

# *Procurement Risk Assessment*

*Trade and Transport Facilitation in the  
Pacific – Niutao Island, Tuvalu*

*PPI0001*



*Prepared for  
ICF Consultants*

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## Executive Summary

*This Project Procurement Risk Assessment (PPRA) of Tuvalu Trade and Transport Facilitation in the Pacific Project, Niutao Island has been prepared in accordance with the ADB Guidelines for Assessing Country, Sector and Project Procurement Risks (August 2014). The overall assessment based on the Procurement Risk Assessment Questionnaire conducted is considered to be Moderate, as was the case with the original OIMIP, Nukulaelae Island. Assessments conducted prior to 2015 would have categorized the risk assessment as high, but since the introduction of the Tuvalu Public Procurement Act (2013) and Public Procurement Rules and Regulations, and the formation of the Central Procurement Unit (CPU), by the Government in 2014, vast improvements have been achieved.*

*When the original OIMIP Procurement Risk Assessment was carried out, ADB had not implemented a Country and Sector Risk Assessment, which would normally act as a guideline of the Project Procurement Risk Assessment. These overriding risk assessments have now been completed with a Final Report being issued in June 2017. Elements of the Country/Sector Procurement Risk Reports will help substantiate the findings of this Project Procurement Risk Assessment.*

*Weakness with Government procurement processes still exist, but continued efforts are turning past weakness into strengths, and in order to capitalize on this improvement, the recommendations for procurement for Tuvalu Trade and Transport Facilitation in the Pacific Project, Niutao Island would be to undertake the procurement of Works for the Project through the CPU, under the guidance of the International Procurement Specialist, as was the case for the OIMIP. That project was the first major ICB for a large Civil Works Contract that the CPU had participated in, and it provided a good learning experience. The PMU team also gained considerable experience during the procurement for OIMIP.*

*Weakness identified at the time of the OIMIP PPRA included:*

- Non-compliance by Govt. Departments with regulatory framework still continues, and the lack of forward procurement planning delays procurement.*
- There are elements of resistance in GOT to the CPU and associated new procedures, leading to complaints that procurement is taking too long.*
- It has been reported that information on procurement, including contract award has not consistently been made public.*
- Lack of resources within the CPU to adequately establish and maintain all required information management tools/records.*
- Lack of resources within the CPU to undertake multiple major project procurement at the same time and to evaluate and make award recommendations in a timely manner. Too often Bid evaluation is being undertaken by a single person.*
- Lack of technical experts for inclusion in the Bid evaluation process.*
- Line Ministries are not taking adequate care in the preparation and timely submission of technical specifications to the CPU.*

*The Country/Sector PRA also identified these issues as weaknesses, so it is assumed that they generally still exist, although the detailed involvement of the PDA Procurement Specialist for the preparation of the Bid Documents, and bid evaluation through to OIMIP Contract award would have helped mitigate the risks, and hopefully with the experience gained since that procurement was finished, the level of risks will be reduced.*

*The mitigation/management measures to be adopted to minimize risks to a level acceptable to all stakeholders, and hopefully eliminate some low risks totally include the following.*

### **For Organizational and Staff Capacity**

*From 2012 up to present, ADB supported the adoption of the 2012 national procurement policy, the Public Procurement Act 2013, and the Public Procurement Regulations 2014, which collectively aimed at regulating and improving public procurement. The Central Procurement Unit, established within the Ministry of Finance and Economic Development, is now responsible for carrying out all government procurement and ensuring compliance with the Public Procurement Act 2013. Regular training and upgrading of skills of procurement officers is supported under the ongoing ADB support.*

*Whilst current capacity and experience in technical projects such as this, within the CPU and EA/IA is low, additional staff for CPU have been recruited and the CPU will be strongly supported by the Detailed Design Consultants throughout the bidding cycle, and for preparation of all necessary bid documents, including RFP,*

*Technical Specifications etc. On the negative side will be the absence of the Head of the CPU on long term study leave, and the recent resignation of her 2-I-C.*

*Once again it will be necessary to identify and second appropriate people onto bid technical evaluation committee. Whilst efforts were made to do this for OIMIP, appropriate people for detailed technical review could not be identified and the Design Consultant had to assume responsibility for this element.*

*ADB Approval to run procurement/bidding process through the CPU will be required and is recommended. This was granted for OIMIP, and based on the experience gained through that exercise, we believe that the CPU will be better prepared for this project.*

### **Information Management**

*CPU and EA/IA to consolidate the record-keeping system already established and rigorously organize procurement documentation both in printed and electronic form. The increase in CPU staff (by 2), and additional training in this regard provided by the ADB Procurement Advisor will improve this aspect.*

*PDA Procurement Specialist will still need to monitor all record keeping for TTFP Bidding and Contract Award.*

### **Procurement Practices**

*As EA/IA does not have the experience or appropriate practices, the Govt. directive of CPU doing Procurement (>\$5000) should be followed. Whilst they have had limited experience in procuring a foreign funded project of this nature, they have made good progress and will have benefited from OIMIP Procurement activities. They will however, still need strengthening for the bid evaluation/technical assessment (TEC needs to be convened). Certain Procedures are still being initiated by the ADB Procurement Specialist and this assistance has been extended, so most high/moderate risk elements will be addressed through this continued Capacity Building. Also as for OIMIP, it is expected that the whole Procurement Process for TTFP will be supported by PDA Consultants, which will mitigate the majority, if not all of the likely high risk issues. Provision of a Bid Security in the form of a Bid Securing Declaration will be made a mandatory condition of Bid Submission.*

*Progress with CPU's training in e-Procurement will need to be monitored. This was at a very early stage during the OIMIP Bidding process, and whilst downloading of Bid Documents and subsequent clarifications was done through e-Procurement, the process to upload Bids had not advanced to a stage that it could be 100% guaranteed. Using e-Procurement for 100% of the process could improve the process. During the past 6 months, CPU has assigned an officer to be dedicated to work with In-Tend (UK) on establishing e-Procurement portal, and the reported progress is positive. Whilst a further review leading into the bidding period is recommended, it is hoped that the use of e-Procurement can be extended to uploading of Bids.*

### **Effectiveness**

*Supervision Consultants will be appointed, and managing these elements will be under their responsibility. They will ensure effective processes are in place to alleviate any risks on these elements. Most are standard processes in any Works Contracts, and only require responsibilities to be instructed. GOT has also initiated processes that address complaint issues etc. All risks of effectiveness can be mitigated through sound Contract Administration process.*

### **Accountability Measures**

*PDA Consultant and the Supervision Consultant will play a significant role to mitigate any Accountability issues. They will ensure appropriate reports and technical explanations are presented so that all required approvals and decision making is appropriately informed. All risks on the listed matters can be mitigated. The details of the Risk Mitigation are included in Appendix 2.*

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## Acronyms

<i>ADB</i>	<i>Asian Development Bank</i>
<i>CSS</i>	<i>Country Safeguard System</i>
<i>CPU</i>	<i>Central Procurement Unit</i>
<i>DEC</i>	<i>Department of Environment and Conservation</i>
<i>DMC</i>	<i>Developing Member Country</i>
<i>DMPS</i>	<i>Department of Marine and Port Service</i>
<i>EAC</i>	<i>Environment Advisory Committee</i>
<i>EIA</i>	<i>Environmental Impact Assessment</i>
<i>EIS</i>	<i>Environment Impact Statement</i>
<i>EMP</i>	<i>Environment Management Plan</i>
<i>ISO</i>	<i>Standard set by the International Organization for Standardization</i>
<i>JICA</i>	<i>Japan International Cooperation Agency</i>
<i>JFPR</i>	<i>Japan Fund for Poverty Reduction</i>
<i>MCT</i>	<i>Ministry of Communication and Transport</i>
<i>MFED</i>	<i>Ministry of Finance and Economic Development</i>
<i>MLHS</i>	<i>Ministry of Land, Housing and Survey</i>
<i>NSSD</i>	<i>National Strategy for Sustainable Development</i>
<i>OIMIP</i>	<i>Outer Island Maritime Infrastructure Project</i>
<i>OSFMD</i>	
<i>PDA</i>	<i>Project Design Advance</i>
<i>PPRA</i>	<i>Project Procurement Risk Assessment</i>
<i>PPTA</i>	<i>Project Preparatory Technical Assistance</i>
<i>PSAM</i>	<i>Poverty Social Assessment Manual</i>
<i>PWD</i>	<i>Public Works Department</i>
<i>PWD</i>	<i>Person with disability</i>
<i>SEA-</i>	<i>Strategic Environment Assessment</i>
<i>SPS</i>	<i>Safeguard Policy Statement</i>
<i>TISIP</i>	<i>Tuvalu Infrastructure Strategy and Investment Plan</i>
<i>TL</i>	<i>Team Leader</i>
<i>ToR</i>	<i>Terms of Reference</i>
<i>TTFP</i>	<i>Trade and Transport Facilitation Project</i>

# 1 Introduction

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*The Project Procurement Risk Assessment (PPRA) of Tuvalu Trade and Facilitation in the Pacific Project was prepared in accordance with the ADB Guidelines for Assessing Country, Sector and Project Procurement Risks (August 2014).*

*This project procurement risk assessment (PPRA) covers the following implementing agencies.*

- I. Central Procurement Unit which sits under the Ministry of Finance and Economic Development (MFED);*
- II. Ministry of Communications and Transport (MCT) – Executing Agency, and its Department of Marine and Port Service (DMPS) as the Implementing Agency; and*
- III. Project Management Unit (under the Director of DMPS).*

*The Project will support the Government of Tuvalu (GOT) with improving its outer island maritime facilities covering (i) rehabilitate and improve maritime infrastructure Niutao Island of Tuvalu, and (ii) improve safety efficiency and sustainability of maritime transportation from Funafuti, and the outer islands. It follows on from the earlier OIMIP.*

*Also, the project will continue to help Tuvalu overcome connectivity problems that constrain its economic and social development. The challenge results from Tuvalu's dispersed geography: (i) a small country (land area of 26 square kilometres) comprising nine islands, stretching over 680 kilometres; (ii) small and dispersed population—10,800 as of 2012, with less than 1,600 people on each of the outer islands; and (iii) decreasing outer island population.*

*Risk assessment is a subjective exercise. It requires knowledge of good procurement practices, but also country context and sector specific conditions. The purpose of the risk assessment is to identify situations or events which could hamper the effective implementation of the ADB financed project.*

*The assessment of potential risks associated with the overall project procurement activities will involve ensuring that appointed key contractors, both required to support the data gathering for design, and for construction, have the capacity and knowledge to effectively undertake the work, have appropriate logistic skills to understand mobilization constraints, can appropriately provide, or have sufficient capital to acquire, plant to undertake the work and also can deliver a capable and experienced management team.*

*The PPTA Procurement Specialist has prepared this PPRA based on the PPRA prepared for the Tuvalu Outer Islands Maritime Infrastructure Project (OIMIP), but also took into account the more recently prepared Tuvalu Country and Sector Procurement Risk Assessment. This update of the OIMIP PPRA has been carried out without the benefits of a visit to Tuvalu since the award of Contract for the OIMIP. The original preparation activities included reviewing documents, ADB's ongoing procurement experience, and interviews with the Central Procurement Unit of GOT, counterpart staff, and discussions with stakeholders. Without a visit, during the current exercise, detailed updates were obtained by dialogue with the CPU. Some information has however not been received to date, and when/if received will be included in the final report.*

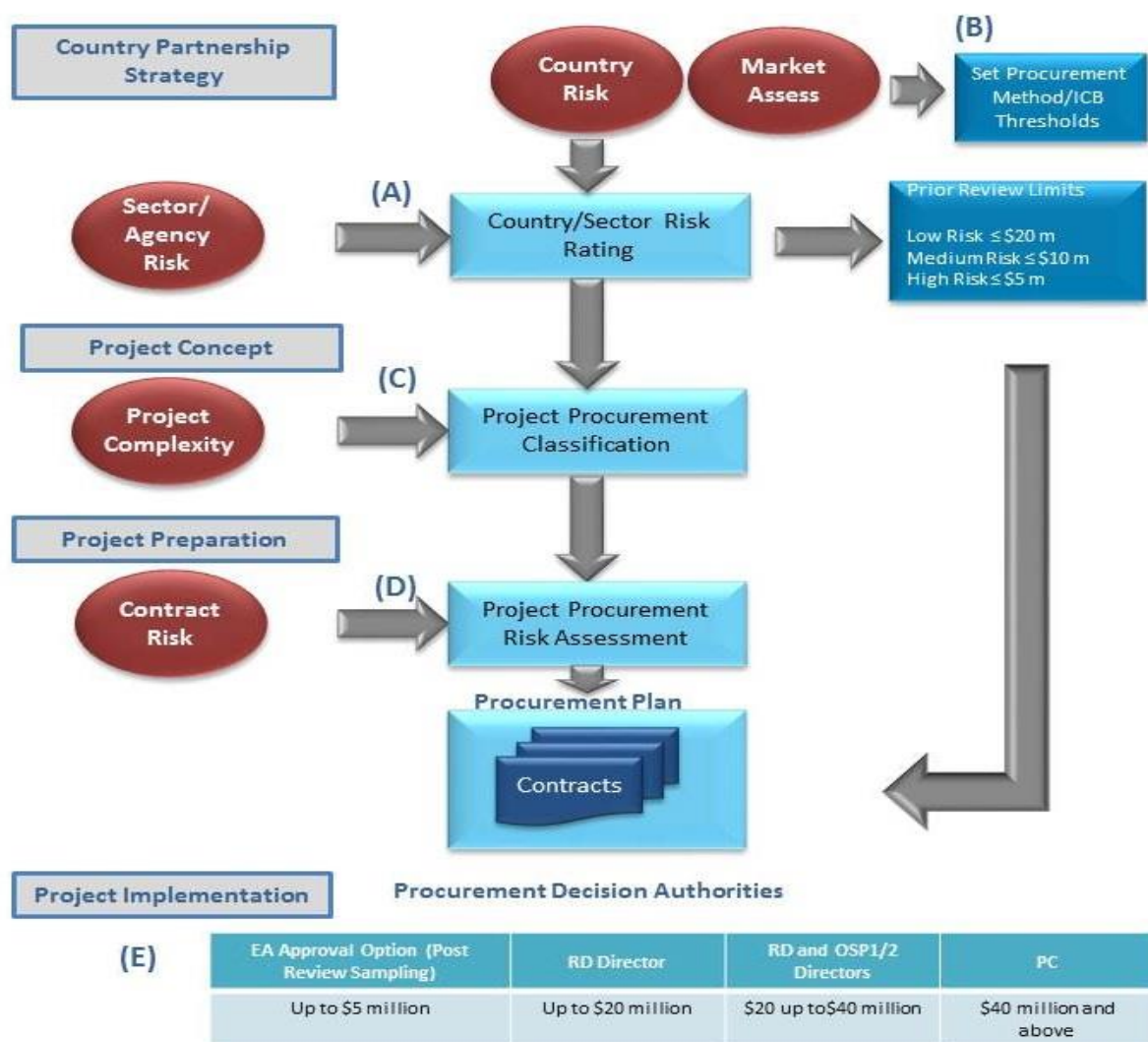
*ADB's Project Administration Instructions require that project teams assess the capacity of the executing agency (EA) and the implementing agency (IA), if any, to procure the goods, works and consulting services as part of the project preparation process. The purpose of the project procurement risk assessment (PPRA) is to determine the overall procurement risk, and establish appropriate review and supervision processes (including thresholds) and other measures to mitigate these risks.*

As noted earlier at the time of preparing the original OIMIP PPRA, no Country and Sector/Agency procurement risk assessment had been prepared, which would normally be the base document for guiding the PPRA. The Country/Sector Assessments have now been completed, and have been used to help verify this Project PPRA.

Procurement risks can also be influenced by the characteristics of the proposed project. For example, although large, a project with a single contract may have less risk than a smaller project, with multiple implementing agencies, multiple geographic locations and a large number of low value contracting packages. A risk that is difficult to assess is the possible impact from Cyclones.

Effective and timely disbursement of funds in accordance with requirements of the contracts is also important. The following sequence of Risk Assessment as adopted by ADB is as shown in Figure 1.

**Figure 1 Sequence of Activities**



## 1.1 Planning the Assessment

The Project Team is responsible for the project procurement risk assessment. This assessment has been conducted by the PPTA Procurement Specialist.



*The first consideration was to assess the quality, age and continuing relevance of the country and sector/agency procurement risk assessments. These Assessment Reports were issued in June 2017, so can be considered relevant. It should be noted however that the Country/Sector Reports drew on the findings of the original OIMIP PPRA and not the other way, but most importantly they confirmed the findings of the PPRA used for mitigating risks for OIMIP.*

*The assessment of (i) project procurement needs and EA capacity; (ii) a narrative assessment of procurement systems and capacity of EA including strengths and potential weaknesses; (iii) risk assessment and preparation of a risk management plan; and (iv) the proposed project procurement plan, as prepared for OIMIP are considered very relevant to TTFP. Given that the Government's Central Procurement Unit (CPU) undertakes all major procurement with an anticipated value >\$5,000 for all of Government of Tuvalu's Departments, it is the CPU was the main focus for the Project Risk Assessment Analysis for OIMIP, and is also for the TTFP risk assessment. The EA/IA and the PMU have limited experience and much more limited capacity than the CPU, and hence the Government legislation that CPU undertake all procurement > \$5000, should be followed. Support to CPU to undertake procurement for TTFP, will however be required, and hopefully this can be drawn from MCT and PMU, but the bulk of the support will come from the Procurement Specialist.*

*It is essential that the project procurement risk assessment is realistic because this is the only way for appropriate risk mitigations to be identified and built into the project design. If the CPU's or the PMU's capacity is overstated, the absence of appropriate risk mitigations could result in implementation delays. It is also important that the assessment is conducted only on the facilities and staff within the CPU (perhaps supported by staff from the Project Management Unit under the EA), that will directly contribute to procurement activities under the project. Assessing irrelevant entities will distort the assessment and again result in inadequate risk mitigation measures.*

## **1.2 Conducting the Assessment**

*The primary sources of information for the OIMIP were interviews with the Department of Marine and Port Services of Ministry of Communication and Transport (MCT), the Central Procurement Unit, the Procurement Specialist assigned by ADB to assist the CPU with the Development of the Tuvalu Procurement Guidelines and Standard Bidding Documents, and the project appointed PMU. ADB's Procurement Risk Assessment Questionnaire, were used as the base document for these interviews. As the same organisations are involved with this new project, the analysis of the earlier interviews are considered relevant for completing the narrative assessment of the project procurement arrangements for TTFP.*

## 2 Country and Sector/Agency Procurement Risk Assessment

The following has been extracted from the Executive Summary of the Tuvalu Country and Sector/Agency Procurement Risk Assessment Report<sup>1</sup> published in June 2017.

### A. Context of Assessment

This Country and Sector/Agency Procurement Risk Assessment (PRA) on Tuvalu is the second in a series of PRAs to be conducted on six Pacific Island Countries including Solomon Islands, Tuvalu, Cook Islands, Tonga, Samoa and Kiribati. The assessment was conducted from 24 November to 6 December 2016

The key objectives of the PRA for each country are:

- 1) Identify risks that national or sector systems and/or practices could result in sub-optimal use of national and/or ADB resources, either through leakage or inefficiency
- 2) Assess the severity of the risk
- 3) Develop a practical risk management plan to address at a minimum high or significant procurement risks at the country and sector level.

The PRA is based on the Organization for Economic Cooperation and Development Methodology for Assessing Procurement Systems (MAPS). It uses questionnaires and interviews with respondents that assess five pillars that underlie best practice in public procurement. These pillars are:

- a) Legislative and Regulatory Framework
- b) Institutional Framework and Management Capacity
- c) Procurement Operations and Market Practices
- d) Integrity and Transparency of the Public Procurement System
- e) Use of e-Procurement Systems

The risk levels are scored 0 to 3 indicating a high, substantial, moderate, to low risk. In this case, there were no e-procurement systems in use in the 6 countries so it was assessed at zero and not included in the scores. The risk level scores at the country and sector level are shown in Table 2-1

**Table 2-1 Risk Level Scores for Country and Sector Levels**

Level	MAPS Procurement Pillars					Overall Average Score
	1 Legislation and Regulation	2 Institutional and Management Capacity*	3 Procurement Operations Market Practices	4 Integrity and Transparency	5 Use e-Procurement Systems	
Country	2.34	1.46	1.55	1.83	Trial	1.80
3 Sectors	2.07	2.0	1.62	1.67		1.84

\* Pillar 2 could include Pillar 5-Use of e-Procurement Systems. There is currently no e-Procurement systems in use and this has been scored as zero, and not included in the scores for Pillar 2. Its current inclusion would substantially lower the scores for Pillar 2.

<sup>1</sup> Prepared by Mr David McDermont, consultant, International Governance Solutions, Pty Ltd, Australia

## **B. Key Findings and Conclusions**

- 1) *Potentially Tuvalu is developing a comprehensive and modern public procurement system with the following components being addressed:*
  - a) *Procurement legislation and detailed procurement regulations and a range of Standard Bidding Documents (SBD) are in place*
  - b) *The Central Procurement Unit (CPU) is established and has a wide range of responsibilities covering:*
    - i. *Formulate and propose policy and legislation revisions*
    - ii. *Prepare standard bidding documents manuals and guidelines for mandatory use by all procuring entities.*
    - iii. *Manage the provision of procurement reports to be submitted by procuring entities and monitor their performance*
    - iv. *Develop procedures for the suspension and debarment of all suppliers and their listing*
    - v. *Develop a procedure for selection of Review Panels for hearing and determination of complaints and appeals*
    - vi. *Review and approve Procurement Entity (PE) procurement packaging, procurement plans*
    - vii. *Purchase common goods and services for all PEs via framework agreements or single contracts*
    - viii. *Prepare for and conduct the tendering process, from advertisement to preparing evaluation reports for approval by the Procurement Review Committee (PRC)*
    - ix. *Provide secretariat support to the PRC*
    - x. *Request and receive information from PEs as required*
    - xi. *Develop, promote and support training and professional development of officials and other persons engaged in public procurement.*
    - xii. *Present annual report to the Minister regarding the overall functioning of the public procurement system*
  - c) *There is an effective procurement oversight function developing with roles for the Office of the Auditor General (OAG), CPU, PRC, Ministry of Finance and Economic Development (MFED) and the Public Enterprise Review and Monitoring Unit (PERMU).*
  - d) *Competitive tendering using well-defined procurement methods and thresholds has been established.*
  - e) *Some CPU staff has received procurement training.*
  - f) *Effectively, a two-tier complaints system has been established with a degree of independent arbitration.*
  - g) *The OAG is responsible for auditing all ministries and State Public Enterprises (SPE), reports directly to parliament, and is conducting projects to improve the scope of audits.*
  - h) *The CPU website has accessible information on procurement processes, methods and documents, current tenders, contracts awarded, and the complaints process.*
  - i) *An e-procurement system has had a very limited trial in Tuvalu as part of an ADB project to introduce such systems.*
  - j) *Respondents cited very few instances of corruption and Tuvalu has signed the UN Convention on Anti-Corruption and is reviewing what needs to be done to meet the UNCAC requirements.*
- 2) *The substantial changes, developments and plans in 1) above are not being as effective as they should be, because they are not being well implemented due to a lack of*

*procurement capacity and expertise, which has significant flow on effects as follows:*

- a) *There is a lack of procurement capacity and expertise in the CPU and government ministries, and suppliers, which results in problems in planning procurement, costing projects, managing the procurement cycle, monitoring levels of compliance with policy, legislation, and procurement guidelines, conducting the procurement process, monitoring and reporting on procurement performance and annual reporting on public procurement.*
  - b) *The CPU has a wide range of oversight and operational responsibilities, and its centralized operation is most appropriate and efficient for Tuvalu's small economy. However, with 5 staff, limits on its range of expertise, and with its limited resources, it has difficulties in fully addressing its many responsibilities. This can result in inadequate implementation of supplier, government ministry and SPE understanding and compliance with the current components of the public procurement system. The lack of Procurement Officers in most ministries makes the CPUs task more difficult. The CPU staff structure, numbers and range of expertise needs to be assessed and changes made so it can effectively manage its procurement responsibilities. This needs to be supported by a professional training and development program for all procurement staff.*
  - c) *Many of the respondents interviewed had limited knowledge of how the current public procurement system operates and the processes available. There needs to be a more comprehensive awareness program for ministry staff with involvement in public procurement, and suppliers.*
  - d) *The inadequate procurement costings done by some ministries indicates a lack of expertise and access to appropriate training. This can result in the overuse of variations in contracts.*
- 3) *A lack of an e-Procurement system, if addressed, would greatly improve managing procurement planning, the monitoring and auditing of procurement compliance and performance, market research, streamline the procurement process for both procurement entities and suppliers, and provide a procurement database for analysis and reporting. It would also allow the CPU to manage its workload more efficiently and give it more ready access to information it requires. It would complement and/or enhance the CPU website and bring the complaints process fully on-line.*
- 4) *The very small size of the economy and Tuvalu's isolation results in a very small private sector that restricts bidder numbers in some areas, and some suppliers do not have the capacity and/or skills to bid for tenders or have difficulties in completing contracts. This problem is difficult to address and requires a very rigorous approach to SME development including:*
- a) *There is currently a lack of scrutiny of supplier registration and the registration containing little procurement capacity information. There were reports of transient or fly-by-night suppliers. Without reliable information on the supplier base it is difficult to address the capacity and skill issues involved. The planned testing of suppliers on registration will assist in dealing with some of the issues.*
  - b) *There is not a well-developed Small to Medium Enterprise (SME) Development Strategy that could greatly assist the generally small supplier market, which has limited capacity and numbers in some procurement areas.*
  - c) *There needs to be a more formal engagement between the Tuvalu National Private Sector Organization (TNPSO) and the government to encourage increased private sector awareness of procurement issues and its support for any SME strategies developed.*
- 5) *There is a dis-connect between procurement planning and budget funds being available and a lack in some cases of forward procurement planning. The procurement planning and budget cycle need to be better integrated, with more a more streamlined process and*

*some forward procurement planning (2 years) to assist suppliers and procurement agencies to prepare for future tendering.*

- 6) *ADB is currently developing a project to implement e-Procurement systems in Pacific Island countries including Tuvalu, and this should provide a major vehicle for modernization.*
- 7) *The ADB threshold levels for ICB, NCB and shopping should remain at the current limits. The common practice of DPs undertaking prior reviews of projects and the implementing agencies should remain.*
- 8) *The majority of high and substantial procurement risks relate to both the country and sector levels, and are systemic procurement risks in that they relate to capacity, compliance with procurement policy and guidelines, market size, and a range of other key support mechanisms for public procurement.*
- 9) *The impact of the risks identified above are generally reduced for the SPEs in the ICT and Energy and Power sectors due to them having their own legislation, procurement policies and procedures, independent Boards, and procurement is more overseen or supported by experienced people and consultants.*
- 10) *The high to substantial risks identified in 2) to 4) should be addressed first as they have significant impact on reducing overall risk levels.*

### **C. Procurement Risk Assessment and Mitigation Plan (PRAMP)**

*The risks that are assessed as high or substantial are considered to be both likely to keep occurring and have a high degree of impact when they do occur on the public procurement system. They therefore need to have planned mitigation measures to reduce or eliminate their impact. The mitigation measures can be grouped into four types (A, B, C, D) as outlined below. Mitigation measures can be linked to other measures or used as alternatives for a specific risk. It should be noted that the government would be expected to be involved in all mitigation measures.*

*Type A: ADB engages with the government, and other development partners and private sector stakeholders to mitigate the risk.*

*Type B: ADB works with the government and specific agencies or organizations in the private and public sectors.*

*Type C: The government, perhaps with assistance from ADB or other development partners as needed, leads the mitigation measures.*

*Type D: ADB expands a current initiative to mitigate the risk.*

*Different types of mitigation measures may migrate from one type to another. For example, ADB may initiate a measure by itself (Type B), which then is joined by other development partners, thus shifting IT to Type A.*

*A summary of the PRAMP showing risk type and levels and the types of mitigation measures that could be applied at the country and sector level is shown in Table 2-2.*

**Table 2-2 Summary Country Level Procurement Risk Assessment and Management Plan**

No	Weakness Description and Implied Risk	Risk Level	Types of Mitigation Measure*			
			A	B	C	D
<b>Pillar 1: Legal and Regulatory Framework</b>						
1	The legislative and regulatory framework exists but the monitoring, management compliance to procurement legislation, regulations and procedures is inconsistent	Substantial to Moderate	A	B		
2	The registration system for suppliers does not cover procurement capability and is not scrutinized adequately to ensure suppliers are registered, and are bona fide companies	Substantial		B		
<b>Pillar 2: Institutional Framework and Management Capacity</b>						
3	Budget and procurement planning are not completely integrated with slow approval and release of SIG funding. Projects starts are delayed, some projects are not completed when funding expires.  and  Limited forward budgeting and procurement planning is applied and leads to underfunding of maintenance in the power sector and restricts opportunities for new and SME local suppliers to prepare for tendering	Substantial	A	B	C	
4	The oversight units' functions need to be more coordinated. The CPU is under resourced for its expanded oversight and operational role, and needs to have formal links with other oversight units and organizations	Substantial		B		
5	No national procurement expertise and capacity development program is available, which impacts the whole procurement cycle and its management and performance.	High	A		C	
<b>Pillar 3: Procurement Operations and Market Practices</b>						

6	<p>Private sector is small, bidders in some sectors are competitive but not in others, sometimes few in number and not well organized.</p> <p>There is not a well established SME Development Strategy to raise the standard of suppliers and increase their participation in public procurement</p>	Substantial	A		B		
7	<p>Costing of tenders is partly inadequate leading to overuse of variations, and alleged over-budgeting in some ministries</p>	Substantial	A				
8	<p>The mechanism for complaints and protests is well structured but needs to be based on submission of on-line</p> <p>Template forms to assist the process and recording of data</p>	Moderate	A				
<b>Pillar 4: Integrity and Transparency of the Public Procurement System</b>							
9	<p>Leadership Code does not appear to be enforced</p>	Moderate			C		
10	<p>Is there a need for Anticorruption Legislation?</p>	Moderate			C		
<b>Pillar 5: Use of e-Procurement Systems</b>							
11	<p>No e-Procurement system is available yet to support managing the procurement cycle and procurement performance monitoring and reporting</p>	Substantial		B			

*In Tuvalu, almost all the risks at the country level impacted the sectors but usually to a slightly lesser degree. There were not specific sector risks identified at the sector level that were not common to the country level.*

## 3 Project Procurement Risk Assessment

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### 3.1 Overview

#### 3.1.1 Procurement Reform

According to the DFAT Report, “Assessment of National Systems – Tuvalu”, procurement systems have improved substantially since their 2012 assessment. At this time fiduciary risks around procurement were rated “Very High” due to lack of regulatory framework and lack of transparency. But the introduction of new procurement legislation and regulations that were passed in 2014, and the centralisation of procurement in the CPU, established in February 2014, has resulted in a lowering of the fiduciary risk level associate with putting aid funds on procurement from “Very High” to “High”.

The international open bidding is the default methodology for procurement above \$25,000. All procurement above \$500 must be submitted to the CPU for approval. The procurement of goods and services above \$5000 must be carried out by the CPU. The minimum time for open bids to close is 42 days for tenders valued above \$100,000. The role of line ministries in procurements above \$5,000 is limited to specifying the goods and services that they wish to procure, and managing the projects. They should also be responsible for preparing/providing project designs and the project Specifications, or at least working with consultants engaged to undertake such work.

Currently there are five full time staff in the CPU along with an ADB advisor who visits Tuvalu quarterly and provides advice to the CPU as required. The Head of the CPU is however on a two year study leave of absence. This substantial impacts on the capacity of the CPU during this period. However, the Country/Sector Risk Assessment confirms that non-compliance with the new procurement procedures by line ministries, together with lack of advanced procurement planning, still handicaps the CPU and extends the process, and can result in extensive delays in some cases. For example, in the majority of cases detailed technical specifications are returned to line ministries due to their inadequacy. Line Ministries have a lack of qualified technical people who firstly have a sound understanding of the design elements of the project, and secondly the requirements of International Bidding, and the need to have comprehensive and accurate specifications that can be used to govern the quality of the work. Also it should be added that the CPU staff do not have the experience to judge whether such specifications are adequate or not. The ADB Procurement Advisor has been the one who has identified and tried to rectify this problem. The structure of the PMU for projects like OIMIP and now for TTFP, need to include people who have the ability to undertake such document preparation. When there are International Consultants involved in the Project Design and Bid documentation, then this does not become a major problem, as the consultant will have the responsibility to ensure that appropriate technical specifications and accurate designs for the Works are prepared.

The CPU does not currently maintain a database of active procurement or track the progress of procurement activity, but efforts to introduce appropriate management/tracking systems are proceeding through the ADB Advisor. Lack of staff and knowledge of such systems is an issue. But given that the volume of major procurement is not large, tracking the progress of procurement has not been a major impediment. Also the role of the CPU needs to be better defined as in some instances in the past, the CPU was assuming some contract management responsibility, but assurances have been given that this practice has stopped and the line ministries/PMU’s have rightly assumed that role. As they do not have the resources nor technical capability for such a role, it is important that the CPU focus on management of procurement processes on behalf of line ministries and not take a role in contract management.

It would seem that there are still elements of resistance in government, including at senior levels, to the new procedures, with the common complaint that it is leading to unnecessary delays in procurement. These concerns by senior civil servants must be addressed early to avoid spreading and thus undermining recent improvements. As indicated above, it is generally the line Departments, by not providing adequate supporting documentation, that is delaying the process, and the complaints are more likely being driven by the fact that the Senior Level of Line Agencies are no longer in a position to “do deals” with bidders. The DFAT report notes that there is a significant improvement in corruption risks applicable to procurement since the introduction of the CPU, with the rating going from



*High to Moderate, although some compliance risks remain. This can perhaps be attributed to the removal of some of the influence that senior line managers of Ministries/Departments had in the past.*

*The preparation of procurement plans by ministries, which started in 2016, will greatly facilitate the timeliness of procurement processes. A pipeline of projects can be developed and a procurement schedule to meet the pipeline goals can be prepared. The GOT is continuing its awareness program. Ideally, this should take the form of significant outreach to line ministries to build conceptual and technical understanding of procurement processes and convey realistic expectation of normal procurement timeframes and desired outcomes. DFAT has suggested that this will require continued/additional in-country inputs by the current procurement adviser to build the 'basics' of procurement capacity. GOT also plans to review procurement business processes. Removing the CPU's role in contract management as part of this review has been an important step, allowing CPU staff to focus solely on procurement, and not do follow up management for Contracts which is the responsibility of Departments/Ministries.*

*A fully independent complaints handling mechanism has been established in 2016, and Office of the Attorney General (OAG) conduct internal audits. This will meet accepted international standards. Information on procurement, including contract award, but whilst being advised to all bidders, is not consistently made public, although some information is published on a public notice board. The PEFA self-assessment recommended that such a website be developed, and DFAT supported that recommendation. It would appear that this is being implemented now*

### **3.1.2 Project Procurement Risk Assessment Questionnaire**

**Risk Identification:** *The potential weaknesses in agency procurement capacity are identified in the Procurement Risk Assessment Questionnaire. Where, as a result of the diagnostic assessments a weakness was identified, attempts were made to gather additional information to determine the root cause of the weakness and how it may affect procurement risk. However assuming that CPU will be given approval to manage the procurement process by ADB, in accordance to Government Legislation, the main weakness or concern moving forward is the lack of resources available within CPU, and technical understanding to do the technical evaluation of bids. The importance of forming a 3-4 person technical evaluation committee that contains at least one person with technical engineering experience cannot be over emphasized. The role of the Consultants Procurement Specialist in bid evaluation will be critical in overcoming this and ensuring that appropriate technical evaluation is delivered.*

**Risk Assessment:** *Once risks have been identified, it is necessary to determine whether or not the risk is likely to occur and, if it were to occur, the impact it could have on the project. The risks as assessed in the Project Procurement Risk Assessment Questionnaire (Appendix 1) have been categorized as follows:*

High	-	likely to occur, will have high impact if occurs
Substantial	-	unlikely to occur, will have high impact if occurs
Moderate	-	likely to occur, will have low impact if occurs
Low	-	not likely to occur, will have low impact if occurs

### **3.1.3 Organisation and Staff Capacity**

*This project procurement risk assessment (PPRA) covers the following implementing agencies.*

*Central Procurement Unit;*

*Ministry of Communication and Transport (MCT)/Department of Marine and Port Services; and Project Management Unit.*

*Information on the GOT/CPU's procurement experiences was collected during interviews and discussion with the Head of CPU, and the ADB assigned Procurement Advisor who is assisting with the establishment of Procurement Guidelines and preparation of Draft Bidding Documents.*

(a) Central Procurement Unit

The Government has established a Central Procurement Unit that is responsible to oversee all Government Procurement in Tuvalu. Government Ministries and Government Departments and Authorities have to submit a Procurement Proposal to CPU for approval (Refer Figure 5.1). If the procurement proposed is less than \$5000, the CPU will approve the Ministry/Department to proceed. Any procurement exceeding this value will be handled by the CPU. The main Ministries/Departments for which procurement is undertaken are Education, Health, Public Works, Communication and Transport, and Public Utilities.

The main constraints in doing the procurement through the CPU are the lack of experience in procurement of civil works for a large project such as this, and the lack of resources available within the CPU. There is only a team of 5 staff (an increase of 2 since Bidding for OIMIP was carried out), and they are still obtaining training from the ADB appointed Procurement Specialist. The Head of the CPU Ms Amilinda has qualifications in Business, but is currently overseas on extended study leave. Some other CPU staff have been certified to CIPS Level 2 after going through CIPS courses.

The size (value and scope) of project procurement undertaken by the CPU until recently was quite small, however they have now have now undertaken the procurement of the Design and Project Management Services for the construction of a major school project on Funafuti funded by DFAT, with a project estimate of \$4.1 Million, and they are also undertaking bidding for the design and Project Management for the construction of the new Government Court House (local funding) which has a cost estimate of >\$6 Million, as well as participating in the OIMIP (ADB). These projects are providing them with good relevant experience, but as suggested above, technical resource capacity is limited, and it would be difficult for CPU to do procurement for multiple major projects such as the above, at the same time. It has been a common process in the past for the Technical and Financial Assessment of bids to be carried out by one individual rather than by a Technical Evaluation Committee.

There is however, as was the case with OIMIP, limited experience and capacity within either the EA and/or the IA, to initiate procurement for a project of this size. Some involvement in procurement of Civil Works Contracts for the TTFP would continue to develop the experience gained from the Outer Island Maritime Infrastructure Project and deliver good capacity development for CPU, and the IA. The CPU could undertake the Procurement under the guidance of the Consultant appointed for the Project Design Advance Procurement phase of the Project. The risk of undertaking the Procurement on this basis is considered low, given the positive outcomes that were achieved in the bidding for OIMIP.

One aspect of Procurement by the CPU that will need to be strengthened is the Technical Evaluation of bids. Generally staff within the CPU individually undertake the assessments with the ADB advisor, when he is in-country, doing an individual check. Whilst individuals within the CPU, would be capable of managing the Procurement, with guidance from the PDA Consultant, the bid evaluation process needs to be strengthened. The bid evaluation process will need to include the formation of a Technical Evaluation Committee (3-4 people) drawing on expertise from the CPU and other agencies (such as MCT, PWD, & PMU) to assist with the evaluation. The problem is the very limited number of people who have the technical experience with such Bid evaluation that can be called on. This will need to be reviewed in more detail and some potential members for a TEC will need to be identified, either from within Government, or drawn from the private sector.

(b) Ministry of Communication and Transport (MCT)/ Department of Marine and Port Service (DMPS)

MCT is divided into 4 Departments (Meteorology, ICT, Marine and Port Services and Civil Aviation), and currently employs 98 staff compared to an approved cadre of 114. Of these 98 staff, only a limited number are technical people and there are no qualified engineering staff. There is only one person based in DMPS, handling goods procurement for MCT (across all departments), but it was suggested that some additional staff were to be appointed soon to do the procurement for other units, and the current DMPS staff member will only be involved with MCT Head Office and DMPS procurement. It is not known if this has happened yet.

The DMPS procurement officer, based on the current regulations such procurement, is limited to procurement of goods and services with a value < \$5,000. The MCT officer is required to submit a Procurement Proposal to CPU for approval. If the procurement proposed is less than \$5000, the CPU

will approve the Ministry/Department to proceed. If procurement is <\$500, the procurement officer will use purchase order to purchase the goods. If cost >\$500 <\$5,000, after receiving approval to proceed, the procurement officer will arrange 3 competitive quotations, evaluate and submit recommendation on preferred supplier to the Head of Department, and subsequently to the Secretary for approval. She will then confirm purchase with supplier, do the paperwork for payment, and submit to the Treasury for payment (direct payment or TT). The Procurement Officer would at a busy time, handle up to 20 such transactions a month. These procurements involve purchase of supplies and fuel for the boats, spare parts, and office supplies. If procurement value >\$5,000, she will prepare purchase requests, description of goods, details of potential suppliers and send to CPU for processing.

The MCT Procurement Officer has no spare capacity, nor experience in the procurement of Civil Works and Consulting services. As a result, MCT has not undertaken any foreign/donor funded procurement comparable to what is required for OIMIP for a number of years.

(c) **Project Management Unit (PMU)**

A PMU for the OIMIP was established within MCT using “advance action” for the Project Design Advance (PDA). It covered a Project Director (Director of DMPS), Project Manager, and Project Accountant. It is assumed that the same PMU will cover the TTFP also, though additional staff may be needed for implementation. The key will be trying to identify appropriately qualified people.

Based on current capacity of the OIMIP PMU, it is clear that it has insufficient capacity to address the Procurement tasks, or even contribute significant assistance to CPU for procurement associated with TTFP. The Project Manager did contribute to the Bid Evaluation of OIMIP, and would have relevant technical knowledge to participant in Bid Evaluation as part of TEC TTFP.

Based on the above assessment, overall the Organizational and Staff Capacity to undertake Procurement for TTFP is rated as moderate risk, but based on the assumption that the CPU has continued to develop on the experience gained during OIMIP Procurement and the other donor projects that they have carried out over the past 12 months, and that the PDA Consultant’s Procurement Specialist will direct the Project Procurement activities, the risk mitigation steps would reduce such risk to moderate to low.

### **3.1.4 Information Management**

Since being established in 2014, the CPU has gradually been setting up reporting and monitoring systems that allow proper registration and record keeping processes for the Government’s procurement activities. This applies to tracking of RFP’s, bid correspondence, bid submissions, bid compliance, bid evaluation, and bid negotiations. Whilst these processes are hampered by lack of resources within the CPU, the understanding of need exists and must be considered as a work in progress. The input of the ADB Advisor for further development of information management needs and systems is critical. In general the risks associated with Information Management are considered low to moderate. An important part of this moving forward will be the proposed annual independent procurement audits, which are to be conducted from 2016. Records to provide an adequate audit trail will be essential.

### **3.1.5 Procurement Practices**

The CPU has successfully undertaken procurement of Goods, Works and Consultant Services since it was established in 2014. This procurement has been undertaken in compliance with Tuvalu Public Procurement Act (2013) and Public Procurement Rules and Regulations, and due to the presence (intermittent) of the ADB Procurement Specialist who is assisting with the training of CPU, establishment of Procurement Guidelines and Standard Bidding Documents, and where required assisting directly with the Procurement process, the procurement generally complies with ADB procurement practices also.

Whilst the practices followed are generally sound, timeliness has perhaps been hampered by lack of resources, and also lack of cooperation from Ministries and line departments for which the Procurement is being undertaken. It is reasonable to assume that the Government Ministries and line Departments are not happy that Procurement responsibilities have been removed from their control.

*There are clearly some practices that need to be improved or indeed corrected. For example bid evaluation by a single person, even if subsequently reviewed by others is not acceptable, but this practice has been forced by a lack of resources within the CPU, and the absence of a process which allows outside technical advisors to be seconded from Government Departments to assist with the Technical Evaluation Process.*

*In general the domestic procurement practices/systems support international competitive bidding, as given the lack of local companies, with capacity to undertake significant projects of the type being considered, it is mainly foreign bidders participating whether its domestic procurement or internationally bid procurement.*

*Currently the risk associated with Procurement Practices is rated as Moderate, but this can be reduced by continued support by the ADB Procurement Advisor and by guidance from the PDA Consultant during the TFFP Procurement process.*

### **3.1.6 e-Procurement**

*As per the OIMIP, ADB has suggested investigation to identify an e-Procurement service provider suitable for Tuvalu for bidding of the civil works. The Country and Sector Procurement Risk Assessment Report indicated that “no e-Procurement system is available yet to support managing the procurement cycle and procurement performance monitoring and reporting”. This was not 100% correct, as ADB had, at the time of bidding OIMIP, awarded a consultancy to In-Tend from the UK, to assist Tuvalu CPU set up an e-Procurement process, and elements of the system were used for bidding OIMIP (downloading of Bid Documents and Clarifications), and this saved time with issuing documents. Progress with further development and use of the system has been made with the appointment of an officer within the CPU to focus on this development. It is now reported that the system is now being used for both downloading of bid documents and uploading of final bids. This will need further investigation closer to the time of bidding, but as a minimum, a similar use of the system used for bidding of OIMIP, is recommended for TFFP. If this can be extended to uploading of Bids, then this will improve the efficiency of the bidding, and most certainly lower risk in regard to the record keeping.*

### **3.1.7 Procurement Verification**

*Based on the current evaluation process (generally the Bid Assessment just being evaluated by the head, or another member of the CPU), the bid evaluation report and recommendations are then sent to the Procurement Review Committee for approval. Based on the “Public Procurement Regulation – Tuvalu 2013”, the Procurement Review Committee consists of the following people:*

- > **Secretary to Government (Chairman);**
- > **Secretary for Finance; (Deputy Chairman)**
- > **Attorney-General**
- > **Government Accountant;**
- > **Director of the Department of Planning and Budget of the ministry responsible for finance; and**
- > **Secretary of a line ministry involved in the project for which the procurement applies.**

*The duties of the Procurement Review Committee are to:*

- > *review and issue a letter of no objection to all major procurement bidding documents prior to calling of bids;*
- > *review and issue a letter of no objection to a bid evaluation report and recommendation for contract award for all major procurement prior to the procuring entity issuing a notification of contract award; and*
- > *establish a list of specialists from which shall be formed a number of Review Panels in the manner set forth in the Procurement Complaints and Appeals Procedure.*

1. *The risk of this aspect of the Bid Evaluation Process is considered low, as it duplicates many of the ADB review and no objection processes, and provides a safeguard review process that should conform with ADB requirements. However given the seniority of these people within Government, it is unlikely that these people collectively have the time to come together at the same time to comprehensively*

fulfil such duties. So this may be an issue, and as indicated above, the lack of experienced and qualified Engineering staff to serve on any initial Tender Evaluation Committee, is also a restriction. It is not acceptable and equates to a high risk, if the bid evaluation is carried out by a single person. Also any Bid Evaluation Report and Recommendation would need to be sent to the ADB for approval, with ADB having final say on approval.

It will be a task of the Consultants involved with the Project to ensure that the correct review and approval process takes place to ensure the risk does not increase to the Moderate range.

### **3.1.8 Effectiveness and Accountability Measures**

Risks associated with either of these two elements within the Project Procurement Process have been assessed as low to Medium. To a large extent, the monitoring of effectiveness falls back to the EA/IA and/or the PIC. Also, the GOT plans to establish a fully independent complaints handling mechanism in 2016, will have assisted in improving these measures. Also the independent procurement audits by the OAG, will also continue to improve accountability.

### **3.1.9 Project Procurement Risk Assessment Summary**

Based on the project procurement risk assessment conducted we have determined that there exists both strengths and weaknesses in the GOT Procurement Process, but nothing that would put the project procurement for TTFP at unacceptable risk that would require ADB taking direct control of the Procurement process. The procurement for OIMIP was carried out successfully and there is no reason to believe that the same cannot be achieved for TTFP

#### **Strengths**

- > An independent Central Procurement Unit outside the influence of Government Senior Departmental Officials has been established to undertake all government procurement with a value >\$5,000.
- > The CPU has been operating for more than 3 years and is receiving guidance from ADB recruited Senior Procurement Specialist.
- > The CPU has recently been partly involved with Procurement under WB Funding, been entrusted by DFAT recently to manage the Procurement for Funafuti School Buildings Project, and also was involved with Procurement under ADB's OIMIP. These have all been successfully undertaken. The TTFP is of comparable size to OIMIP.
- > DFAT in its most recent Assessment of National Systems –Tuvalu has documented a substantial lowering of procurement risk since the establishment of the CPU, and determines the residual risk for procurement is Moderate.
- > It has been recorded that with the establishment of the CPU, corrupt misuse of public monies in the procurement process has considerably declined.
- > Since completion of procurement for OIMIP, the Senior Procurement Advisor has continue to provide capacity development to the CPU, and therefore improvement of skills and understanding of processes should have continued.
- > The PDA Consultant's Procurement Specialist will take a leading role in the preparation of Bidding Documents for the Project, and monitor the full procurement process.
- > An understanding of e-Procurement has already been established within the CPU, and officers have continued to receive training, with reports suggesting that the system is now being used regularly. This has significant potential to lower risks in a number of areas.

#### **Weakness**

- > Non-compliance by Govt. Departments with regulatory framework still continues, and the lack of forward procurement planning delays procurement.
- > There are elements of resistance in GOT to the CPU and associated new procedures, leading to complaints that procurement is taking too long.
- > It has been reported that information on procurement, including contract award has not consistently been made public.
- > Lack of resources within the CPU to adequately establish and maintain all required information management tools/records.
- > Lack of resources within the CPU to undertake multiple major project procurement at the same time and to evaluate and make award recommendations in a timely manner. Too often Bid evaluation is

*being undertaken by a single person. Whilst this may be acceptable for small supply contracts, it is not acceptable for procurement of large civil works contracts.*

- > Technical experts are not being included in the Bid evaluation process (due to lack of such experts in Tuvalu).*
- > Line Ministries are not taking adequate care in the preparation and timely submission of technical specifications to the CPU.*
- > It is reported that CPU is using resources for some contract management responsibilities. This should stop and contract management responsibilities must pass back to line ministries, so that CPU can focus on procurement processes.*

*Some of these matters were addressed under OIMIP, but are once again addressed in the Risk Mitigation and Management Plan below.*

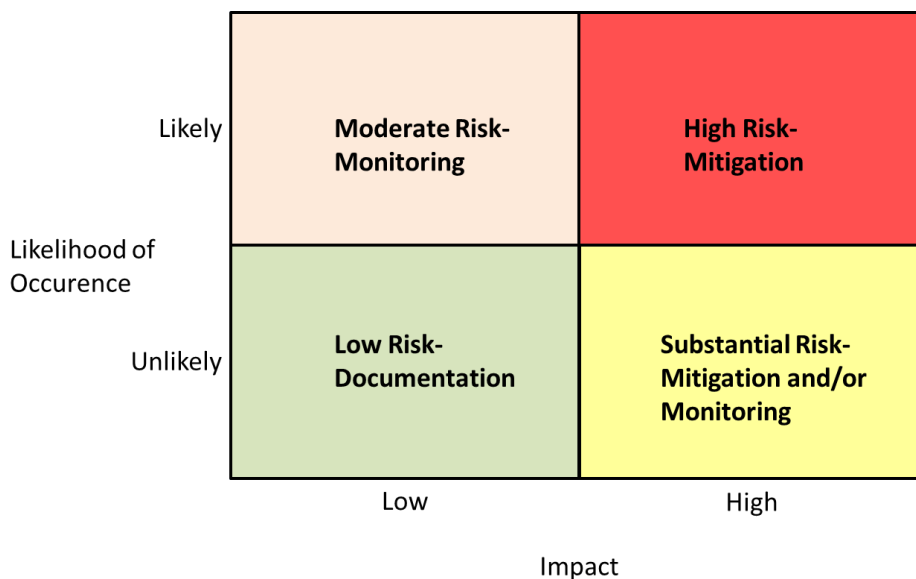
## 4 Risk Mitigation and Management Plan

**Risk Mitigation and Management:** For the purpose of this Project Procurement Risk Analysis, risks were assessed and categorized based on the responses in the Procurement Risk Assessment Questionnaire in order to help focus and prioritize remedial action. A variety of options exist for managing the risks, and these include:

- > Risk mitigation – specific measures to minimize or eliminate unacceptable risks. Risk mitigation measures are directed at reducing the severity of the risk, reducing the probability of the risk materializing or reducing exposure to the risk.
- > Risk monitoring – mechanisms to track and report on exposure to risks, particularly to ensure that the neither the probability nor the impact associated with the risk is increasing.
- > Risk identification and documentation – measures to document and draw attention to risks without needing to formally mitigate or monitor them.
- > Risk avoidance - mechanisms to avoid assuming the risk altogether

In terms of the Tuvalu TTFP, our approach for this report involves risk mitigation, and where possible, risk avoidance if such can be managed without greatly impacting on cost of implementation. Risk monitoring will also be needed as was the case with OIMIP.

As per the ADB Guidelines, Figure 2 provides a schematic representation of the relevant risk categories, likely impact and level of mitigation which may be required. For the procurement associated with this Project, we believe the upper left and lower right quadrants would apply.



**Figure 2 Risk Categories**

Procurement Risk Assessment and Management Plan (P-RAMP), associated with the completed project procurement risk assessment is given in Appendix B. It is the Consultant’s opinion that project arrangements with the specified mitigation measures are satisfactory and the procurement can proceed through the CPU with direct involvement of the PDA Consultant’s Procurement Specialist, and by the appointed Supervision Consultant, once the Contracted work commences.

*Trade and Transport Facilitation in the  
Pacific – Niutao Island, Tuvalu*

*APPENDIX*

**A**

*PROJECT PROCUREMENT RISK QUESTIONNAIRE*



**DEPARTMENT OF MARINE AND PORT SERVICES  
MINISTRY OF COMMUNICATION AND TRANSPORT (MCT)**

QUESTION	RESPONSE <sup>2</sup>	RISK <sup>3</sup>
<b>A. ORGANIZATIONAL AND STAFF CAPACITY</b>		
<b>PROCUREMENT DEPARTMENT/UNIT</b>		
<b>A.1 Does the agency or Government have a Procurement Committee that is independent from the head of the agency?</b>	<i>Procurement is carried out by the Central Procurement Unit (CPU) located in the Ministry of Finance and Economic Development. The CPU was established in 2014 . The CPU is independent to the EA/ IA, and there is a separate Procurement Review Committee (PRC) (on which MCT would be represented.</i>	Moderate
<b>A.2 Does the agency have a procurement department/unit, including a permanent office that performs the function of a Secretariat of the Procurement Committee?</b>	<i>No; only 1 staff performs minor procurement related tasks, but the GOT has established a separate CPU which performs this function and acts as the secretariat to the PRC.</i>	Moderate
<b>A.3 If yes, what type of procurement does it undertake?</b>	<i>MCT Officer only handles minor procurement transactions CPU performs all procurement &gt;\$5000. It can undertake International donor funded procurement, if the Donor agency agrees (doing for DFAT)</i>	Moderate
<b>A.4 How many years' experience does the head of the procurement department/unit have in a direct procurement role?</b>	<i>No procurement department/unit in the IA CPU head and other staff have limited experience&lt;3 years, but they are being trained by ADB Advisor. At the time of OIMIP all three existing staff had been certified to CIPS Level 2 after going through CIPS courses. The Director/Head of CPU has Degree in Economics and Accounting. New staff have been added, but experience is limited.</i>	Moderate
<b>A.5 How many staff in the procurement department/unit are:</b> i. full time ii. part time iii. seconded	<i>1 full time staff (withinMCT) performing procurement related tasks. CPU now has 5 full time staff, but the Head CPU is overseas on study leave (2 years approved), and the 2-I-C has recently resigned.</i>	Moderate
<b>A.6 Do the procurement staff have a high level of English language proficiency (verbal and written)?</b>	<i>Medium level; All CPU staff have some level of Tertiary Education</i>	Moderate to Low
<b>A.7 Are the number and qualifications of the staff sufficient to undertake the additional procurement that</b>	<i>Staff available but current other workload unknown. CPU have gained some experience of working with ADB SBD's for ICB from OIMIP,</i>	* Moderate

<sup>2</sup> Responses should include a discussion of the e-procurement component if an e-procurement system is in use or if is being planned for implementation.

<sup>3</sup> Questions indicated with \* are associated with potentially 'High' or 'Substantial' risks due to the impact being 'High', therefore the strategy for managing those risks should be addressed in the Project Procurement Risk Analysis (Appendix 2).

QUESTION	RESPONSE <sup>2</sup>	RISK <sup>3</sup>
<i>will be required under the proposed project?</i>	<i>and other Donor funded ICB projects since OIMIP, and once again will have support of PDA Consultant, to help manage the process.</i>	
<b>A.8 Does the unit have adequate facilities, such as PCs, internet connection, photocopy facilities, printers etc. to undertake the planned procurement?</b>	<i>Yes, both CPU and Department of Marine and Port Services is fairly well equipped. CPU is lacking office space, and needs a larger office to accommodate the additional staff and the proposed long term advisor.</i>	Low
<b>A.9 Does the agency have, or have ready access to, a procurement training program?</b>	<i>Yes, CPU staff have attended training with ADB, and UNDP. E-Procurement training is on-going. IA staff also have access to training through other donors. ADB Procurement Advisor is providing on-going training. The PDA Consultant will also support training in ADB Procurement procedures.</i>	Moderate to Low
<b>A.10 At what level does the department/unit report (to the head of agency, deputy etc.)?</b>	<i>Director of Department of Marine and Port Services reports to the Minister of Communication and Transport. Head of CPU would report to the EA as well as the Procurement Review Committee for this Project.</i>	Moderate
<b>A.11 Do the procurement positions in the agency have job descriptions, which outline specific roles, minimum technical requirements and career routes?</b>	<i>Yes, CPU have job Descriptions and qualifications, but the people appointed do not match all of the required qualifications. Technical qualifications/experience in civil engineering works very limited.</i>	Moderate
<b>A.12 Is there a procurement process manual for goods and works?</b>	<i>Yes, the Public Procurement Regulations of Tuvalu. CPU also has Procurement Guidelines Manual developed by ADB Advisor.</i>	Low
<b>A.13 If there is a manual, is it up to date and does it cover foreign-assisted projects?</b>	<i>Yes, however when dealing with foreign loan IA/CPU would normally follow the Donors guidelines. CPU Manual is based on ADB Guidelines.</i>	Low
<b>A.14 Is there a procurement process manual for consulting services?</b>	<i>Yes, in the PPR. But for external funded projects, IA/CPU would use Banks/other donors guidelines.</i>	Low
<b>A.15 If there is a manual, is it up to date and does it cover foreign-assisted projects?</b>	<i>As above. In 2017, CPU completed procurement for Consulting services for Funafuti School Project under DFAT, and some other projects.</i>	Low
<b>PROJECT MANAGEMENT UNIT</b>		
<b>A.16 Is there a fully (or almost fully) staffed PMU for this project currently in place?</b>	<i>It is assumed that the OIMIP PMU will also act as PMU for TTFP. Additional staff will be required, particularly Technical/Engineering staff. Current PMU staff do not have capacity to handle procurement.</i>	* High - Moderate
<b>A.17 Are the number and qualifications of the staff sufficient to undertake the additional procurement that will be required under the proposed project?</b>	<i>No. See above. PMU staff will need to be used to support CPU in the Procurement evaluation. PM will need to ensure government clearances are in place.</i>	* Moderate
<b>A.18 Does the unit have adequate facilities, such as PCs, internet connection, photocopy facilities,</b>	<i>See above. Subject to ADB approval, the CPU should handle the Procurement but will need</i>	Moderate

QUESTION	RESPONSE <sup>2</sup>	RISK <sup>3</sup>
<i>printers etc. to undertake the planned procurement?</i>	<i>assistance from PMU for Technical Evaluation. Together the resources and facilities will be adequate</i>	
<b>A.19</b> <i>Are there standard documents in use, such as Standard Procurement Documents/Forms, and have they been approved for use on ADB funded projects?</i>	<i>CPU/ADB PMU will use the Standard Bidding Documents approved by ADB PDA Consultant will prepare the Project Bidding Documents for approval by ADB</i>	Low
<b>A.20</b> <i>Does the agency follow the national procurement law, procurement processes, and guidelines?</i>	<i>Yes, for fiscal budget procurement transactions, IA/CPU follows the procurement law in the country.</i>	* Moderate
<b>A.21</b> <i>Do ToRs for consulting services follow a standard format such as background, tasks, inputs, objectives and outputs?</i>	<i>ADB projects TOR follows the requirements of ADB as stated and TOR approved by ADB before advertisement. CPU has a standard RFP for QCBS which is modelled on a slightly simplified version of the harmonized SRFP used by ADB/WB.</i>	Low
<b>A.22</b> <i>Who drafts the procurement specifications?</i>	<i>For the ADB Project/s the PDA Consultant will draft the documents and are reviewed/approved by ADB. IA/PMU should assist with Technical Specifications, but in the past this has proved to be a delaying factor to procurement undertaken by CPU. Once again the PDA Consultant will prepare.</i>	Moderate
<b>A.23</b> <i>Who approves the procurement specifications?</i>	<i>For ADB project/s documents are normally approved by ADB. The documents are reviewed/approved by the MCT/Project Director and passed up for approved by the Minister. Technical capacity within MCT is however limited, and this has been constant source of delay.</i>	Moderate
<b>A.24</b> <i>Who in the PMU has experience in drafting bidding documents?</i>	<i>PPTA/PDA consultants will support the PMU. Ex-Director of PWD is Project Manager of PMU, but the PMU will have to rely on Consultant to do this</i>	Low/Mod
<b>A.25</b> <i>Are records of the sale of bidding documents immediately available?</i>	<i>For OIMIP, the documents were issued free of charge to interested parties. Document issue is recorded by CPU. For this Project we would recommend a charge for Documents, based on cost recover contribution. This may hopefully discourage unqualified bidders.</i>	Low
<b>A.26</b> <i>Who identifies the need for consulting services requirements?</i>	<i>The need is identified in projects design by PPTA and normally Department of Marine and Port Services and Ministry. ADB would have final decision</i>	Moderate
<b>A.27</b> <i>Who drafts the Terms of Reference (ToR)</i>	<i>The TORs are drafted by PPTA and Detailed Design Consultants if appropriate, reviewed/endorsed by the PMU and approved by Minister/ADB</i>	Low/Mod
<b>A.28</b> <i>Who prepares the request for proposals (RFPs)</i>	<i>Same as above and no objected by ADB</i>	Low/Mod
<b>B. INFORMATION MANAGEMENT</b>		
<b>B.1</b> <i>Is there a referencing system for procurement files?</i>	<i>Yes the CPU numbering system; but, it only started in 2015, and current status needs to be checked.</i>	Moderate - Low

QUESTION	RESPONSE <sup>2</sup>	RISK <sup>3</sup>
<b>B.2 Are there adequate resources allocated to record keeping infrastructure, which includes the record keeping system, space, equipment and personnel to administer the procurement records management functions within the agency?</b>	There may not be an adequate system but the CPU has been trying to set this up since before OIMIP. It is done in-house, but staff have not been adequate. ADB Advisor has been trying to train CPU to be more systematic on record keeping and also get the records, such as they are, on minor procurement from the IAs and incorporate them into central records. Work still in progress. Experience indicates that the Agencies/IA's are not good at keeping up to date records. E-Procurement systems would help on this subject.	* Mod/high
<b>B.3 Does the Agency adhere to a document retention policy (ie for what period are records kept).</b>	There is a 5 year retention period as per the Tuvalu Procurement Law, and Procurement Rules and Regulations.	Low/Mod
<b>B.4 Are copies of bids or proposals retained with the evaluation?</b>	It is kept by the CPU. PMU would also keep a copy.	Low/Mod
<b>B.5 Are copies of the original advertisements retained with the pre-contract papers?</b>	Yes, with CPU, copies to the concerned Departments	Low
<b>B.6 Is there a single contract file with a copy of the contract and all subsequent contractual correspondence?</b>	According to the Procurement Law, it should. In practice, still record keeping is needs improvement	Low
<b>B.7 Are copies of invoices included with the contract papers?</b>	Yes, we have Interim Monthly Payment Certificates that includes the invoices	Low/Med
<b>B.8 Is the agency's record keeping function supported by IT?</b>	No. It is supported by a contract register which is kept in Excel format although I fear it has less than 100% coverage.	Med/High
<b>C. PROCUREMENT PRACTICES</b>		
<b>Goods and Works</b>		
<b>C.1 Has the agency undertaken procurement of goods or works related to foreign assistance recently (last 12 months or last 36 months)? If yes, indicate the names of the development partner/s and project/s.</b>	The Tuvalu procedures were used for an EU funded climate change project to procure some machines and one consultant, but the work was done by the SPC, not the Tuvalu CPU. CPU have completed (i) procurement of Consulting Services for the DFAT funded Funafuti Classrooms Building Project, (ii) OIMIP Procurement, as well as other recent Procurement for Civil works. Their experience has been increasing. Resources remain the problem.	Moderate
<b>C.2 If the answer is yes, what were the major challenges faced by the agency?</b>	Lack of resources for Evaluation. Quite often the evaluation was done by single person, and this is not appropriate, a TEC should be established. This could be achieved by adding outside people (including from the PMU) to be members of TEC. Finding qualified people is the problem. Technical evaluation of the OIMIP was left to the PDA Consultant.	* Mod/High

QUESTION	RESPONSE <sup>2</sup>	RISK <sup>3</sup>
<b>C.3 Is there a systematic process to identify procurement requirements (for a period of one year or more)?</b>	Yes. Annual procurement planning in tandem with annual budget formulation worked a bit better for 2016 than previously. There are still delays in getting such plans prepared by Ministries/Departments.	Moderate
<b>C.4 Is there a minimum period for the preparation of bids and if yes, how long?</b>	Yes, the Procurement Rules and Regulations prescribe the period for bid preparation according to the procurement method. It is generally accepted as 42 days. Given the location of sites/time taken to undertake Site visits, 56 days may be necessary.	Mod/High*
<b>C.5 Are all queries from bidders replied to in writing?</b>	Yes, the responses are circulated to all firms participating	Low/Mod
<b>C.6 Does the bidding document state the date and time of bid opening?</b>	Yes, it is stated for all methods of procurement except for minor procurement.	Low
<b>C.7 Are bids opened in public?</b>	Yes, the regulations provide for this, but usually no attendees, due to difficulty of travelling to and from Funafuti.	Low
<b>C.8 Can late bids be accepted?</b>	Not as per Procurement Rules and Regulations. In practice Procurement System started only in 2014, There have been however, a couple of occasions when the courier delivery was affected and late bids were allowed provided that the bidder could provide a copy of the courier company airway bill showing that the bid was in transit at the closing deadline. E-Procurement should lower this risk.	*Mod/High
<b>C.9 Can bids (except late bids) be rejected at bid opening?</b>	No. No decision is made on whether a bid can be rejected at opening. The opening can comment on missing documents, if noticed, but no decision is made on acceptance or rejection. This can only be done when Bid evaluation starts after the opening, not during it.	*Moderate
<b>C.10 Are minutes of the bid opening taken?</b>	Yes	Low
<b>C.11 Are bidders provided a copy of the minutes?</b>	Yes	Low
<b>C.12 Are the minutes provided free of charge?</b>	Yes	low
<b>C.13 Who undertakes the evaluation of bids (individual(s), permanent committee, ad-hoc committee)?</b>	CPU, bid evaluations take longer than planned. System is still new. CPU do not have technical knowhow to evaluate complex Technical Bids. Also often, only one person is available to do bid Evaluation. For OIMIP, the Procurement Specialist undertook the Technical Bid Evaluation. Formulation of an appropriate TEC, incorporating Technical expertise must be introduced.	* Mod/High

QUESTION	RESPONSE <sup>2</sup>	RISK <sup>3</sup>
<b>C.14</b> What are the qualifications of the evaluators with respect to procurement and the goods and/or works under evaluation?	Not sufficient. For external aided projects, consultants support the IAs For this Project The CPU will once again, need support from the PDA Consultant and the PMU	*Mod/High
<b>C.15</b> Is the decision of the evaluators final or is the evaluation subject to additional approvals?	The evaluation by the CPU is reviewed and approved by the Procurement Review Committee, which is made up of high level GOT officials (MCT would be represented), and final approval by ADB. The PDA Consultant will also have prepared the evaluation report and written the recommendations	Moderate
<b>C.16</b> Using the three 'worst-case' examples in the last year, how long from the issuance of the invitation for bids can the contract be awarded?	Since the establishment of CPU and approved Procurement Legislation, period to contract award has generally been less than 4 months. OIMIP took less than 2 months.	Moderate
<b>C.17</b> Are there processes in place for the collection and clearance of cargo through ports of entry?	Normal GOT Customs Clearance Process in place	Moderate
<b>C.18</b> Are there established goods receiving procedures?	As above	Moderate
<b>C.19</b> Are all goods that are received recorded as assets or inventory in a register?	Majority are consumables, but they are still recorded as received.	Moderate
<b>C.20</b> Is the agency/procurement department familiar with letters of credit?	IA/CPU is familiar but this facility is not used in Tuvalu.	Moderate
<b>C.21</b> Does the procurement department register and track warranty and latent defects liability periods?	In past CPU was assuming some responsibility for Contract Administration, but now changed. Responsibility for contract administration was transferred back to the originating line ministry responsible in late 2015. It has not been verified how they record/track warranty details	* Mod/High
<b>Consulting Services</b>		
<b>C.22</b> 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.)	CPU has procured consultancy services in the past 12 months. Refer above – for DFAT Schools Project and OIMIP.	* Moderate
<b>C.23</b> If the above answer is yes, what were the major challenges?	Developing appropriate evaluation Criteria and doing assessment of such. Lack of Technical staff to undertake such tasks	* High
<b>C.24</b> Are assignments and invitations for expressions of interest (EOIs) advertised?	Yes, otherwise the evaluations would not be allowed by ADB	Low
<b>C.25</b> Is a consultants' selection committee formed with	Done by CPU staff, and in past sometimes by only one person. ADB Advisor has	

QUESTION	RESPONSE <sup>2</sup>	RISK <sup>3</sup>
<b>appropriate individuals, and what is its composition (if any)?</b>	recently introduced the use of 3 independent evaluations. The preference is to have a TEC undertaking a joint review. The problem is finding people for this task.	Moderate
<b>C.26 What criteria are used to evaluate EOIs?</b>	The Criteria approved by ADB in the RFP.	Moderate
<b>C.27 Historically, what is the most common method used (QCBS, QBS, etc.) to select consultants?</b>	QCBS	Low/Med
<b>C.28 Do firms have to pay for the RFP document?</b>	Did not pay for OIMIP Documents, but that decision was made by ADB. We recommend documents be made available for a fee.	Low
<b>C.29 Does the proposal evaluation criteria follow a pre-determined structure and is it detailed in the RFP?</b>	Yes, for ADB project/s ADB SRFP to be used. Tuvalu's SRFP is closely modelled on the WB/ADB harmonized SRFP	Low
<b>C.30 Are pre-proposal visits and meetings arranged?</b>	Difficult to organize due to Tuvalu geographical location, but done for large projects. Prebid Meeting and site visit was conducted for OIMIP and should apply for TTFP.	Moderate
<b>C.31 Are minutes prepared and circulated after pre-proposal meetings?</b>	CPU has prepared responses to queries from consultant's and sent copies to all short listed firms/individuals. Process of minutes (very few cases to date) was initiated for OIMIP	Moderate
<b>C.32 To whom are the minutes distributed?</b>	Same as above	Moderate
<b>C.33 Are all queries from consultants answered/addressed in writing?</b>	Same as above	Moderate
<b>C.34 Are the technical and financial proposals required to be in separate envelopes and remain sealed until the technical evaluation is completed?</b>	One envelope system was adopted for OIMIP, and same is recommended for TTFP	Moderate
<b>C.35 Are proposal securities required?</b>	Not according to Procurement Rules and Regulations. IA does not use for goods Procurement (<\$5000), but CPU requires Bid Security for larger projects. Certainly required for OIMIP and now TTFP	Moderate*
<b>C.36 Are technical proposals opened in public?</b>	It is the process, but in most CPU minor Procurement, no participants have attended. OIMIP Proposals opened in front of bidders attending.	Moderate
<b>C.37 Are minutes of the technical opening distributed?</b>	Yes, Same as above for minutes of any prebid.	Moderate
		High*
<b>C.39 Who determines the final technical ranking and how?</b>	CPU makes a recommendation to the PRC, which is accepted more often than not, but they sometimes send back with questions to	Moderate*

QUESTION	RESPONSE <sup>2</sup>	RISK <sup>3</sup>
	<i>seek clarification before approval. ADB approval would still be required.</i>	
<b>C.40</b> Are the technical scores sent to all firms?	<i>Process is that technical scores will be distributed to all firms.</i>	Moderate
<b>C.41</b> Are the financial proposal opened in public?	<i>It is the procedure to be followed, but given logistics, nobody normally is represented for the smaller government procurement packages. As stated a one envelope system is recommended for TTFP</i>	Moderate
<b>C.42</b> Are minutes of the financial opening distributed?	<i>Yes</i>	Moderate
<b>C.43</b> How is the financial evaluation completed?	<i>TEC's assessments based on arithmetic corrections, completeness of bid, and value for money (lowest price) etc.</i>	High*
<b>C.44</b> Are face to face contract negotiations held?	<i>Generally negotiated remotely by email. Face to face applied for OIMIP</i>	Moderate - High*
<b>C.45</b> How long after financial evaluation is negotiation held with the selected firm?	<i>OIMIP – 2-3 weeks</i>	Moderate - High*
<b>C.46</b> What is the usual basis for negotiation?	<i>Under QCBS there is no negotiation of rates only scope of work, reimbursables and staff experience</i>	Moderate*
<b>C.47</b> Are minutes of negotiation taken and signed?	<i>Minutes will be taken and signed by both parties</i>	Moderate
<b>C.48</b> How long after negotiation is the contract signed, on average?	<i>OIMIP – expected maximum 4 weeks</i>	High*
<b>C.49</b> Is there an evaluation system for measuring the outputs of consultants?	<i>Not within CPU, but this should be done by IA/PMU.</i>	Moderate - High*
<b>Payments</b>		
<b>C.50</b> Are advance payments made?	<i>Yes</i>	Low
<b>C.51</b> What is the standard period for payment included in contracts?	<i>30 days</i>	Moderate
<b>C.52</b> On average, how long is it between receiving a firm's invoice and making payment?	<i>Most time under 30 days.</i>	Moderate
<b>C.53</b> When late payment is made, are the beneficiaries paid interest?	<i>No record of this happening to date</i>	Moderate
<b>D. EFFECTIVENESS</b>		
<b>D.1</b> Is contractual performance systematically monitored and reported?	<i>Yes, that is the practice. The Engineer's Representative on site, and Site Engineers are on site to ensure works are done with quality.  CPU has in the past been involved in Contract Administration, but now responsibility passed to the IA/line ministry.</i>	Low/Mod
<b>D.2</b> Does the agency monitor and track its contractual payment obligations?	<i>Yes, this task was up to previously left to the CPU to do, but for the OIMIP, the PMU is responsible. This is still to be tested as</i>	Moderate



QUESTION	RESPONSE <sup>2</sup>	RISK <sup>3</sup>
	<i>activity is very minor at present. A QA in the PMU would be advantageous.</i>	
<b>D.3 Is a complaints resolution mechanism described in national procurement documents?</b>	<i>It comes as part of the Conditions of Contract, but also a formal complaints system has been established by GOT This will now be subject to Audit (OAG)</i>	<i>Low - Moderate</i>
<b>D.4 Is there a formal non-judicial mechanism for dealing with complaints?</b>	<i>As per the Contract Engineer's determination is final. However, when the Contractor disagrees and it becomes an issue for Arbitration. EA/IA would want to go for Adjudication or Dispute resolution by an experience Adjudicator. The Adjudicators are Institute of Engineers who then nominate an Engineer to carry out the Adjudication once approved by both parties. There is a need for experience supervising Engineers.</i>	<i>Mod/High</i>
<b>D.5 Are procurement decisions and disputes supported by written narratives such as minutes of evaluation, minutes of negotiation, notices of default/withheld payment?</b>	<i>Yes, normal all decisions shall be supported by documents.</i>	<i>* Moderate</i>
<b>E. ACCOUNTABILITY MEASURES</b>		
<b>E.1 Is there a standard statement of ethics and are those involved in procurement required to formally commit to it?</b>	<i>Tuvalu Public Procurement Act foresees that "All public officers and staff and agents of bidders, potential bidders, suppliers, contractors, non-consulting service providers and consultants shall observe the highest standard of ethics during procurement proceedings and the implementation and management of contracts awarded therefrom".</i>	<i>* Mod/High</i>
<b>E.2 Are those involved with procurement required to declare any potential conflict of interest and remove themselves from the procurement process?</b>	<i>Yes, this is the normal process under ADB anti-corruption practices.</i>	<i>* Moderate</i>
<b>E.3 Is the commencement of procurement dependent on external approvals (formal or de-facto) that are outside of the budgeting process?</b>	<i>ADB Approvals will apply to TTFP</i>	<i>Moderate</i>
<b>E.4 Who approves procurement transactions, and do they have procurement experience and qualifications?</b>	<i>The Procurement Review Committee and the concerned Minister/s, according to the Tuvalu Public Procurement Act (2013). For donor funding, the Donor will have final approval.</i>	<i>*Moderate</i>
<b>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?</b>		

<b>QUESTION</b>	<b>RESPONSE<sup>2</sup></b>	<b>RISK<sup>3</sup></b>
<b>a) Bidding document, invitation to pre-qualify or RFP</b>	<i>ADB approved</i>	<i>Low</i>
<b>b) Advertisement of an invitation for bids, pre-qualification or call for EOIs</b>	<i>ADB, Agency</i>	<i>Low</i>
<b>c) Evaluation reports</b>	<i>Procurement Review Committee/ADB</i>	<i>Low/Mod</i>
<b>d) Notice of award</b>	<i>ADB no objection and then to CPU and concerned Minister/s according to the thresholds established by the Tuvalu Public Procurement Act (2013)</i>	<i>Low/Mod</i>
<b>e) Invitation to consultants to negotiate</b>	<i>Approved by Secretary</i>	<i>Low</i>
<b>f) Contracts</b>	<i>CPU, concerned Minister/s and no objected by ADB (in ADB funded project)</i>	<i>Low/Mod</i>
<b>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?</b>	<i>No</i>	<i>Low</i>
<b>E.7 Is there a written auditable trail of procurement decisions attributable to individuals and committees?</b>	<i>CPU responsible for record keeping, including all procurement decisions. Still need to improve process. However, Tuvalu Public Procurement Act (2013) and Public Procurement Rules and Regulations started only in Jan 2014. e-Procurement will provided better records.</i>	<i>*Mod/High</i>

*Trade and Transport Facilitation in the  
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*APPENDIX*

**B**

*PROJECT PROCUREMENT RISK ANALYSIS*

<b>SL No.</b>	<b>RISK ASSESSMENT</b>	<b>IMPACT<sup>4</sup></b>	<b>LIKELIHOOD<sup>5</sup></b>	<b>MITIGATION MEASURES <sup>6</sup></b>
<p><b><u>Organisation and Staff Capacity</u></b> <b>A2, A4, A5, A7, A11,</b></p> <p><b><u>PMU</u></b> <b>A16, A17, A22, A24, A27</b></p>	<p>MCT and Central Procurement Unit and/or PMU have insufficient qualified staff to efficiently undertake the procurements required to implement the project.</p> <p>PMU does not have its full complement of staff and has limited capacity to manage/undertake procurement</p>	Moderate	Likely	<p>From 2012 up to present, ADB supported the adoption of the 2012 national procurement policy, the Public Procurement Act 2013, and the Public Procurement Regulations 2014, which collectively aimed at regulating and improving public procurement. The Central Procurement Unit, established within the Ministry of Finance and Economic Development, is now responsible for carrying out all government procurement and ensuring compliance with the Public Procurement Act 2013. Regular training and upgrading of skills of procurement officers is supported under the ongoing ADB support. Whilst current capacity and experience in technical projects such as TTFP within CPU and EA/IA is low, valuable experience was gained through OIMIP. Additional staff for CPU have been recruited and the CPU will be strongly supported by the Detailed Design Consultants throughout the bidding cycle, and for preparation of all necessary bid documents, including RFP, Technical Specifications etc. All efforts to second appropriate technical people onto bid technical evaluation committee for OIMIP failed. Require ADB Approval to run procurement/bidding process through the CPU, as was done for OIMIP.</p>
<p><b><u>Information Management</u></b> <b>B1, B2, B8</b></p>	<p>Record-keeping and the needed systems may still be inadequate to enable internal or external audit of procurement processes. IA record keeping is deemed to be poor</p>	Moderate	Likely	<p>CPU and EA/IA to consolidate the record-keeping system already established and rigorously organize procurement documentation both in printed and electronic form. Increase in CPU staff, and further training in this regard by the ADB Procurement Advisor, and others will improve this aspect. PDA Procurement Specialist will monitor all record keeping for OIMIP Bidding and Contract Award. If use of e-procurement can be maximised this element will be improved.</p>

<sup>4</sup> Any risk that may result in actions that are inconsistent with the ADB Procurement Guidelines or Guidelines on the Use of Consultants is assessed as 'High'.

<sup>5</sup> 'Likely' or 'Unlikely' to occur in the life of the project, given the response to the question in Appendix 1 and the guidance note in the column.

<sup>6</sup> 'Mitigate' (either through the Procurement Plan including NCB Annex or through measure/s indicated in Appendix 5), 'Monitor' or 'Avoid'.

SL No.	RISK ASSESSMENT	IMPACT <sup>4</sup>	LIKELIHOOD <sup>5</sup>	MITIGATION MEASURES <sup>6</sup>
<b><u>Procurement Practices</u></b> <b>C1 &amp; C2, C8 - C11, C13 &amp; C14, C22-C26, C35, C39, C43 &amp; C44, C47, D5, E7</b>	<p>IA does not promote non-discriminatory participation, transparent tender processes (including advertisement, tender documentation, tender evaluation, complaints mechanism)? CPU is still inexperienced and lacks technical experience and capacity. None requirement of bid security needs to be addressed (C35)</p>	Moderate	Likely (in the past practice)	<p>As EA/IA does not have the experience or appropriate practices, the Govt. directive of CPU doing Procurement (&gt;\$5000) should be followed. Whilst they still have had limited experience in procuring a foreign funded project of this nature, they have made good progress since established, and the procurement for OIMIP went relatively smoothly. They will still need strengthening for the bid evaluation/technical assessment (TEC needs to be convened). Certain Procedures are still being initiated by the ADB Procurement Specialist and this assistance has been extended, so much of the High/moderate risk elements will be addressed through this continued Capacity Building. Also the whole Procurement Process for OIMIP was supported by PDA Consultants, and will again be for TTFP, which will mitigate the majority, if not all of the likely risk issue. Provision of a Bid Security in the form of a Bid Declaring Guarantee will be made a mandatory condition of Bid Submission.</p>
<b><u>Effectiveness</u></b> <b>D2, D4, &amp; D5</b>	<p>Little experience in Contract Management exists. Issues with Contract payments and complaints and disputes occurring. CPU has been sometimes filling this role but it must be handed to the IA/PMU.</p>	Moderate	Likely under past procedures (lack of procedures)	<p>It is assumed that Supervision Consultants will be appointed, and managing these elements will be under their responsibility. They will ensure effective processes are in place to alleviate any risks on these elements. Most are standard processes in any Works Contracts, and only require responsibilities to be instructed. GOT has also initiated processes that address complaint issues etc. All risks of effectiveness can be mitigated through sound Contract Administration process.</p>
<b><u>Accountability Measures</u></b> <b>E1, E4, E7</b>	<p>Whilst Procurement Act and proceedings have been implemented, the knowledge and resources to follow and understand responsibilities in relation to Procurement is still an issue. Technical experience of the Procurement Review Committee to approve procurement in regard to a project of this Technical nature is doubtful</p>	Moderate	Unlikely (to impact the TTFP)	<p>PDA Consultant and the Supervision Consultant will play a significant role to mitigate any Accountability issues. They will ensure appropriate reports and technical explanations are presented so that all required approvals and decision making is appropriately informed. All risks on the listed matters can be mitigated.</p>