

Procurement Capacity Assessment Appendix 1 General Procurement Environment Assessment

Respondent: Administrative and Finance Chief, Provincial Department of Public Works and Transport

Date: 7 March 2011

Risk Ratings	Extremely High	High	Average	Low
--------------	----------------	------	---------	-----

I. Specific Assessment and Ratings

Question	Yes/No	Narrative Explanation	Risk
A. LEGAL AND REGULATORY FRAMEWORK			
1. Is there a procurement law? <i>Is there a single law governing procurement that is consistent with internationally accepted principles and practices; or is procurement governed through various laws, decrees etc.?</i>	yes	Procurement Decree existed	low
2. Does the procurement law have implementing regulations? <i>Does the procurement law have implementing rules and regulations that support it by providing the details that are not normally found in a law? Are these clear, comprehensive and consolidated as a set of regulations that are available in a single and accessible place? Are these regularly updated?</i>	Yes	Strictly to follow	low
3. Are the procurement law and regulations clear and concise? <i>If there is a single law that is easy to follow, then the risk is "low". If the law is complex and difficult to follow, then the risk is "average". If there is no single law, then the risk is "extremely high" or "high".</i>	yes	More detail, easy to follow and implement	low
4. What does the procurement law/regulation cover? <i>If there is a single law, the risk will be "low" if it covers drafting and use of standard bidding documents, evaluation, contracting through to the management of contracts, including payment, warranty and defects liability periods. The less the procurement process is covered the higher the risk. If there is no single law, then the risk is "extremely high" or "high".</i>	yes	See more detail in procurement decree/ manual issues in July 2009	low
5. Does the procurement law/regulation cover the procurement of consulting services? <i>If there is a single procurement law that also covers consulting services, then the risk is "low". If consulting services are not covered, or there is no law, then the risk is "extremely high" or "high".</i>	yes	Single procurement decree	low
6. Does the procurement law/regulation	yes	See more detail in procurement	low

Question	Yes/No	Narrative Explanation	Risk
differentiate between processes for goods, works and consulting services? <i>If there is a single law that deals separately with consulting services, then the risk is "low". If there is a single law that provides some differentiation, but the processes are similar, then the risk is "average". If there is no single law, or it applies the same processes to consulting services as for goods and works, then the risk is "extremely high" or "high".</i>		decree issues in 2009/Manual	
7. Does the law/regulation require the advertisement of all procurement opportunities? <i>A "low" risk may be indicated if advertisement is required for all procurements above \$25,000. An "average" risk may be indicated if advertisement is required only for procurements above \$100,000. A "high" risk may be indicated if advertisement is required for all procurements above a threshold that is higher than \$100,000. An "extremely high" risk should be indicated if no advertisement is required.</i>	yes	See more detail in procurement decree issues in July 2009 /Manual	
8. Are contract awards advertised? <i>The same thresholds as stated at A7 should be applied.</i>	no	Directly inform to tenders	
9. Are there restrictions on goods, works and services on the basis of origin? <i>If there is no limitation, restriction and/or preference scheme, then the risk is "low". If there are restrictions or a national preference scheme, then the risk is "average". If procurement is solely limited to those of national origin, then the risk is "extremely high" or "high".</i>	no	Negotiation if need	low
10. Does the procurement law or relevant legislation and regulation provide acceptable provisions for the participation of state-owned enterprises (SOEs)? <i>If an exception is given to SOEs that are legally and financially autonomous and are not dependent agencies of the purchaser/employer, then the risk is "low". Otherwise, the risk is "extremely high" or "high".</i>	yes		low
11. Are there restrictions on the nationality of bidders and consulting firms to be invited? <i>If there is no limitation, restriction and/or preference scheme, then the risk is "low". If there are nationality restrictions or a national preference scheme, then the risk is "average". If procurement is solely limited to national firms and individuals, then the risk is "extremely</i>	no		low

Question	Yes/No	Narrative Explanation	Risk
<i>high" or "high".</i>			
12. Are foreign bidders and consultants forced to submit offers through or with local partners? <i>If this is never required, then the risk is "low". If this is required under certain circumstances, then the risk is "average". If this is always required, then the risk is "extremely high" or "high".</i>	yes		high
13. Is there a domestic preference scheme? <i>If there is no scheme, then the risk is "low". If it is applied in limited circumstances, then the risk is "average". If a domestic preference scheme is applied across the board, then the risk is "extremely high" or "high".</i>	yes	But sometimes realize on donors	high
14. Is there a national standard mandated for the use for quality control purposes? <i>If there are no mandated national standards or if these have direct and accessible international equivalents, then the risk is "low". If there are mandated national standards that have no international equivalents, then the risk is "high".</i>	yes		average
15. Are any agencies or parts of public expenditure exempt from the procurement law/regulation? <i>If yes, such as defense equipment, then the risk may range from "average" to "extremely high, depending on the extent of the exemption. For example, if an exemption is outrightly granted to medicines, text books or other similar commodities, then the risk is "extremely high".</i>	no		
16. Is the default method for procurement open competition? <i>If yes, then the risk is "low". If no, or if it is not clearly established, then the risk may be "extremely high" or "high".</i>	yes		low
17. Is open competition easily avoided? <i>If avoidance requires the approval of an oversight agency, then the risk is "low". If open competition can be avoided by senior management decision, then the risk is "average". If the procurement law/regulation allows the avoidance of open competition above a certain national threshold on the basis of circumstances that are not in response to natural disasters, i.e. simple urgency, then the risk is "extremely high" or "high".</i>	No/yes	Depend on amount of budget for procurement.	average
18. Does the procurement law/regulation require pre-qualification? <i>If it is only for complex or high value contracts, then the risk is "low". If no pre-qualification is allowed, then the risk</i>	yes		average

Question	Yes/No	Narrative Explanation	Risk
<i>is "average". If it applies to all contracts, then the risk is "high".</i>			
19. Does the procurement law/regulation require the pre-registration of bidders? <i>If no pre-registration is required, then the risk is "low". If it is only required for special types of goods, such as medicines, then the risk is "average". If yes, then the risk is "extremely high" or "high".</i>	yes		high
20. Does the procurement law/regulation mandate the use of standard documents? <i>If it does and there are documents for goods, works and consultants services, then the risk is "low". If it is required just for only two of the three procurement types, then the risk is "average". If it is required for only one of the procurement types, or it is required but no documents have yet been issued, then the risk is "high". If standard documents are not required, then the risk is "extremely high".</i>	yes		low
21. Have these standard documents been approved for use on ADB projects? <i>If yes, then the risk is "low". If some, but not all, then the risk is "average". If no, then the risk is "extremely high" or "high".</i>	yes	Experience in ADB project	low
22. Is there a national procurement manual or guide? <i>If an omnibus procurement manual or guide exists, then the risk is "low". If a manual exists, but it is out of date or is not widely used/distributed, then the risk is "average". If there is no manual, then the risk is "extremely high" or "high".</i>	Yes		low
B. INSTITUTIONAL FRAMEWORK			
23. Which body oversees public procurement? <i>If there is a regulatory body at an adequate level in government, and financing is secured by the legal/regulatory framework, then the risk is "low". If the body is at an adequate level, but financing is subject to administrative decisions and can be changed easily, then the risk is "average". If the level of the body is too low or financing is inadequate for proper discharge of its responsibilities, then the risk is "high". If there is no body, or the body is too low with no independence to perform its obligations, then the risk is "extremely high".</i>	yes	<ol style="list-style-type: none"> 1. If government budget (Planning and Budgeting Section, Administration and Personal, Statistic and involving project section) 2. If grant or loan (provincial level committee will be set up: PDPWT, IA, Planning and budgeting, Provincial Office) 	low
24. What powers does the oversight body have? <i>The rating may range from "low" to extremely high", depending on whether the body exercises all, some, a few or</i>		Limited in agencies, need to get approval from provincial level	

Question	Yes/No	Narrative Explanation	Risk
<p><i>none of the following responsibilities: providing advice to contracting entities, drafting amendments to the legal/regulatory framework, monitoring public procurement, providing procurement information, managing statistical databases, reporting on procurement to other parts of government, developing/supporting the implementation of initiatives for improvements to the public procurement system, and providing implementation tools and documents to support capacity development.</i></p>			
<p>25. Is there a nationwide procurement training plan? <i>If procurement trainings are regularly implemented nationwide and needs are regularly assessed, then the risk is "low". If there is an existing program, but it is insufficient to meet national needs, then the risk is "high". If there is no formal training program, then the risk is "extremely high". Consider also the existence of a helpdesk.</i></p>	yes	From ministry PWT or MOF	low
<p>26. Is there a procurement accreditation or professionalization program? <i>If there is an externally recognized program, then the risk is "low". If it is a government sponsored program, then the risk is "average". If there is no accreditation or professionalization program, then the risk is "high".</i></p>	no		
<p>27. Are major projects identified within agencies' appropriations or budgets? <i>If yes, then the risk is "low". If no, but a system is in place for the ring-fencing of project funds, then the risk is average. If neither condition exists, then the risk is "high".</i></p>	no	Committee	high
<p>28. Is the procurement cycle tied to an annual budgeting cycle, i.e. can procurement activity only commence once a budget is approved? <i>If yes, and a medium-term expenditure framework is in place, then the risk is "low". If an activity may start up to, but excluding contract award, then the risk is "average". If the procurement cycle is not tied to an annual budget, then the risk is "extremely high" or "high".</i></p>	no	Depend on budget sources	high
<p>29. Once an appropriation or budget is approved, will funds be placed with the agency or can the agency draw them down at will? <i>If yes, then the risk is "low". If now, such when additional bureaucratic controls are imposed (such as a cash release system), then the risk is "extremely high" or "high".</i></p>	no	Long and too many step procedure	high
<p>30. Is there a nationwide system for</p>	Yes	Practice in National Wide	low

Question	Yes/No	Narrative Explanation	Risk
collecting and disseminating procurement information, including tender invitations, requests for proposals, and contract award information? <i>If there is an integrated information system that provides up-to-date information and is easily accessible at no or minimum cost, then the risk is "low". If there is such an integrated information system that covers majority of contracts, but access is limited, then the risk is "average". If there is a system, but it only provides information on some of the contracts and is not easily accessible, then the risk is "high". If there is no procurement information system, except for some individual agency systems, then the risk is "extremely high".</i>			
31. When an agency is implementing a project using funds from the national budget, are there general experiences/reports of funding delays that significantly hamper procurement? <i>If no, then the risk is low. If yes, then the risk is "extremely high" or "high".</i>	Yes		low
32. Is consolidated historical procurement data available to the public? <i>If yes, then the risk is "low". If the data is too much or too little, then the risk is "average". If none, then the risk is "extremely high" or "high".</i>	no	Confidential in agency	
33. Does the law/regulation require the collection of nationwide statistics on procurement? <i>If yes and statistics are actually collected, then the risk is "low". If yes, but data is not collected or used, then the risk is "average". If there is no requirement, then the risk is "extremely high" or "high".</i>	no		
C. PROCUREMENT MARKET AND OPERATIONS			
34. Do formal mechanisms exist to encourage dialogue and partnerships between the government and the private sector, and are these well established in the procurement law/regulation? <i>If such mechanisms exist, such as programs to build the capacity of private companies and small businesses to participate in public procurement, and these are effective, then the risk is "low". If such mechanisms exist, but there is no proof of its effectiveness, then the risk is "average". If no such mechanisms exist, then the risk is "extremely high" or "high".</i>	no		
35. Are private sector institutions well organized and able to facilitate access to the market?	no		

Question	Yes/No	Narrative Explanation	Risk
<i>If the private sector is competitive, well organized and able to participate in open competition, then the risk is "low". If there is a reasonably well functioning private sector, but competition for large contracts is concentrated in a relatively small number of firms, then the risk is "average". If the private sector is relatively weak and/or competition is limited owing to monopolistic or oligopolistic features in important segments of the market, then the risk is "high". If the private sector is not well organized and lacks capacity and access to information for participation in the public procurement market, then the risk is "extremely high".</i>			
36. Is there an alternative disputes resolution process independent of the government and courts? <i>If there is an arbitration law with an independent process, then the risk is "low". If there is no arbitration law, but the standard contracts use ICC or similar dispute resolution provisions, then the risk is "average". If alternative dispute resolution is not practiced, or if arbitration is through the courts or can be overturned by the courts, then the risk is "extremely high" or "high".</i>	No but the standard contract use similar dispute resolution		
D. INTEGRITY OF THE PROCUREMENT SYSTEM			
37. Are there systematic procurement process audits? <i>If yes, then the risk is "low". If only financial audits are conducted, then the risk is "average". If no systematic audits are conducted, then the risk is "extremely high" or "high".</i>	yes	Financial audits, regular evaluate or if need	low
38. Does the procurement law/regulation contain provisions for dealing with misconduct, such as fraud and corruption? A cross reference to an anti-corruption law will suffice. <i>If yes, then the risk is "low". If no, then the risk is "extremely high" or "high".</i>	yes	Detail in Procurement Manual	
39. Is fraud and corruption in procurement regarded as a criminal act, whereby the penalty includes imprisonment? <i>If yes, then the risk is "low". If no, then the risk is "extremely high" or "high".</i>	no		
40. Have there been prosecutions for fraud and corruption? <i>If there have been successful prosecutions for fraud and corruption, then the risk is "low". If prosecutions seem to focus solely on low grade/junior staff, then the risk is "average". If there is no evidence of any prosecution, then the risk is "extremely high" or "high".</i>	yes		
41. Does the legal/regulatory framework allow for sovereign immunity to	yes		

Question	Yes/No	Narrative Explanation	Risk
agencies for claims against them? <i>If plaintiffs can sue the government for contractual non-performance, then the risk is "low". If they cannot, then the risk is "extremely high" or "high".</i>			
42. Do the regulations allow for the debarment of firms and individuals? <i>If there is a debarment process that is transparent and equitable, and undertaken by an independent oversight agency, then the risk is "low". If there is a process and it is administered by a single agency, such as the Ministry of Finance, then the risk is "average". If it is administered by the procuring agency, then the risk is "high". If there is no debarment mechanism, then the risk is "extremely high".</i>	yes		

II. General Ratings

Criterion	Risk
A. Legal and Regulatory Framework	
B. Institutional Framework	
C. Procurement Market and Operations	
D. Integrity of the Procurement System	
OVERALL RISK RATING	

Procurement Capacity Assessment Appendix 2 Agency Questionnaire

Respondent : Administrative and Finance Officer, Provincial Department of Public Works and Transport

Date : 7 March 2012

Risk Ratings	Extremely High	High	Average	Low
--------------	----------------	------	---------	-----

I. Specific Assessment and Ratings

Question	Answer/Finding	Risk
A. ORGANIZATIONAL AND STAFF CAPACITY		
A.1. How many years experience does the head of the procurement department/unit have in a direct procurement role?	10 years	average
A.2. How many staff in the procurement department/unit are:	7 persons in DPWT, specific committee can be set up if need	average
i. Full Time?	9 persons	
ii. Part Time?		
iii. Seconded?		
A.3. Does the procurement staff have English language proficiency?	Not proficiency but can communicate	high
A.4. Are the number and qualifications of the staff sufficient to undertake the additional procurement that will be required under the	Not enough because 1 went for study, nearly get retire	high

Question	Answer/Finding	Risk
proposed project?		
A.5. Does the unit have adequate facilities, such as PCs, internet connections, photocopy facilities, printers, etc., to undertake the planned procurement?	Yes, but not enough for running the big procurement process	average
A.6. Does the agency have a procurement training program?	Yes, but joint in the MPWT and MOF	average
A.7. Does the agency have a Procurement Committee that is independent from the head of the agency?	yes	average
A.8. Does the agency have a procurement department/unit, including a permanent office that performs the function of a Secretariat for the Procurement Unit, and which serves as the main support unit of the Procurement Committee??	No, Planning and budget Section act as procurement office	low
A.9. If yes, what type of procurement does it undertake?	Whole process of procurement	
A.10. At what level does the department/unit report (to the head of agency, deputy etc.)?	PDWT, Provincial, Ministry	average
A.11. Do the procurement positions in the agency have job descriptions, which outline specific roles, minimum technical requirements and career routes?	No, Mainly based on the job	high
A.12. Is there a procurement process manual for goods and works?	Yes, issued by MOF, July 2009	low
A.13. If there is a manual, is it up to date and does it cover foreign-assisted projects?	Yes, issued by MOF, July 2009	
A.14. Is there a procurement process manual for consulting services?	Yes	
A.15. If there is a manual, is it up to date and does it cover foreign-assisted projects?	yes	
A.16. Are there standard documents in use, such as Standard Procurement Documents/Forms, and have they been approved for use on ADB funded projects?	yes	
A.17. Does the ToR follow a standard format such as background, tasks, inputs, objectives and outputs?	yes	
A.18. Who drafts the procurement specifications?	If the big project, it is technical Assistant to draft the procurement document	average
A.19. Who approves the procurement specifications?	DPWT, Provincial, MPWT	
A.20. Who drafts the bidding documents?	If the big project, it is technical Assistant to draft the procurement document	
A.21. Who manages the sale of the bidding documents?	Procurement Committee and IA	
A.22. Who identifies the need for consulting services requirements?	Procurement Committee and IA with TA	average
A.23. Who drafts the terms of reference (ToR)?	Procurement Committee and IA with TA	
A.24. Who prepares the request for proposals (RFPs)?	Procurement Committee and IA with TA	
B. INFORMATION MANAGEMENT		
B.1. Is there a referencing system for procurement files?	Yes	low
B.2. Are there adequate resources allocated to record keeping infrastructure, which includes the record keeping system, space, equipment	Secretary Committee	high

Question	Answer/Finding	Risk
and personnel to administer the procurement records management functions within the agency?		
B.3. For what period are records kept?	2-3 years	low
B.4. Are copies of bids or proposals retained with the evaluation?	Yes	low
B.5. Are copies of the original advertisements retained with the pre-contract papers?	yes	low
B.6. Is there a single contract file with a copy of the contract and all subsequent contractual correspondence?	yes	low
B.7. Are copies of invoices included with the contract papers?	yes	low
C. PROCUREMENT PRACTICES		
Goods and Works		
C.1. Has the agency undertaken foreign-assisted procurement of goods or works recently (last 12 months, or last 36 months)? (If yes, please indicate the names of the development partner/s and the Project/s.)	Sometimes Based on donors	average
C.2. If the above answer is yes, what were the major challenges?	yes	
C.3. Is there a systematic process to identify procurement requirements (for a period of one year or more)	Yes, Detail in Procurement Manual	low
C.4. Is there a minimum period for preparation of bids and if yes how long?	Yes, Detail in Procurement Manual	low
C.5. Are all queries from bidders replied to in writing?	Yes	
C.6. Does the bidding document state the date and time of bid opening?	yes	low
C.7. Is the opening of bids done in public?	yes	low
C.8. Can late bids be accepted?	Yes sometimes	
C.9. Can bids be rejected at bid opening?	yes	
C.10. Are minutes of the bid opening taken?	yes	average
C.11. Who may have a copy of the minutes?	Committee	
C.12. Are the minutes free of charge?	Yes	
C.13. Who undertakes the evaluation of bids (individual(s), permanent committee, ad-hoc committee)?	Committee	average
C.14. What are the qualifications of the evaluators with respect to procurement and the goods and/or works under evaluation?	Evaluate, regularly checking document...	average
C.15. Is the decision of the evaluators final or is the evaluation subject to additional approvals?	Need to get approval from Committee	average
C.16. Using at least three real examples, how long does it normally take from the issuance of the invitation for bids up to contract effectiveness?	Government budget ADB project	high
C.17. Are there processes in place for the collection and clearance of cargo through ports of entry?	Not in the Procurement Manual of Lao PDR	high
C.18. Are there established goods receiving procedures?	Yes, it is need to work with Custom Office and Commercial office	high
C.19. Are all goods that are received recorded as assets or inventory in a register?	yes	low
C.20. Is the agency/procurement department familiar with letters of credit?	no	high
C.21. Does the procurement department register and track warranty and latent defects	No-	?

Question	Answer/Finding	Risk
liability periods?		
Consulting Services		
C.22. Has the agency undertaken foreign-assisted procurement of consulting services recently (last 12 months, or last 36 months)? (If yes, please indicate the names of the development partner/s and the Project/s.)	no	high
C.23. If the above answer is yes, what were the major challenges?		
C.24. Are assignments and requests for expressions of interest (EOIs) advertised?	yes	?
C.25. Is a consultants' selection committee formed with appropriate individuals, and what is its composition (if any)?	yes	average
C.26. What criteria is used to evaluate EOIs?	Procurement Manual 2009	?
C.27. Historically, what is the most common method used (QCBS, QBS, etc.) to select consultants?	non	high
C.28. Do firms have to pay for the RFP document?	no	average
C.29. Does the proposal evaluation criteria follow a pre-determined structure and is it detailed in the RFP?	Do not know	?
C.30. Are pre-proposal visits and meetings arranged?	yes	low
C.31. Are minutes prepared and circulated after pre-proposal meetings?	yes	
C.32. To whom are the minutes distributed?	Committee	
C.33. Are all queries from consultants answered/addressed in writing?	Yes	low
C.34. Are the technical and financial proposals required to be in separate envelopes?	no	average
C.35. Are proposal securities required?	yes	high
C.36. Are technical proposals opened in public?	Yes, within committee	low
C.37. Are minutes of the technical opening distributed?	yes	
C.38. Do the financial proposals remain sealed until technical evaluation is completed?	no	average
C.39. Who determines the final technical ranking and how?	Committee, following the guideline	
C.40. Are the technical scores sent to all firms?	yes	
C.41. Are the financial proposal opened in public?	yes	low
C.42. Are minutes of the financial opening distributed?	yes	
C.43. How is the financial evaluation completed?	depends	average
C.44. Are face to face contract negotiations held?	Yes if need	
C.45. How long after financial evaluation is negotiation held with the selected firm?	Procurement Manual	
C.46. What is the usual basis for negotiation?	Time, Financial, Mandate, Resource	
C.47. Are minutes of negotiation taken and signed?	no	
C.48. How long after negotiation is the contract signed?	Depends	high
C.49. Is there an evaluation system for measuring the outputs of consultants?	yes	average
Payments		

Question	Answer/Finding	Risk
C.50. Are advance payments made?	Yes (2% of total cost) or negotiation	average
C.51. What is the standard period for payment included in contracts?	No information	average
C.52. On average, how long is it between receiving a firm's invoice and making payment?	Procurement Manual	
C.53. When late payment is made, are the beneficiaries paid interest?	no	
D. EFFECTIVENESS		
D.1. Is contractual performance systematically monitored and reported?	yes	average
D.2. Does the agency monitor and track its contractual payment obligations?	yes	average
D.3. Is a complaints resolution mechanism described in national procurement documents?	yes	average
D.4. Is there a formal non-judicial mechanism for dealing with complaints?	yes	average
D.5. Are procurement decisions and disputes supported by written narratives such as minutes of evaluation, minutes of negotiation, notices of default/withheld payment?	yes	average
E. ACCOUNTABILITY MEASURES		
E.1. Is there a standard statement of ethics and are those involved in procurement required to formally commit to it?	no	average
E.2. Are those involved with procurement required to declare any potential conflict of interest and remove themselves from the procurement process?	no	average
E.3. Is the commencement of procurement dependent on external approvals (formal or de-facto) that are outside of the budgeting process?	no	average
E.4. Who approves procurement transactions, and do they have procurement experience and qualifications?	Committee	low
E.5. Which of the following actions require approvals outside the procurement unit or the evaluation committee, as the case may be, and who grants the approval?		low
a) Bidding document, invitation to pre-qualify or RFP	yes	
b) Advertisement of an invitation for bids, pre-qualification or call for EOIs	yes	
c) Evaluation reports	yes	
d) Notice of award	yes	
e) Invitation to consultants to negotiate	yes	
f) Contracts	yes	
E.6. Is the same official responsible for: (i) authorizing procurement transactions, procurement invitations, documents, evaluations and contracts; (ii) authorizing payments; (iii) recording procurement transactions and events; and (iv) the custody of assets?	Yes, committee	low
E.7. Is there a written auditable trail of procurement decisions attributable to individuals and committees?	yes	low

II. General Ratings

Criterion	Risk
A. Organizational and Staff Capacity	
B. Information Management	
C. Procurement Practices	
D. Effectiveness	
E. Accountability Measures	
OVERALL RISK RATING	

Criterion	Risk
A. Organizational and Staff Capacity	Low
B. Information Management	Low
C. Procurement Practices	Low
D. Effectiveness	Low
E. Accountability Measures	Low
OVERALL RISK RATING	Low