



# Technical Assistance Report

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Project Number: 41076-02  
Capacity Development Technical Assistance (CDTA)  
December 2009

## Republic of the Philippines: Strengthening Transparency and Accountability in the Road Subsector

Asian Development Bank

## CURRENCY EQUIVALENTS

(as of 31 October 2009)

Currency Unit	–	peso (P)
P1.00	=	\$0.0212
\$1.00	=	P47.14

## ABBREVIATIONS

ABC	–	approved budget for contract
ADB	–	Asian Development Bank
BAC	–	bids and awards committee
COA	–	Commission on Audit
CSO	–	civil society organization
DBM	–	Department of Budget and Management
DPWH	–	Department of Public Works and Highways

## TECHNICAL ASSISTANCE CLASSIFICATION

<b>Type</b>	–	Capacity development technical assistance (CDTA)
<b>Targeting classification</b>	–	General intervention
<b>Sectors (subsector)</b>	–	Transport, and information and communication technology (road transport), public sector management
<b>Themes (subthemes)</b>	–	<b>Governance</b> (anticorruption, public administration, civil society participation); capacity development (institutional development); economic growth (promoting economic efficiency and enabling business environment)
<b>Location impact</b>	–	National (high)

## NOTE

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

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## I. INTRODUCTION

1. The Government of the Philippines has requested capacity development technical assistance (TA) to strengthen transparency and accountability in the road subsector. During 2009, Asian Development Bank (ADB) missions met with the Department of Public Works and Highways (DPWH) to discuss the TA and reach an agreement on its impact, outcome, outputs, implementation arrangements, cost, financing arrangements, and terms of reference. The design and monitoring framework is in Appendix 1.<sup>1</sup>

## II. ISSUES

2. Governance has been recognized as a constraint to sustained economic growth and poverty reduction in the Philippines. The Medium-Term Philippine Development Plan 2004–2010 attributes the limited effectiveness of public management to the influence of vested interests and a system of patronage throughout government. The Public Expenditure and Financial Accountability report<sup>2</sup> identifies weaknesses in various aspects of the Philippine public financial management system, specifically in budget execution and financial management reporting. The system is fragmented, and oversight agencies include the Commission on Audit (COA), Department of Budget and Management (DBM), and Department of Finance. Important reforms have been introduced to reduce governance risks. According to the country procurement assessment report,<sup>3</sup> since the passage of the Government Procurement Reform Act,<sup>4</sup> the public procurement system has become more efficient, and many loopholes for corruption opportunities have been closed. The promotion of electronic procurement through the Philippine government electronic procurement system (PhilGEPS) has vastly improved transparency and efficiency.<sup>5</sup> However, despite these reforms, the quality of governance in the Philippines deteriorated gradually during the past decade. According to a World Bank report,<sup>6</sup> the control of corruption indicator ranks the Philippines lowest among countries in the region; and the country's ratings for all indicators, except rule of law and development effectiveness, have deteriorated since 1998. Opportunities for civil society organizations to engage with the bureaucracy through formally established mechanisms remain limited.

3. Governance issues are prevalent in the transport sector as well, due to the nature of the civil works, which are usually capital intensive and difficult to inspect and evaluate for reasonableness of costs; the size and structure of DPWH, which makes monitoring difficult; and the vulnerability of the subsector's resources to vested interests. In previous years, DPWH was identified as one of the top agencies in which corruption is perceived to be prevalent. A recent DPWH corruption case involving the World Bank-financed Philippines National Roads Improvement and Management Program, phase 1, further damaged DPWH's reputation and resulted in DPWH and all major development partners placing increased emphasis on mitigating governance risks.<sup>7</sup> The government, including DPWH, recognizes governance as a constraint

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<sup>1</sup> The TA first appeared in the business opportunities section of ADB's website on 14 October 2009.

<sup>2</sup> World Bank. 2009. *Public Expenditure and Financial Accountability*. Manila.

<sup>3</sup> World Bank. 2008. *Philippines Country Procurement Assessment Report*. Manila. A Joint Document of the Government of the Philippines, the Asian Development Bank, and the World Bank.

<sup>4</sup> The Government Procurement Reform Act was passed in January 2003 and provides for the modernization, standardization, and regulation of the government's procurement activities.

<sup>5</sup> ADB is supporting the introduction of the PhilGEPS through ADB. 2009. *Technical Assistance to the Republic of the Philippines for Strengthening the Philippine Government Electronic Procurement System*. Manila (for \$600,000).

<sup>6</sup> World Bank. 2009. *Governance Matters VIII: Governance Indicators for 1996–2008*. Washington, DC.

<sup>7</sup> The World Bank integrity vice presidency investigation uncovered collusive practices involving local and international companies bidding on National Roads Improvement and Management Program, phase I contracts. Seven companies and one individual were debarred for engaging in collusive practices.

to sustained economic growth and poverty reduction, in general, and development of the country's road infrastructure, in particular, as demonstrated in the Medium-Term Philippine Development Plan 2004–2010 and the country procurement assessment report. DPWH has taken a number of steps to assess and mitigate governance risks. It adopted an integrity development action plan in 2005, for which the code of conduct has recently been submitted.<sup>8</sup> A 2006 integrity development review<sup>9</sup> resulted in the adoption of an action plan; DPWH reports progress with the action plan to the Office of the Ombudsman.<sup>10</sup> DPWH also prepared a separate integrity development action plan comprising 22 predetermined steps to improve prevention, education, deterrence, and critical partnerships.<sup>11</sup> An integrity strengthening action plan<sup>12</sup> was prepared for the World Bank's National Roads Improvement and Management Program, phase 2, incorporating a comprehensive range of measures designed to build institutional capacity and governance, strengthen fiduciary controls over the use of loan proceeds, and strengthen social accountability and demand for good governance from civil society.

4. In addition, DPWH is currently undertaking efforts to improve its organizational and network capacity and to mitigate governance risks. These include (i) reforming procurement by developing a computerized registry of contractors for eligibility screening and postqualification of bidders; (ii) instituting value engineering to ensure the most cost-efficient design; (iii) establishing a cost estimation system; (iv) establishing a database management system connecting the central, regional, and district offices; and (v) posting procurement information on the DPWH website. DPWH is also making significant progress in strengthening its financial management system, which operates in a decentralized financial management environment, and utilizes COA's electronic new government accounting system (e-NGAS) as its financial system. DPWH has made significant progress in introducing e-NGAS, which is either implemented or undergoing implementation in all 16 regional offices and about one third of district offices. DPWH is also installing DBM's e-budget system in 17 offices, including all regional offices. The accuracy and reliability of current transactions has increased substantially in offices in which e-NGAS and e-budget are installed. However, the full benefit of the system cannot be realized until all DPWH offices are effectively utilizing it and e-NGAS and e-budget are fully harmonized. DPWH also strongly supports implementation of DBM's National Guidelines on Internal Control Systems, and developed and implemented the Financial Management Policies and Procedures Manual in 2008.

5. Civil society organizations (CSOs) are undertaking initiatives to combat corruption in the subsector. Under the National Roads Improvement and Management Program, phase 2, the World Bank and Australian Agency for International Development are strengthening the role of CSOs in the transport sector, particularly Bantay Lansangan (Road Watch), to improve the delivery of quality services in an efficient and corruption-free manner and to improve DPWH's

<sup>8</sup> Department of Public Works and Highways. 2005. *DPWH Anti-Corruption Program Workshop Outputs*. 18–19 March 2005. Clarkfield, Pampanga.

<sup>9</sup> European Commission and Development Academy of the Philippines. 2006. *Corruption Resistance Review and Corruption Vulnerability Assessment*. Manila.

<sup>10</sup> The integrity development review of critical government agencies is spearheaded by the Office of the Ombudsman and has been piloted in five agencies, including DPWH. The latest report was submitted to the Office of the Ombudsman in October 2007.

<sup>11</sup> The action plan follows Presidential Anti-Graft Commission requirements and quarterly reporting structures. It includes the conduct of an integrity development review as one of the measures, but does not translate the findings of the review into an action plan. It includes institutionalization of an internal audit unit.

<sup>12</sup> The integrity strengthening action plan builds on combined actions taken from the integrity development review and the integrity development action plan and some additional measures resulting from internal World Bank financial rules and procurement procedures. Many of these measures have been strengthened due to the incorporation of lessons from the investigation of the National Roads Improvement and Management Program, phase 1 by the World Bank's internal investigations unit, the Department of Institutional Integrity (INT).

responsiveness to the needs of road users. Bantay Lansangan is monitoring and analyzing sources and uses of public funds, implementation and delivery, and institutional performance.

6. The initiatives to address governance in the road subsector have strengthened financial controls and management and improved the efficiency of financial management processes and procurement. However, much remains to be done to improve governance in the subsector. Collusion in selection of firms and awarding of contracts continues to be a major problem. This can be addressed by strengthening internal and external accountability mechanisms.

7. The government has requested ADB to resume an active role in supporting the roads subsector. ADB plans to begin this re-engagement with the subsector by addressing governance issues. The proposed TA will facilitate ADB's re-entry into the subsector by addressing one of the subsector's core issues before new loan support is provided. The proposed TA is expected to be followed by other ADB-financed initiatives to address governance issues in the subsector, with future initiatives likely to focus on strengthening the capacity of CSOs to use (i) value engineering to address overpricing by evaluating whether cost estimates for civil works contracts are reasonable, and (ii) nondestructive techniques for inspection and evaluation of completed civil works.

### III. THE TECHNICAL ASSISTANCE

#### A. Impact and Outcome

8. The impact of the TA will be that economic growth and investment increase as a result of increased efficiency in the road subsector. The outcome of the TA will be increased transparency and accountability of road subsector budgets and investments, including those covered under planned ADB-financed road subsector activities.

9. The TA will play a key role in mitigating corruption risks for planned ADB-financed road subsector activities and in strengthening governance and capacity to achieve improved transparency and accountability in the road subsector. The TA will build on the ongoing activities of the government, CSOs, and other development partners to improve subsector governance by combating corruption and strengthening institutional capacity. The TA will deepen reforms in procurement, participatory auditing, and internal auditing; and will strengthen organizational and network capacities of the DPWH internal audit service, CSOs, and COA. The TA supports the goals and objectives of the government's Medium-Term Philippine Development Plan 2004–2010 which are relevant to the transport sector. The TA is consistent with ADB's long-term strategic framework 2008–2020 (Strategy 2020), under which ADB will increase support for good governance and the building of development capacities. The TA will support ADB's new Philippines Country Partnership Strategy, which will likely emphasize addressing inadequate infrastructure and governance concerns, which are critical development constraints.

#### B. Methodology and Key Activities

10. The outcome of the TA will be achieved through three outputs: mitigation of corruption risks for planned ADB-financed road subsector activities, strengthened internal accountability mechanisms, and strengthened external accountability mechanisms.

11. **Output 1: Mitigation of procurement risks.** Mitigation of corruption risks related to procurement for planned ADB-financed road subsector activities will be achieved through support for a procurement advisory team. The team will be composed of international and

national consultants and will participate as an observer in all stages of the procurement process from the preprocurement conference through contract award. The advisory team will review all procurement documents, and report its assessment on the integrity of the process and its compliance with ADB's procurement guidelines to ADB for use in ADB's procurement review and to the DPWH bids and awards committee. DPWH will provide the procurement advisory team with all relevant documents and originals of all submissions received from bidders and correspondence related to procurement under planned ADB-financed road subsector activities. DPWH will retain full responsibility and accountability for conducting procurement of ADB-financed activities in accordance with national laws, DPWH procurement guidelines, harmonized national procurement procedures, and ADB's procurement guidelines. The advisory team will provide recommendations for and assistance to DPWH to strengthen its procurement process.

**12. Output 2: Strengthening internal accountability mechanisms.** Internal accountability mechanisms within DPWH will be improved by strengthening internal audit capacity. This output will build on the work conducted under the Australian Agency for International Development-financed Philippines–Australia Economic Governance Reform Partnership's Internal Controls and Internal Audit Capacity in DPWH project, in particular the baseline assessment of the internal control system, internal auditing, and the action plan to implement recommendations of the assessment. The TA will strengthen critical capacities of internal auditing by providing advisory support and on-the-job training for (i) conducting the internal audit of planned ADB-financed activities, which will serve as on-the-job training for DPWH internal auditors; (ii) monitoring and implementing COA audit report recommendations, and developing capacity in conducting risk-based internal audits; and (iii) profiling corruption cases for use in the training the participatory audit team and the Internal Audit Unit.

**13. Output 3: Strengthening external accountability mechanisms.** External accountability mechanisms, and organizational and network capacities of key stakeholders, including CSOs and COA, will be improved through support for participatory audits and monitoring of public expenditures. The sustainability of this output will be addressed through a requirement for the government, under planned ADB-financed road subsector activities, to finance participatory audits following the initial financing provided under the TA. The TA will provide support for joint COA–CSO participatory audits of procurement and construction through community participation. A special feature will be the networking between CSOs and oversight agencies. As a first step, an interagency agreement on mitigating governance risks in the road subsector will be signed by oversight bodies, such as COA, DBM, DPWH, and a selected CSO. Cooperation with oversight agencies and DPWH will ensure access of the CSO to technical knowledge. The participatory audit team will conduct independent reviews or random inspections during the preparation and implementation of works and services on topics including appropriateness of design; cost estimates, specifications, and procurement of works; quality of supervision and finished works; selection of consultants and performance of consultant services; and contract variations and amendments. A joint audit program will be prepared and carried out by the audit team and the CSO. DPWH will be informed in order to avoid delays in project implementation. Reporting will be made to the joint oversight members, financial stakeholders, and DPWH. An audit report on planned ADB-financed road subsector activities will be produced on a biannual basis by the participatory audit team to provide information on the status and performance of the road subsector.

**14.** The TA will also provide support to a CSO specializing in expenditure tracking and budget monitoring in the road subsector. The CSO will be supported in analyzing all funds allocated to DPWH, including from the General Appropriations Act allocation, the Road Users' Tax, the Priority Development Assistance Fund, and official development assistance. DPWH

has agreed to upload information on allocated funds on the DPWH website. The CSO will be supported in analyzing the annual report on the utilization of the DPWH budget and funds received from all sources, including the Road Board, which DPWH has agreed to submit to ADB. The TA will provide operating and advisory support for the newly established participatory audit and expenditure tracking teams; and will finance the conduct of training, studies, and dissemination of findings in close cooperation with DPWH.

### **C. Cost and Financing**

15. The TA cost is estimated at \$1.3 million equivalent. ADB will provide \$1.0 million equivalent. The TA will be financed from ADB's Technical Assistance Special Fund (TASF—other sources). The government will finance the balance of \$0.3 million equivalent by providing office accommodation, remuneration, and per diem for counterpart staff, and other items, mostly in kind. The cost estimates and financing plan for the TA are shown in Appendix 2.

### **D. Implementation Arrangements**

16. DPWH will be the executing agency for the TA and the implementing agency for outputs 2 and 3. ADB will be the implementing agency for output 1 (procurement advisory team). The DPWH project management office will coordinate the TA activities and communicate with ADB. Since the project management office will also be responsible for procurement activities, coordination with ADB for activities under TA output 1 will be straightforward. Disbursements under the TA will be done in accordance with ADB's Technical Assistance Disbursement Handbook<sup>13</sup>. The TA will be implemented from January 2010 to March 2012.

17. The TA will require a total input of 12 person-months of international and 24 person-months of national consultants, in addition to input from CSOs. For the procurement advisory team under output 1, ADB will engage an experienced international procurement specialist and an experienced national procurement specialist for 9 person-months, each on an intermittent basis. For strengthening internal audit (output 2), ADB will engage an experienced international internal audit specialist for 3 person-months and a national consultant for 15 person-months on an intermittent basis. For the participatory audit (output 3), ADB will engage a national CSO network with expertise in procurement, budget transparency and monitoring, and monitoring civil works. CSOs from the network will be fielded to oversee the procurement process jointly with COA representatives, monitor funding allocations and the budget for the road subsector, and monitor civil works being implemented under planned ADB-financed subsector activities using nondestructive testing equipment. The national CSO network will be engaged using consultants' qualifications selection in accordance with ADB's Guidelines on the Use of Consultants (2007, as amended from time to time). The outline terms of reference for consultants are in Appendix 3.

## **IV. THE PRESIDENT'S DECISION**

18. The President, acting under the authority delegated by the Board, has approved the provision of technical assistance not exceeding the equivalent of \$1,000,000 on a grant basis to the Government of the Philippines for Strengthening Transparency and Accountability in the Road Subsector, and hereby reports this action to the Board.

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<sup>13</sup> ADB. 2008. *Technical Assistance Disbursement Handbook*. Manila.

### DESIGN AND MONITORING FRAMEWORK

Design Summary	Performance Targets/Indicators	Data Sources/ Reporting Mechanisms	Assumptions and Risks
<p><b>Impact</b> Economic growth and investment in the Philippines increase as a result of increased efficiency in the road subsector</p>	<p>Real GDP growth rate increases from 5.5% in 2004-2008 to 7.0% in 2015</p> <p>Total fixed capital formation increases from 14.8% of GDP in 2004-2008 to 18.0% in 2015</p> <p>Foreign direct investments net inflow increases from \$2.0 billion in 2004-2008 to \$3.5 billion in 2015</p>	<p>National Statistics Coordination Board</p>	<p><b>Assumption</b> Global economic recovery continues from 2010 onwards</p>
<p><b>Outcome</b> Transparency and accountability of road subsector budgets and investments are increased</p>	<p>COA audit opinion of DPWH improves (from adverse to qualified) by 2012</p> <p>DPWH sincerity rating in transparency and accountability surveys improves from very bad in 2008 to mediocre or better by 2012</p>	<p>COA annual DPWH report</p> <p>Social Weather Station report for Transparent and Accountable Governance Project</p>	<p><b>Assumption</b> Senior DPWH officials provide leadership for improved integrity</p> <p>Continuity despite changes in key government positions</p> <p><b>Risks</b> Negative public perception of DPWH integrity persists despite objective acceleration of reforms</p> <p>Lack of coordination among oversight agencies</p> <p>Political activities related to May 2010 elections cause delays in implementation</p>
<p><b>Outputs</b></p> <p>1. Mitigation of corruption risks for procurement under planned ADB-financed activities in the road subsector</p> <p>2. Strengthening internal accountability mechanisms</p>	<p>ADB is aware of any issues identified by a review of all procurement documents and an assessment of the integrity of the procurement process by December 2010</p> <p>DPWH internal auditors have participated in 3 program audits of investments by March</p>	<p>Reports of procurement advisor team</p> <p>Consultant assessment of outcome of training on the job</p>	<p><b>Assumption</b> DPWH provides the procurement advisor team access as an observer to all steps of the procurement process from pre-procurement conference through contract award</p> <p><b>Risk</b> Internal audit resources are consumed by other audit purposes, i.e., those identified by other development partners</p>

Design Summary	Performance Targets/Indicators	Data Sources/ Reporting Mechanisms	Assumptions and Risks
	2012  Internal and external accountability trainings conducted by DPWH are informed by profiles of corruption cases at the time of TA closing	Program internal audit reports prepared by DPWH staff on the program  Report prepared by the IDC on the profiling of corruption cases	
3. Strengthening external accountability mechanisms	A cooperation agreement between oversight agencies and civil society organizations exists by 30 September 2010  Participatory audit report is available on a biannual basis describing the findings of at least six participatory audits of procurement under planned ADB-financed road subsector activities beginning in December 2010.  An analysis of all funds allocated to DPWH is available on an annual basis from 2010 onwards.	Training modules	<b>Assumption</b> Local Road Watch teams can be mobilized  <b>Risk</b> Reluctance of oversight agencies to cooperate with civil society agencies
<b>Activities with Milestones</b>  1.1 Participate as an observer in all steps of the procurement process for planned ADB-financed road subsector activities during February–June 2010. 1.2 Review all procurement documents and prepare an assessment of the integrity of the process and compliance with ADB procurement guidelines for each of the procurement packages included in the planned ADB-financed road subsector activities during February–June 2010. 1.3 Report assessment to ADB during February–June 2010. 1.4 Suggest possible improvements in the process to DPWH by December 2010.  2.1 Support the conduct of biannual internal audits of the planned ADB-financed road subsector activities by December 2010 using it as on-the-job training for DPWH internal auditors.			<b>Inputs ('000)</b> <b>ADB:</b> Consultants \$504 Training and seminars 78 CSO support 301 Contingency 92 Other 25 Total \$1,000  <b>Government</b> Office accommodation \$150 Counterpart staff 100 Others 50 Total \$300

<b>Activities with Milestones</b>	
<p>2.2 Support monitoring and implementation of COA audit report recommendations within 3 months of the release of the COA report.</p> <p>2.3 Develop capacities for the conduct of risk-based audit by January 2011.</p> <p>2.4 Support preparation of profiles of corruption cases by January 2011.</p> <p>2.5 Conduct training for the participatory audit team and the Internal Audit Unit using the profiles of corruption cases by March 2011.</p> <p>3.1. Facilitate the development of specific cooperation arrangements between oversight agencies and selected CSOs by April 2010.</p> <p>3.2. Support implementation of a participatory audit work plan, including independent reviews or random inspections of works and services by April 2010.</p> <p>3.3. Facilitate preparation of a participatory audit report on a biannual basis by December 2010.</p> <p>3.4. Support preparation of an audit observation memorandum and conduct of exit conference by December 2010.</p> <p>3.5. Support CSO in analyzing all funds allocated to DPWH, such as the General Appropriations Allocation, the Road Users' Tax, the Priority Development Assistance Fund, and Official Development Assistance, including a breakdown by district, where possible by April 2010.</p> <p>3.6. Support CSO in analyzing the annual report on the utilization of its budget and funds received from all sources, including the Road Board by April 2010.</p>	

ADB = Asian Development ADB, COA = Commission on Audit, DPWH = Department of Public Works and Highways, IDC = integrity development committee, TA = technical assistance.

**COST ESTIMATES AND FINANCING PLAN**  
(\$'000)

Item	Total Cost
<b>A. Asian Development Bank Financing<sup>a</sup></b>	
1. Consultants	
A. Remuneration and per diem	
I. International consultants	288.00
ii. National consultants	168.00
B. International and local travel	24.00
C. Reports and communications	24.00
2. Training, Seminars, and Conferences	
A. Facilitators	18.00
B. Training program <sup>b</sup>	60.00
3. Operational support to CSOS <sup>c</sup>	301.00
4. Miscellaneous administration and Support Costs	25.00
5. Contingencies	92.00
<b>Subtotal (A)</b>	<b>1,000.00</b>
<b>B. Government Financing<sup>b</sup></b>	
1. Office accommodation and transport	150.00
2. Remuneration and per diem of counterpart staff	100.00
3. Others	50.00
<b>Subtotal (B)</b>	<b>300.00</b>
<b>Total</b>	<b>1,300.00</b>

<sup>a</sup> Financed by the Asian Development Bank's Technical Assistance Special Funding (TASF—other sources).

<sup>b</sup> Includes venue, meals, and materials.

<sup>c</sup> Includes operations support to civil society organizations for office rental, communications, per diem, and local travel.

Source: Asian Development Bank estimates.

## OUTLINE TERMS OF REFERENCE FOR CONSULTANTS

### A. Procurement Advisory Team

1. The consultancy services include review of the procurement process and related legal service functions of the Department of Public Works and Highways (DPWH) and recommendations, based on the applicable procurement and consultant guidelines of the Asian Development Bank (ADB), as well as good international practice, for strengthening, streamlining, and expediting procurement. Particular assistance will be provided for project procurement procedures and expediting project procurement as well as analyzing the integrity of the existing procurement system at DPWH. The procurement advisory team will undertake the following tasks for planned ADB-financed road subsector activities:

- (i) Monitor implementation of the project procurement management plan and recommend actions for expediting the performance of ADB project procurement. Monitor performance of the advertising phase, prebid meeting, public bid opening, evaluation of bids, clarification of bids, bid resolution process, contract award, variation orders, and report on procurement performance indicators.
- (ii) Monitor and analyze procurement processes for compliance with the applicable procurement guidelines.
- (iii) Communicate an independent technical opinion and recommendations for improvement or corrective action on procurement processes to ADB and DPWH management through operations memoranda and consultation meetings, covering such items as qualification evaluation, bid evaluation, procurement communication within DPWH, including the respective bids and awards committee (BAC), decision-making processes, and risk management, as appropriate.
- (iv) Assist DPWH management in identifying strengths, weaknesses, and gaps in the current DPWH procurement systems and the means to address them to achieve impartial and professional bid evaluation by DPWH's BACs.
- (v) Review, in consultation with senior DPWH management and legal service, the legal and administrative powers of all BACs participating in the implementation of ADB projects under Republic Act No. 9184 or applicable laws, the DPWH Procurement Manual, and related department orders, in regard to the detection and handling of indicators of corrupt or fraudulent practices and excessive prices during the bidding process, and recommend means for strengthening DPWH practices and required legal provisions.
- (vi) Conduct a due diligence review of DPWH's legal service advice on BAC decisions and agency decisions across the procurement–implementation process.
- (vii) Review the procedures for estimating project costs and the approved budget for contract (ABC) for all contracts financed under the planned ADB-financed road subsector activities, based on current market prices adjusted to the specific contract work site and mark-up factors for overhead and profit.<sup>1</sup> Ensure that the new cost estimation system is being incorporated effectively in the ABC process, and advise on measures needed to validate and benchmark bid prices and unit prices at applicable market values for use on an authorized basis for detecting

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<sup>1</sup> In accordance with ADB procurement guidelines for national competitive bidding, the ABC may be published, but it will not state or imply that bid prices will 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 will not be used to reject bids without prior concurrence of ADB.

high-priced bids. Review of the ABC process should map a typical contract starting with the work of the office for ABC and its review by the Bureau of Construction to see how updated unit prices for materials are applied. It would track compliance with Department Order No. 152 (series of 1997, Guidelines on Price Monitoring of Construction Materials, Civil Works Items, and Highway Maintenance Activities) and Department Order No. 57 (series of 2002, Preparation of Approved Budget for Contract).

- (viii) Review the system for evaluation of contractors' eligibility and qualifications, and recommend enhancements for application in national competitive bidding procedures. The procurement advisory team will work with regional and district DPWH staff, and consult with DPWH management to advise on the means of amending Department Order No. 144 to ensure that strict standards are applied fairly and equally to all contractors.
- (ix) Review the actual practices, note the areas of vulnerability and actual abuse, and examine the extent to which DPWH processes and respective department orders address such risk. Assess the implementing rules and regulations of Republic Act No. 9184, to ensure that the strictest standards allowed under RA 9184 are (a) reflected in DPWH department orders, and (b) being implemented.
- (x) Conduct advocacy on procurement processes with senior management, and involved directors, division and section chiefs, procurement and evaluation staff including members of the participatory audit team (conducted intermittently throughout the duration of the TA). This would include capacity building for internal audit staff and participatory audit team in writing evaluation reports in accordance with standard formats and good practice.
- (xi) Liaise and network with staff working on other aid-funded programs.

## **B. Strengthening Internal Controls at DPWH**

2. The objective of this output is to assess existing gaps in strengthening internal controls at DPWH, and build on existing DPWH internal reforms and programs initiated by other development partners, including the World Bank and Australian Agency for International Development.

3. The consultants will have the following responsibilities:

- (i) Conduct an internal control assessment of DPWH, looking into specific control weaknesses and systems breakdown at the agency in coordination with the internal audit unit.
- (ii) Review the status of the strengthening internal audit project implemented by the Philippines–Australia Partnership for Economic Governance Reforms for consistency in implementation. Identify gaps and activities that need to be continued.
- (iii) Draft a memorandum of agreement to be signed by oversight agencies in improving supervision of accountability mechanisms. Circulate draft for review and inputs among different oversight agencies (para. 3, item iv).
- (iv) Coordinate with oversight agencies such as the Commission on Audit (COA), Office of the Ombudsman, and Department of Budget and Management; and facilitate the conduct of a workshop that will include the signing of the memorandum of agreement.
- (v) In coordination with the external auditor (DPWH resident COA auditors), assess status of implementation of prior years' audit recommendations.

- (vi) Prepare a report on the status of implementation of COA audit recommendations including an assessment of the compliance of DPWH in the submission of contracts for review by the external auditor (COA). Incorporate a copy of the result of COA's contract review and evaluation.
- (vii) Facilitate the conduct of profiling of corruption cases at DPWH with the assistance of the integrity development committee.
- (viii) Facilitate capacity building sessions for internal audit staff including representatives of civil society organizations (CSOs) using the report on profiling of cases.
- (ix) Coordinate with the Internal Audit Unit of DPWH and conduct an internal audit of selected DPWH operations and transactions.
- (x) Prepare and submit to ADB a copy of the internal audit report on selected areas of DPWH operations.

### **C. Strengthening External Accountability Mechanisms**

4. The objective of this output is to provide support to a CSO in operating the participatory audit team. The TA will provide funding support to the secretariat for the participatory audit team, through the CSO to be selected, and technical support in its start-up operations as well as in implementing its core functions.

5. The consultants will have the following responsibilities:

- (i) Prepare the project design for the conduct of the participatory audit. The project design should include the following:
  - (a) Prepare work and budget plans for all activities under the participatory audit strategic and action plan.
  - (b) Prepare the audit plan and program, including detailed audit procedures for conduct of inspection and assessment of value for money of work accomplished by the contractors. The audit plan should include a detailed budget of projected expenses that the audit may entail including the necessary staffing requirements—a mixture of COA auditors and volunteers from the CSO. The number of the teams to be deployed including the number of staff per team should be determined jointly by COA and the selected CSO in consultation with ADB and DPWH staff. The plan should include the delineation of responsibilities between and among COA auditors and the CSO to be chosen, including detailed tasks for the audit supervisor, audit team leader, and audit team members.
  - (c) Prepare audit planning, execution, and reporting timeline; to be prepared jointly by COA and the selected CSO in consultation with ADB and DPWH officials. This document should contain the specific targets for the conduct of audit planning and fieldwork (which includes inspection). Report writing will include the conduct of an exit conference (where details of the report will be discussed with DPWH management). The participatory audit report will be submitted to ADB.
  - (d) Design a participatory audit report in consultation with COA-assigned staff or team of auditors.
- (ii) The selected CSO and COA representatives (referred to as the participatory audit team) are expected to meet and jointly perform an audit of project implementation with emphasis on inspection of accomplishments and evaluation

of progress payments using the audit program prepared, and applying generally accepted audit standards.

- (iii) The participatory audit team will conduct among others a comprehensive analysis of financing sources allocated to the road subsector and report on the uses of such fund releases. This includes the following detailed tasks:
  - (a) Analyze the General Appropriations Act and track appropriations and funding support intended for the road subsector.
  - (b) Identify all sources of funds intended for the road subsector. Prepare a report on all sources of funds available and publish the sources in the agency website.
  - (c) Track the releases of the funds, taking into consideration delays incurred and causes of such delays, and identify the conduits and recipients of the fund releases.
  - (d) Analyze budget execution of the agency, taking into consideration the allotments made available to the agency and actual allotments obligated by the end of the year.
- (iv) Prepare an analysis of the road subsector budget, identifying all sources of funds and providing the public with better information as to the funds being made available. Include a comparison of the allotments released and obligated by the agency with emphasis on the amount of unobligated allotments and the reasons as well as the consequences.
- (v) Provide learning opportunities to CSOs and internal audit staff on a regular basis to strengthen their understanding of financing of road investments and maintenance as well as project implementation.