of the bids submitted.

10. While the above may not have altered the final decision of the Technical Evaluation Committee (TEC) or ADB's Procurement Committee, more due diligence was needed both in the preparation of the TER and the prior review by PARD, given the very high value of the two contracts awarded through this procurement exercise.

Common ICB Procurement Findings

11. Other ICB findings are as follows:

- a. Two TERs affecting five ICB contracts were undated, with the page containing signatures of the TEC being a separate document cut and pasted into the TER,¹² raising the possibility that TEC members did not confirm the final contents of the TER. One TER affecting one ICB contract provided to the PPRR Team did not

⁹ Matters which could have been further elaborated on include the legal implications and expectations given Firm X's letter of intent, given the subsequent contract signed had its status remaining as an associate. It is also not documented why the submission of the letter of intent constituted a clarification (acceptable) – and not a modification (unacceptable) - to the original bid submitted.

¹⁰ TER received 21 September 2010, page 7.

¹¹ The PMU states this was due to Bidder C erroneously submitting two identically priced bids in error, which was subsequently clarified with Bidder C submitting an alternatively priced bid. This change should have been reflected in the TER.

¹² SAM-PSEP-12/02-A, B & C & SAM-PSEP-12.03-A & B.

contain signatures of the TEC for one procurement process, as the PMU could not find the final version.¹³

- b. There was clear reference in one TER¹⁴ that only the lowest substantially responsive bid would be evaluated, and only if that bid was found wanting would the TEC evaluate the next lowest substantially responsive bid.¹⁵ This is not in accordance with ADB's Guide to Bid Evaluation, which requires all proposals likely to be the lowest most substantially responsive be evaluated for detailed responsiveness.¹⁶ PSEP lost the opportunity to assess cost-benefit implications of the higher-priced bid when compared to the lowest bid.
- c. Financial data in the TER frequently did not match financial information submitted by bidders, nor did information in the TER necessarily correctly reflect actual data/evaluation,¹⁷ which increases the risk of contracts being awarded to bidders who do not have sufficient financial capacity or are otherwise not financially qualified. It is important to adequately assess and recognize such risks before any contract is awarded.
- d. TER and bid submissions indicated that audited financial statements had been appropriately submitted, when these had not.¹⁸ Both PMU and the TEC do not put sufficient weight on the requirement to provide audited financial statements; where audit certificates are not provided, the TEC should verify that the bidders' countries do not require annual audits of financial statements. Similarly, both PMU and TEC do not place much importance on providing required bid information, such as three years' financial statements, work experience, bidder details and bidder financial information forms. Reliable financial and other information must be obtained and used to evaluate the bidders' capacity and credentials to avoid future contract implementation problems associated with a firm's financial capacity.
- e. Evaluation criteria was ignored, applied loosely or assessed differently to what was expected. This includes bid requirements for prior work experience and the submission of a Power of Attorney authorizing the bid signatory to sign on behalf

¹³ PPM1207.

¹⁴ PPM1207.

¹⁵ The relevant extract from the TER is as follows, *"On conclusion of the examination for completeness of bids, the Evaluation Committee unanimously concurred that the bids submitted by Bidder D and Bidder E significantly exceeded estimated budget ... and would proceed with the evaluation of Bidder D's bid "only" as the lowest conforming bidder."*

¹⁶ ADB Guide to Bid Evaluation, sections 2.7-2.9.

¹⁷ This includes: for ICB TER for Fiaga (i) a comment in the TER for that no arithmetical errors were noted when the TEC had identified a large error in the bid submission of Lot B winning Bidder B; (ii) Firm X's financial figures included in Lot B when it was not part of any bid submitted for Lot B; (iii) proposed price from Bidder F for Lot A was different to that reported in the TER. For 33kV Transmission Cable (i) TER figures which were different from PPRR calculations included Bidder G's Annual Net Profit figure calculated ; Bidder H and I's Average Annual Turnover for three years and Annual Net Profit; Bidder J's Annual Net Profit; (ii) insufficient financial information provided to ascertain Financial Resources for Bidders G, I, H and K, and Average Annual Turnover for three years for Bidder G.

¹⁸ Bidders are required to submit three years of audited financial statements, except when such audits are not required in the bidder's country. Standard bid forms do not clearly delineate between submission of audited or non-audited financial statements. Neither the PMU nor the TECs are concerned as to whether the audit report accompanies financial statements submitted, given the frequency whereby non-audited financial statements, sometimes for fewer than the required three years, are submitted, and the 'satisfactory' evaluation given in TER pertaining to this requirement.

of the bidder. TERs indicated that this was 'satisfactory' when the bidder did not submit this information; if documents or information were not considered crucial to the evaluation, the justification was not elaborated in the TERs. Differences between the PPRR Team's independent assessments of evaluation criteria compared to that of the TEC for relevant contracts were noted.

- f. The National Tenders Board (NTB), a separate office from the EPC, is responsible for receiving the sealed bids, and overseeing their opening before passing the bids to PMU for evaluation. The NTB does not record all the information prescribed by ADB's Procurement Guidelines in its bid opening minutes,¹⁹ some of which – but not all – are subsequently included in the TEC minutes of meeting and/or TER. The result is a two-pronged approach by separate offices, which has resulted in some cases in a loss of records.
- g. Addendums were issued to all potential bidders as a result of inquiries by one or more potential bidders. While the PMU could provide information that these were provided to all bidders which had requested bid documents, this was by no means a complete record.
- h. Awarding of ICB contracts were not published in an English newspaper or well-known and freely accessible website, in accordance with ADB requirements.²⁰ OAI understands that this requirement will be complied with going forward.
- i. In general, information and documentation about procurement processes was difficult to obtain and was often incomplete.

Shopping

12. Four small contracts totaling \$0.17 million resulted from three separate procurement exercises using the international shopping mode.²¹ The PPRR Team is of the opinion that in at least two contracts, additional quotations were obtained for form rather than substance.²²

Consultant Selection

13. The PPRR Team reviewed the selection process for the major consultancy services contract awarded for \$2.67 million. The consultant selection was processed by PARD in consultation with COSO, prior to the setting up of the PMU. In general, the selection process was sound.

¹⁹ Opening bid records compiled by the NTB contains the name of the bidder, bid amount and signature of the bidder's representative. Missing information includes the bidder's address, whether there was a withdrawal/substitution/modification; presence of absence of a bid security of bid-securing declaration; bid amount per lot; and name of bidder's representatives.

²⁰ ADB Procurement Guidelines, paragraphs 2.60.

²¹ The 'shopping mode' coined as 'international shopping' was approved by COSO, as this is not specifically provided for in ADB's *Procurement Guidelines*. These contracts were to procure software and hardware to support the installation and maintenance of prepayment meters.

²² In one case, the proposed proprietary software was already specified in the 'Scope of Work' for the implementation consultancy contract, while in another, negotiations between PMU and the supplier began two months before quotations from other suppliers were sought.

Asset Verification

14. There was limited opportunity for inspection of project assets relating to the Fiaga Diesel Power Station given its early stages of construction. However, on-site inspection revealed that the quality of construction so far was generally satisfactory, with very little waste noted. On-site project management and supervision was found to be satisfactory.

15. There are currently no independent laboratory tests being conducted on the strength of concrete laid at Fiaga. The contractor both lays the concrete as well as conducts the laboratory test with a PMU engineer present. There is also room for improvement with respect to use of personal protection equipment on-site, as well as the maintenance of engineer's site inspection logs.

16. Installation of the 33kV transmission line has not yet commenced. The PPRR Team inspected the stockyard where some materials for this subproject had been delivered, and performed stock counts against PMU records. Apart from 192 m of 50 mm conduit pipes 'lent' to another sub-project, stocks physically held reconciled to records.

17. In contrast, delivery and installation of prepayment meters, a core project under Component B, was 75% completed during PPRR field visits. The PPRR Team satisfactorily sighted functioning installed meters in Vailoa and Lalomanu and reconciled this to PMU/EPC's database. While there is no independent check by the PMU of recently installed meters before the invoice for this is processed for payment, meters are inspected cyclically by the PMU as part of normal operations.

Internal Controls²³

18. The project management function was overly concentrated on one officer, the Project Manager. The demands on the Project Manager increased when, during the PPRR, he was also Acting General Manager, EPC. The PMU was taking steps to address this by seeking the consultancy services of three additional individual experts to assist in project management, which OAI understands is now complete. At the time of writing however, the PMU now requires a full-time Project Manager, as this position is now vacant.

19. Project management of PSEP is by subproject, which does not clearly link with the individual contracts (with PSEP references) to donor records (with ADB 'PCSS' or 'G' references) and associated disbursements. The PPRR Team was unable to obtain a single and accurate overview of PSEP's financial picture. While difficult, this reconciliation must be done for accountability and optimal project management, to ensure PSEP does not experience unexpected cost over-runs. Financial management at individual contract level is satisfactory.

20. File and record keeping could be significantly improved. Document storage is split over two sites, making retrieval of documents difficult. Electronic copies including e-mail were held on the Project Manager's laptop computer; whilst his laptop was backed up to the EPC network, retrieving either soft or hard copies of required documents was difficult.

²³ Just prior to the PPRR commencing, the Shareholding Minister in charge of EPC requested the Samoa Audit Office to conduct a Performance Audit for July 2008 to June 2011. The report's findings and recommendations indicate that while the EPC has been impressive in implementing capital projects and programs despite serious challenges, management has become complacent and ignorant to its role and duty to impose and monitor essential internal controls to minimize exposure of the EPC to mitigate risks of loss of misappropriation of assets. There is a danger that this complacency may spill over to the PMU.

21. The PMU engineer in charge of the subproject endorses contractor's progress claim via signature/initials. However, there is no accompanying (separate) certificate of inspection by the engineer, confirming that the claimed quantity of goods were delivered and/or installed in good condition or works were completed in accordance with contract terms and conditions. This additional process would provide further assurance that physical construction/civil works progress is commensurate with the progress claim.²⁴

22. While an overall appreciation of the critical path of the overall objective was appreciated by the PMU, and Gantt charts are evident, formal up-to-date Gantt charts were not available. This raises the risk that implementation delays of critical processes are not managed optimally with respect to subsequent processes.

III. RECOMMENDATIONS

23. The key recommendation is that assistance must be provided to the PMU in the areas of design review and project management. This will ensure that the critical path of PSEP can be maintained. It will address the inherent risk of difficulties in recruitment and retention of appropriately skilled and experienced PMU staff. The EPC must urgently fill the crucial but currently vacant PMU position of Project Manager.²⁵

24. PARD is requested to ensure recommendations are appropriately implemented and update OAI with implementation status.

25. Major recommendations with regard to ICB procurement are:

- a. The PMU/TECs should take more care to ensure bid requirements per the bid documents are relevant and will be applied. If the TEC evaluation applies a different requirement standard to that specified in the bid documents, this should be explicitly stated in the TER with justifications.
- b. The PMU/TEC should evaluate all proposals for substantial responsiveness, and evaluate in detail substantively responsive bids that have a reasonable chance of becoming the lowest evaluated bid.²⁶
- c. The PMU/TEC should require submission of audited financial statements for three years, especially for contracts as large as that being awarded by the EPC. Where audit certificates are not provided, the TEC should confirm that independent financial audits are not required in the bidder's country before proceeding with financial performance evaluation using unaudited financial statements. The same recommendation is valid for bidders' prior and relevant work experience.
- d. With regard to the Fiaga powerhouse technical evaluation, PARD should consider if funds expended on the factory visits are eligible and/or have been claimed from PSEP funds.

²⁴ PMU's opinion is that the risk is low given the nature of works in progress.

²⁵ The incumbent Project Manager at the time of the PPRR was Acting General Manager for EPC, and has since become the General Manager for EPC.

²⁶ ADB's *Guide to Bid Evaluation*, paragraph 2.11

- e. NTB bid collecting and bid opening procedures should be aligned with ADB requirements.
- f. Minutes of the TEC should be more complete and contain discussions about substantive matters, including clarifications sought by TEC and received from bidders as well as those sought by potential bidders and received by PMU. TERs must be read and signed by each TEC member.
- g. Contracts awarded should be published in accordance with ADB guidelines; OAI understands this requirement is now being complied with.
- h. PARD should exert additional due diligence with respect to the prior review of ICB procurement documents, especially with contracts as large as the ones being awarded under PSEP. In particular, TERs submitted should be scrutinized carefully and validated against bids submitted in accordance with associated importance and risk.

26. OAI will discuss with COSO a proposed mandatory requirement for bidders to submit audited financial statements where the ICB contract values and associated financial risks are significant, such as the contract awarded for the Fiaga power house and generators. If the proposal is adopted, bid proposals which do not include audited financial statements will be substantially non-responsive. OAI considers this crucial to avoid potential contract (and project) failure by being assured of the winning bidder's financial capacity prior to the contract being awarded.

27. Given the significance of the Fiaga subproject, we recommend that:

- a. independent laboratory tests be randomly carried out, even if this is done overseas; and
- b. personnel protective gear is required to be worn at all times while on site, the PMU indicates that this is now being enforced.

28. Major recommendations in the area of internal controls are:

- a. Retain a Project Manager urgently.
- b. Undertake a full reconciliation of subprojects to contracts awarded, donor records and disbursements.
- c. Centralize and align project documentation and filing. The PMU has indicated that it will consider a document management system fit for the size of PSEP.
- d. Issue certificates of inspection signed by PMU engineers supporting the contractor's progress claims before payment is processed.

IV. CONCLUDING COMMENTS

29. Both EPC/PMU and PARD/ADB need to ensure that PSEP is managed professionally and with adequate resource capacity, given its ambitious deliverables, in a manner that exhibits transparency and accountability. The TERs and TEC Minutes of Meeting and attachments should be more complete and contain discussions and decisions about substantive matters. Expediency pertaining to administrative procedures observed during the PPRR²⁷ should not be reason to compromise on rigor of the bid evaluation process and reporting.

30. It is important that procurement and asset inspection deficiencies noted here do not recur in the remaining life of this Project and future projects in Samoa. Implementation of recommendations in this report can only augment results achieved to date. We understand that PARD and PMU are currently working to develop an action plan to respond to the report recommendations. The action plan will be suitable for monitoring during twice annual loan review missions. PARD will provide OAI a copy of the action plan once it is finalized. OAI will then follow-up on this action plan.

31. The PPRR did not identify specific instances indicating red flags of fraud and corruption within its sample contracts. However, it received concerns of red flags pertaining to other PSEP contracts, which OAI will investigate.

32. The PPRR Team thanks officers of the EPC, PMU and NTB for their cooperation and assistance during the PPRR. The cooperation of PARD in this exercise is also appreciated. ADB values the courtesy and support extended to the PPRR Team. OAI acknowledges the participation of the Samoa Audit Office in this PPRR, which contributed significantly to the efficiency and conduct of the PPRR.

²⁷ Pertinent findings include those documented at paragraphs 9.b., 9.c. (3rd bullet), 11.a., 11.b., 11.d. and 11.e.

PROJECT BACKGROUND

1. The Power Sector Expansion Project (PSEP, the Project) forms part of the Independent State of Samoa's power sector development plan to improve the capacity of the sector to provide sustainable and reliable electricity services to all consumers at affordable prices. The Project aims to enhance the quality of life of all Samoans by providing reliable power supply/services to promote private sector investments to diversify the economy and achieve sustainable economic growth. It comprises (i) support to the Electric Power Corporation's (EPC) investment plan 2008 – 2015 through three investment components and a project management component, and (ii) a technical assistance (TA) cluster for Implementing the Samoa National Energy Policy. The EPC investment plan forms the bulk of the Project cost.

2. The total Project cost is estimated at \$100 million, including taxes and duties of \$2.23 million. The following table shows sources of funding for the Project.

| Source | Total (In Million \$) | % |
|----------------------------|--------------------------|---------------|
| ADB Loan 2368-SAM(SF) | 26.61 | 26.61 |
| ADB Grant 0087-SAM(SF) | 15.39 | 15.39 |
| JICA Loan 8232 | 38.00 | 38.00 |
| Government of Australia | 8.00 | 8.00 |
| Electric Power Corporation | 12.00 | 12.00 |
| TOTAL | 100.00 | 100.00 |

3. ADB provides finance to the Project through Loan 2368-SAM(SF) of \$26.61 to the Independent State of Samoa. As of 31 January 2011, the current value of the ADB Loan 2368-SAM(SF) amounted to \$26.70 million, allocated as follows:

| Major/Sub Category Name | Cat. Ref. | Amount Allocated (In Million \$) | % of Bank Financing | |
|-------------------------|-----------|-------------------------------------|---------------------|-------------------|
| Civil Works | 1 | 3.49 | 48 | Total expenditure |
| Equipment and Vehicles | 2 | 19.03 | 31 | Total expenditure |
| Unallocated | 3 | 4.18 | | |
| Total | | 26.70 | 100 | |

Note: Exclusive of local taxes

Source: Loan Agreement Attachment to Schedule 3A

4. ADB financing is also provided through Grant 0087-SAM(SF) of \$15.39 million, which is intended to ease the macroeconomic impact of the large financing requirements in the power sector. The loan and grant was approved by ADB on 21 November 2007.

| Major/Sub Category Name | Amount Allocated (In Million \$) | % of Bank Financing | |
|-----------------------------------|-------------------------------------|---------------------|--------|
| Equipment Supply and Installation | 8.42 | 14 | See * |
| Consultant Services | 4.57 | 95 | See ** |
| Unallocated | 2.40 | | |
| Total | 15.39 | | |

* Overall financing percentage will be 22% for the ADB Grant and the Government of Australia Grant. The latter will be front-loaded for this category.

** Exclusive of taxes and duties imposed within the territory of the Independent State of Samoa

Source: Grant Agreement Attachment to Schedule 3B

¹ The Financing Agreement between the Independent State of Samoa and ADB was dated 11 December 2007.

5. The Japan International Cooperation Agency (JICA) provides loan co-financing of \$38 million equivalent in Japanese yen, to be administered by ADB. JICA will provide joint cofinancing as the first project under the Accelerated Cofinancing Scheme with ADB whose framework agreement was signed 26 September 2007. \$28.98 million (representing 47% of Project cost for this category) will fund equipment supply and installation.

6. In addition, the Government of Australia will provide grant co-financing of \$8 million to be administered by ADB through Grant 0101-SAM(SF). This amount is intended to finance Government of Samoa equity funding into EPC. This grant will also be used to finance land acquisition and resettlement, and equipment supply and installation. A 35% financing percentage will be applied to individual payment requests for land acquisition and resettlement. Total financing of the Government Australia grant proceeds for equipment supply and installation is 8.5%.

7. The Ministry of Finance (MOF) is the executing agency while the EPC is the implementing agency. A project steering committee (PSC) was established to provide overall project direction. A project management committee (PMC) was formed within EPC to provide coordination between project and non-project activities. EPC has established a project management unit (PMU) for day-to-day management and implementation of the Project. Implementation consultants have been recruited to support the PMU.

8. The EPC project investment plan as outlined in the Project Administration Memorandum is as follows:

| Item | | | Amounts (\$m) |
|------|---|--|---------------|
| A | Base Cost | | |
| | 1 | Component A: Hospital Feeder Upgrading Project (Stage 1) | 1.06 |
| | 2 | Component B: Single and Three Phase Prepayment Metering Project | 6.24 |
| | 3 | Component C: Candidate Subprojects | 69.04 |
| | 4 | Component D: Project Management | 3.66 |
| | | Subtotal A | 80.00* |
| B | Contingencies | | |
| | 1 | Physical | 4.67 |
| | 2 | Price | 10.12 |
| | | Subtotal B | 14.79 |
| C | Financing Charges During Implementation | | 5.21 |
| | TOTAL Items A+B+C | | 100.00 |

Source: Project Administration Memorandum, page 16

* As at 31 May 2011, 40% of \$32.52 million had been awarded.

9. As of 31 May 2011, an estimated 65% or \$50.01 million of the project investment plan (\$94.79 million excluding financing charges) had been awarded, \$32.52 million of which ADB is responsible for from the loan and two grants.

REVIEW OBJECTIVES, SCOPE, AND METHODOLOGY

1. The overall PPPR objective is to prevent and detect fraud and corruption as defined under ADB's Anticorruption Policy.¹ Corrupt behavior is a serious impediment to the development process, severely reducing development effectiveness and jeopardizing successful delivery of development benefits. The Anticorruption Policy, alongside with the ADB *Procurement Guidelines*² and *Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers*³ require all parties, including borrowers, beneficiaries, bidders, consultants, suppliers, contractors, and ADB staff to maintain the highest ethical standards for ADB-financed activities.⁴

2. To ensure such ethical standards, ADB's Anticorruption Policy prohibits fraudulent and corrupt practices in ADB-financed, administered or supported operations, and defines the following as integrity violations:

- a *fraudulent* practice as any action or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation,
- a *corrupt* practice as the offering, giving, receiving or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party,
- a *collusive* practice as an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party, and
- a *coercive* practice as impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party.

3. In addition,

- *abuse* is theft, waste, or improper use of assets related to ADB-related activity, either committed intentionally or through reckless disregard,
- a *conflict of interest* is any situation in which a party has interests that could improperly influence that party's performance of official duties or responsibilities, contractual obligations, or compliance with applicable laws and regulations, and that such conflict of interest may contribute to or constitute a prohibited practice under the anticorruption policy, and
- an *obstructive* practice is (i) deliberately destroying, falsifying, altering, or concealing of evidence material to an ADB investigation; (ii) making false statements to investigators in order to materially impede an ADB investigation; (iii) threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or (iv) materially impeding ADB's contractual rights of audit or access to information.

¹ Paragraph 67, *ADB's Anticorruption Policy* (2 July 1998). Manila.

² Paragraph 1.06, *Guidelines for Procurement Under Asian Development Bank Loans* (November 2004); Paragraph 1.14, *Procurement Guidelines* (February 2007 and April 2010). Manila.

³ Paragraph 1.23, *Guidelines on The Use of Consultants by Asian Development Bank and Its Borrowers* (February 2007 and April 2010). Manila.

⁴ Paragraph 14(iii), *ADB's Anticorruption Policy* (2 July 1998). Manila.

4. Other integrity violations include:

- violations of ADB sanctions,
- other violations of ADB's Anticorruption Policy, including failure to adhere to the highest ethical standards, and
- retaliation against whistleblowers or witnesses, which is any detrimental act, direct or indirect, recommended, threatened, or taken against a whistleblower or witness or person associated with a whistleblower or witness in a manner material to a complaint because of the report or cooperation with an ADB investigation by the whistleblower or witness, which shall be investigated in accordance with Administrative Order 2.10.⁵

5. The PPRR is intended to:

- identify whether the procurement of project goods and services complied with ADB's *Procurement Guidelines*, *Guidelines on the Use of Consultants* and the Financing Agreement;⁶
- determine whether project contracts were implemented according to the terms;
- ensure ADB's funds were used for their intended purposes; and
- recommend improvements to internal controls that mitigate opportunities for fraud, corruption or abuse in this project and future ADB-financed projects.

6. PPRRs are conducted in line with ADB's efforts to manage for development results. Effective internal control mechanisms enhance the assurance that project funds are directed towards its intended purpose and targeted beneficiaries. This PPRR thus contributes to ensuring ADB-financed projects are managed to produce intended development results.

7. To achieve the review objectives, the PPRR Team conducted fieldwork at the EPC and undertook the following:

- reviewed the Project's procurement and financial management documents;
- evaluated the Project's procurement processes, internal controls, and financial management practices; and
- inspected the Project's goods procured and works performed at selected Project sites.

PPRR Scope

8. The PPRR Team examined the procurement and consultant selection documentation and processes for 14 contracts awarded as of 31 May 2011, amounting to a total of \$43.95 million.⁷ The PPRR also inspected assets delivered by these contracts. These comprised:

- 11 contracts totaling \$38.96 million procured through international competitive bidding (ICB) under Component B and Component C,
- four shopping contracts totaling \$0.17 million under Component B, and

⁵ Paragraph 2, *Integrity Principles and Guidelines (May 2010)*. Manila; and ADB Administrative Order 2.10: *Whistleblower and Witness Protection*.

⁶ The Financing Agreement between the Independent State of Samoa and ADB was dated 11 December 2007.

⁷ One contract was reviewed with a bidder selected but award was deferred due to the change in specifications, thus, the amount only pertains to 15 contracts.

- One Quality- and Cost-Based Selection (QCBS) contract totaling \$4.82 million awarded under Component D.

9. The PPRR covered 14 of the 46 items listed by ADB, and covers 72% of \$23.25 million of the total \$32.52 million financing provided by through Loan 2368 and Grants 0087 and 0101 as of 31 May 2011.

10. The PPRR scope included review of general internal controls over PSEP by the PMU.

11. The approach and methodology for the planning and fieldwork phases are summarized below:

A. Planning Phase – Initial Assessment

12. The PPRR Team conducted an initial assessment of the capacity, internal controls, and readiness of the Electric Power Corporation (EPC), the Samoa National Tenders Board, and the PMU from 6 to 14 June 2011. The PPRR Team

- reviewed the organizational structure of the PMU, including the Project implementation arrangements;
- determined the Project's management information systems, documentation organization and record-keeping systems;
- gained an understanding of the Project's procurement processes and conducted a walkthrough and review of procurement processes for selected contracts;
- visited some construction sites and verify the existence of Project assets;
- identified risks relating to procurement processes and systems; and
- selected sample contracts for the fieldwork.

B. Fieldwork Phase

Procurement Review

13. To achieve the PPRR objectives, the PPRR Team evaluated the Project's procurement processes and checked for compliance with ADB's Procurement Guidelines, other applicable policies, procedures and guidelines, as well as with relevant covenants in the Project Agreement between ADB and EPC, and in the Financing Agreement between the Independent State of Samoa and ADB; both dated 11 December 2011.

14. The PPRR Team determined whether sufficient and accurate records and reports on civil works and supply of goods and equipment were maintained. The PPRR Team reviewed, as applicable:

- invitations of bids, advertising procedures, requests for quotations and bidding period;
- sale of bidding documents;
- receipt and opening of bids;
- bid evaluations and recommendations for award of contract;
- award of contract; and
- time taken for processing of procurement.

Asset Verification

15. The PPRR Team⁸ visited the Fiaga site to assess the progress and quality of construction works, and/or assets purchased. It inspected sample installed prepayment meters and the PMU stockyard. The PPRR Team verified whether the assets:

- were properly accounted for in the asset registers,
- physically exist at the appropriate location,
- were in accordance with contract specifications,
- were of prima facie acceptable quality, and
- were financed for the purpose intended in the Project and Financing Agreement.

⁸ The PPRR Team included a quantity surveyor.