

Procurement Risk Assessment

June 2020

TUV: Outer Island Maritime Infrastructure Project –
Second Additional Financing

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NOTE:

In this report, "\$" refers to US dollars unless otherwise stated. otherwise noted.

1 EXECUTIVE SUMMARY

Project Overview

Tuvalu is one of the smallest and most remote ADB member countries with a dispersed geography that imposes challenges in transport and economic development. Outer islands have no harbors for the government ships and small workboats ferry passengers and cargo from ship to shore. ADB has been providing financing assistance to Tuvalu to construct small workboat harbors in two outer islands (Nukulaelae and Niutao). The government has requested additional financing to construct an additional small workboat harbor in a different outer island (Nui).

The main output of the project is the construction of a small workboat harbor in the outer island of Nui. Construction will happen in a very isolated, remote and exposed to weather events marine environment. Although civil works are not considered to be complex, the conditions of the site are assessed as complex and challenging for contractors.

The main contract of the project is the civil works contract, which include:

- Marine Works including channel dredging, construction of marine structures (wharf, breakwaters), boat ramp and foreshore reclamation.
- Landside Works including passenger terminal, fishing boat hardstand, and cargo shed.

Lessons Learned from Previous Procurement Activities

The project is the 2nd additional financing to the original Project. Procurement of the civil works under the original Project was undertaken during 2017 and of the civil works under the 1st additional financing was undertaken in 2020 and are still ongoing at the moment of preparing this report. The main lessons learned from these previous procurement activities are shown below:

- Need to allocate sufficient contingencies for cost overruns in both the civil works and consultancy contracts.
- No availability of national contractors.
- Delays in mobilization can be reduced by dividing the advance payment into two instalments: after contract signing and after mobilization on site.
- Need to establish subcontracting limits.
- Electronic procurement for all procurement activities, from issuance of bidding documents, clarifications, and bid submission and opening is possible.
- The Central Procurement Unit lacks capacity.
- Lack of market interest in isolated and exposed maritime works
- Fix price as opposed to subject to adjustment, since the detailed design provides sufficient information to bidders with minimal variations in quantities.
- Need to achieve early contractor involvement providing flexibility to bidders to propose changes in the design that will facilitate construction and lower bids.
- Minimal risk for abnormally low bids given the identified lack of market interest.

Risk Assessment and Management

A Risk Assessment has been undertaken for the project, which has identified the following risks and mitigation measures:

<u>Risk Description</u>	<u>Risk Assessment</u>	<u>Impact</u>	<u>Likelihood</u>	<u>Mitigation Measures or Risk Management Plan</u>
<u>Organization and Staff Capacity</u>	EA/IA, PMU and CPU have insufficient qualified staff to efficiently undertake the procurement.	Mod/High	Likely	Additional training and capacity development for the current PMU staff.
<u>Information Management</u>	Currently assessed as basic. The PMU retains records, but proper electronic records.	Moderate	Likely	To be considered further.
<u>Procurement Practices</u>	The PMU does not have its own capacity to undertake ADB procurement for projects and is under resourced to do so or to take on additional procurement activities. The PMU relies heavily on the consulting support. The PMU cannot draw upon CPU as (their) expertise is limited.	Substantial/High	Likely	ADB and consulting support are required at all stages of the procurement cycle.
<u>Effectiveness</u>	Contract mobilization and management in the original project has been challenging for all parties.	Substantial/High	Likely	Consulting support and close monitoring from ADB are required.

Procurement Strategy and Plan

Following detailed assessment and options analysis, the following is recommended:

- **A single contract for the marine and landside works** as it will be more attractive for an international contractor and reduce mobilization costs.
- Since detailed design will be completed by the time of procurement of the civil works, it is proposed to deliver the project as a '**Construct Only**' contract (with minor elements as design and build) using Open Competitive Bidding method to ensure there is a maximum chance of receiving competitive bids.
- Given that the detailed design will be completed by the time of issuing the invitations for bidding, technical proposal will have sufficient information on the client's requirements and specifications to be able to prepare conforming technical proposals. Considering this and since the procurement will be mostly supported with independent consulting support, a **single-stage one-envelope** process is recommended.
- An international consultant would undertake the duties of the Engineer with appropriate authority under the Contract, namely the **Construction Supervision Consultant**. The **open competitive selection** of this consultant is recommended.
- Recruitment of the national consultants of the **PMU** following a **single source selection** method given satisfactory performance of the existing PMU consultants and the lack of available suitable staff in the country.

2 INTRODUCTION

This document is Project Procurement Risk Assessment (PPRA) for the 2nd Additional Financing to the Tuvalu Outer Island Maritime Infrastructure Project (OIMIP). The purpose of the 2nd Additional Financing is scaling up the project outputs by construction a workboat harbor in the outer island of Nui. The original Project and the 1st Additional Financing funded the construction of 2 workboat harbors in the outer islands of Nukulaelae and Niutao. For the construction of these harbors procurement of international contractors using open competitive bidding was required, which has provided useful lessons learned for this 2nd Additional Financing.

The PPRA was prepared in accordance with the ADB Guidelines for Assessing Country, Sector and Project Procurement Risks (August 2014). The project follows the ADB's Procurement Guidelines (2015, as amended from time to time), as the original Project was approved before 2017.

This PPRA is focused on the agencies that will be involved in the project procurement activities:

- Ministry of Public Works, Infrastructure, Environment, Labor, Meteorology and Disaster (MPWIELMD) as the Implementing Agency.
- The already established Project Management Unit, which provides project management capacity to the IA.
- Central Procurement Unit which sits under the Ministry of Finance (MOF) and who undertakes all procurement for the Government of Tuvalu (GoT) except for Donor Funded procurement.

The Government of Tuvalu has undergone several procurement assessments since 2017 and this PPRA has been prepared based on findings, conclusions and recommendations of the various previous procurement assessments, namely:

- The PPRA undertaken for the World Bank's Maritime Investment in Climate Resilient Operations Project (approved in 2018).
- The PPRA undertaken for the original ADB's OIMIP (approved in 2016).
- The PPRA undertaken for the 1ST Additional Financing to the ADB's OIMIP (approved in 2018).

ADB's instructions require that project teams assess the capacity of the GoT, to procure the goods, works and consulting services as part of the project preparation process. The purpose of this PPRA is to determine the overall procurement risk and establish appropriate review and supervision processes and other measures to mitigate these risks.

3 PROJECT SUMMARY

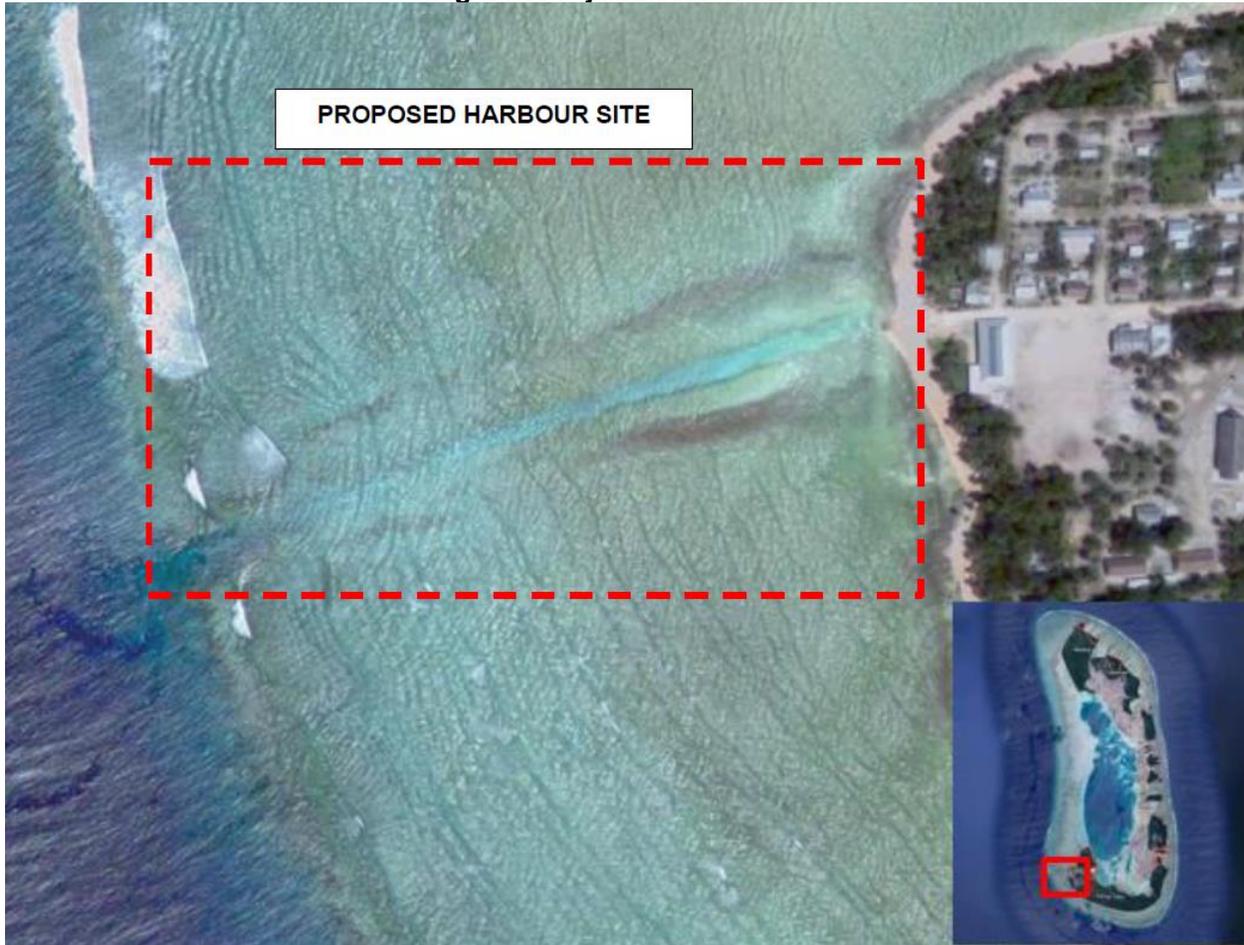
A high-level summary of the project is provided in table below.

Table 1 Project Summary

Project Detail	Description
Project Title	Outer Island Maritime Infrastructure Project: 2 nd Additional Financing Project Number: 48484-005
Country	Tuvalu
Executing agency	Ministry of Finance (MOF)
Implementing agency	Ministry of Public Works, Infrastructure, Environment, Labor, Meteorology and Disaster (MPWIELMD)
Project development objectives	The proposed additional financing will scale up and extend the socioeconomic benefits of the current project by constructing a small workboat harbor in Nui. The outcome of the project is maritime transfer operations in Nukulaelae, Nanumaga, Niutao and Nui improved, anchored on a transport master plan, with a view to promoting fisheries and tourism
Project description	Tuvalu is one of the smallest and most remote ADB member countries with a dispersed geography that imposes challenges in transport and economic development. Outer islands have no harbors for the government ships and small workboats ferry passengers and cargo from ship to shore. ADB has been providing financing assistance to Tuvalu to construct small workboat harbors in two outer islands (Nukulaelae and Niutao). The government has requested additional financing to construct an additional small workboat harbor in a different outer island (Nui). The main output of the project is the construction of a small workboat harbor in the outer island of Nui. Construction will happen in a very isolated, remote and exposed to weather events marine environment. Although civil works are not considered to be complex, the conditions of the site are assessed as complex and challenging for contractors.
Description of indicative contract packages	The contract packages under the project are as follows: <ul style="list-style-type: none"> • Civil works contract: <ul style="list-style-type: none"> ○ Marine Works including channel dredging, construction of marine structures (wharf, breakwaters), boat ramp and foreshore reclamation. ○ Landside Works including passenger terminal, fishing boat hardstand, and cargo shed. • Construction supervision consultancy contract. • Contracts to establish a Project Management Unit (PMU): <ul style="list-style-type: none"> ○ Program Manager (individual consultant) ○ Project Manager (individual consultant) ○ Project Accountant (individual consultant)
Summary of the financing agreement	The financing agreement will include the below financing plan for the 2 nd additional financing: <ul style="list-style-type: none"> • Asian Development Bank: \$20,000,000 • Government of Tonga: \$2,200,000 • Total: \$22,200,000

The project is located in the Tuvalu's outer island of Nui.

Figure 1 Project location in Nui



4 EXISTING ENVIRONMENT

4.1 Overview of the Operating Environment

Tuvalu is currently experiencing the effects of the COVID -19 worldwide pandemic which may impede or negatively influence Procurement or Supplier interest in working in Tuvalu.

Procurement activities in general (that Government operational and Capex purchases) are supported by The Public Procurement Act 2013 and Public Procurement Regulations 2014, which both came into effect on 31 January 2015, set out a clear system of accountability for procurement decisions and delegation of authority. Several units were established in response to this legislation.

A Central Procurement Unit (CPU) was established in 2015 to manage all government financed procurement over A\$ 5000. However, the CPU is in a state of flux and capacity and capability is limited with only small valued civil works and consultant selection achieved to date.

Donor Funded Procurement- A Project Management Unit (PMU) was established by the ADB in 2016 to support the EA and IA in the management of the TOIMIP Project. The PMU is currently staffed by two (2) national persons: a Program Manager and a Project Accountant. The PMU, with significant external consulting support, has released one tender (USD 13 million). The PMU is currently sourcing additional help. The resources of the PMU are shared with the World Bank who have provided an International Procurement Specialist to assist with World Bank procurement. All donor funded Procurement for ADB is undertaken by the PMU with support of the Design and Supervision Consultant (DSC). Although the CPU does not get involved in Donor Procurement, the Project PMU must follow the Government of Tuvalu's approval system by the Procurement Review Committee and Cabinet.

4.2 Forecast Project Workload

On the infrastructure sector, the main projects are shown in the table below.

Table 2: Recent Major Projects by Development Partners in the Infrastructure sector

Development Partner	Project Name	Duration	Amount (\$ million)	Status
Maritime Transport and Civil Aviation				
ADB	Outer Island Maritime Infrastructure Project	2018-	15.4	Ongoing
ADB	Outer Island Maritime Infrastructure Project	2016-	11.3	Ongoing
Word Bank	Tuvalu Aviation Investment Project	2015-	18.0	Ongoing
Information and Communication Technology				
World Bank	Tuvalu Telecommunications and ICT Development Project	2019	29.0	Ongoing
Environment Sustainability				
UNDP	Coastal Adaptation Protection (GCF)	2018–	32.0	Ongoing
UNDP	Ridge to Reef Project	2015–	8.4	Ongoing

The ongoing and planned infrastructure projects in Tuvalu indicate an increasing workload in terms of procurement which the GoT will find challenging to cope with, given the limited availability of staff in the EA and IA. This increased workload is translated in increasing procurement activities and contract management of relatively large and complex civil works contracts.

4.3 Lessons learned from previous procurement activities

It is common practice with donor-funded projects for a Project Management Unit (PMU) to be established, funded by the donor agency, to provide support with the management, procurement and delivery of projects.

The proposed project is the 2nd additional financing. Procurement of the civil works under the original Project was undertaken during 2017 and of the civil works under the 1st additional financing was undertaken in 2020 and are still ongoing at the moment of preparing this report. The main lessons learned from these previous procurement activities are shown below:

- **Need to allocate sufficient contingencies.** Contingencies in the budget should be applied to cover cost overruns, which may occur in both the civil works and the construction supervision contracts. Delays in the civil works under the original project have led to extended construction supervision and hence cost overruns. All contingencies (price and physical) were fully utilized at the moment of contract award, as the bid price of the awarded contractor was higher than the engineer's cost estimate.
- **No availability of national contractors.** National contractors do not have the capacity to handle the civil works involved in the project, as they require specialized equipment (barges, construction trucks and excavators of heavy tonnage, etc.) not available in Tuvalu and national market in Tuvalu is very limited.
- **Delays in mobilization.** Mobilization of the contractor of the original Project was delayed due to poor planning and unavailability of materials and equipment, despite the negotiated contract included a 40% advance payment. The bidding documents of the works under the 1st additional financing include a 30% advance payment payable two instalments as follows:
 - The first instalment of 15% after contract signing.
 - The balance of 15% after mobilization on site.

This approach is intended to promote an early mobilization to site. Although the results are yet to be tested, it is proposed to follow a similar approach.

- **Subcontracting limit.** Subcontracting was not limited in the original Project, other than what is included in the general conditions of contract (subcontracting of the whole of the works). Subcontractor was nominated to undertake the majority of the works, but contractor and subcontractor went into shortcomings during the works, leading to the subcontractor terminating the contract and departing. The contractor took over but resulted in project delays. In the bidding documents of the works under the 1st additional financing, the subcontracting limit is established at 40%. Although the results are yet to be tested, it is proposed to follow a similar approach.
- **Electronic procurement.** The procurement platform In-Tend, supported by ADB, was used to issue the bidding documents in the procurement of the original Project. Clarifications were managed by email and bid submission were in hard copies in the Tuvalu High Commission in Suva (Fiji). All procurement activities, from issuance of bidding documents, clarifications, and bid submission and opening, under the 1st additional financing were undertaken using In-Tend. This procurement is still ongoing and success in a full electronic procurement needs to be tested. However, it is proposed to follow a similar approach in the procurement under the 2nd additional financing.
- **The Central Procurement Unit lacks capacity.** The Central Procurement Unit (CPU)

does not have the staff or the capacity to undertake procurement activities or use electronic procurement. The CPU, PMU and EA/IA had to be supported by international consultants to undertake all procurement activities. Training was offered and provided to staff of the CPU and PMU on electronic procurement, but the project needed to provide external consulting support to manage the procurement process.

- **Lack of market interest in isolated and exposed maritime works.** A lack of market interest was experienced in the procurement of the original Project: only four bids were received, two of them doubling approximately the engineer's cost estimate, the other two within the budget, but one of these two withdrawing the bid after bid opening. This implies that only one bid was within the planned budget. To increase market interest, lessons learned from the construction in the original Project have been made available to bidders to increase their confidence on the feasibility of works in such isolated and exposed environment. Pre-bid meetings, site visits, a more in-depth market sounding are recommended.
- **Fix price as opposed to subject to adjustment.** Since the detailed design provides sufficient information to bidders with minimal variations in quantities, a fix price contract was used in the original contract, so the rates and prices quoted by the Bidder are not subject to adjustment during the performance of the contract. The contract of the 1st additional financing includes the same provision and the same approach is proposed for the contract of the 2nd additional financing.
- **Need to achieve early contractor involvement.** In the original project, some changes in the Employer's design proposed by the awarded contractor lowered the contract amount to fit within the project's budget. Market sounding has also allowed a better understanding of the difficulties of the site conditions and how the design can affect the constructability, contractor's interest and bid prices. On this regard, the proposal of technical alternatives was allowed in the 1st additional financing with the following conditions: bidders can bid for the Employer's design only, the technical alternative only, or both; and the Employer will evaluate all bids (all Employer's design bids and all technical alternative bids). Technical alternative bids are allowed for items affecting the constructability of the works and not the performance or functionality of the project. This approach intends to provide more flexibility to bidders to propose changes in the design that will facilitate construction and lower bids.
- **No identified integrity risks.** During previous and ongoing procurement activities, no integrity risks have been identified. Procurement activities are mainly managed with external consulting support which minimized this risk.
- **Minimal risk for abnormally low bids.** Given the identified lack of market interest in these works, the risk of interested bidders submitting abnormally low bids is minimal.

4.4 Supply positioning

A supply positioning analysis has been carried out for the different contract packages of the project:

- **Civil works contract:**
 - Marine Works: channel dredging, construction of marine structures (wharf, breakwaters), boat ramp and foreshore reclamation.
 - Landside Works: passenger terminal, fishing boat hardstand, and cargo shed.
- **Construction supervision consultancy contract.**

5 RISK ASSESSMENT AND MANAGEMENT

A risk assessment has been undertaken for the project. The risks have been assessed (likelihood and consequence) and a risk level applied: High, Medium, or Low. Mitigation measures have been proposed for each of these identified risks.

5.1 Risk assessment

5.1.1 Organization and Staff Capacity

Risk assessment: Moderate/High

The PMU has only two staff, the Program Manager and the Project Accountant, neither of whom have Procurement experience. The PMU does not have the capability of undertaking procurement under ADB Guidelines and will continue to need to ongoing support of (their) DSC for all matters technical and procurement. The PMU staff are very helpful and responsive and could benefit from further training and organizational skills. Management of multiple contracts will need to be considered, a duty that has been contracted to the DSC Engineer to the Project, but approval delays and bureaucratic systems need to be considered.

Staff will need assistance to successfully manage Design/Build procurement and Consulting services – both of which are not typical.

The EA/IA itself has no Procurement Officers.

The CPU is very limited with no qualified Procurement Specialists. Three staff, including the head are permanent and supported by two temporary administrative staff. The CPU looks after all of GoT procurement above AUD5,000.

5.1.2 Information Management

Risk Assessment: Low

The EA/IA and the PMU are in the infant stages of developing a long-term IT Records Management system. Procurement files and records are kept by the PMU but are not networked and only on personal laptops and computers. The PMU is looking at getting additional human resources to manage this task but at the moment all record collection and management is undertaken by the DSC.

5.1.3 Procurement Practices

Risk Assessment: Moderate/Substantial

Overall, Tuvalu still presents a substantial risk to procurement practices. The PMU is protected at most levels in the Procurement and Contract Management cycle but should outside expertise be withdrawn or change, the PMU would struggle to manage most tasks. Overall, the rating is substantial, based mainly on the current practice contracting all of the procurement, contract management and records management to the DSC. The PMU is not developing its own skills and without this knowledge must rely at all times on outside sources.

The PMU is supported by the Government and the CPU through adequate laws and regulations and manuals. Training and Capacity building are lacking, but interest and commitment from all parties is clear.

5.1.4 Performance of e-procurement system (or plans to introduce one)

This is not yet an established practice, however, due to the COVID-19 Pandemic, the PMU ADB and the DSC have worked together to release the bidding documents for the works under the 1st additional financing via In-Tend. As well, the PMU with the DSC recently managed the Pre-Bid meeting online via the video meeting application “Skype for Business”. All clarification requests and responses and the bid opening will be handled electronically through In-Tend.

Tuvalu may wish to look at the introduction of these processes as alternatives to the logistical challenges imposed by the island’s remoteness.

5.1.5 Effectiveness

Risk Assessment: Low/Medium

The DSC is tasked with the management and monitoring of contracts. The PMU and the DSC have had considerable experience in the management and mobilization of the contractor awarded the civil works of the original Project.

The GoT procurement manual defines complaints mechanisms review panels to challenge procurement decisions and is considered transparent. The regulations and procedures contain provisions for the resolution of complaints and disputes including a formal reporting process.

5.1.6 Accountability Measures

Risk Assessment: Moderate

The regulations state the code of conduct and ethics required by public officers involved in public procurement. The government’s procurement officers are required to declare potential conflicts of interest and where necessary recuse themselves from the procurement process. All procurement decisions are recorded in writing for audit purposes. The regulations require an independent review of procurement activities at the end of each fiscal year, covering the compliance with the regulations and the performance of the line ministry and the PMU.

5.1.7 Summary of Procurement Risk Assessment and Management Plan

Risk Description	Risk Assessment	Impact	Likelihood	Mitigation Measures or Risk Management Plan
<u>Organization and Staff Capacity</u>	EA/IA, PMU and CPU have insufficient qualified staff to efficiently undertake the procurement.	Mod/High	Likely	Additional training and capacity development for the current PMU staff.
<u>Information Management</u>	Currently assessed as basic. The PMU retains records, but proper electronic records.	Moderate	Likely	To be considered further.
<u>Procurement Practices</u>	The PMU does not have its own capacity to undertake ADB procurement for projects and is under resourced to do so or to take on additional procurement activities. The PMU relies heavily on the consulting support. The PMU cannot draw upon CPU as (their) expertise is limited.	Substantial/High	Likely	ADB and consulting support are required at all stages of the procurement cycle.
<u>Effectiveness</u>	Contract mobilization and management in the original project has been challenging for all parties.	Substantial/High	Likely	Consulting support and close monitoring from ADB are required.

5.2 Capability Assessment

5.2.1 Strengths

The PMU has been established for nearly two years now. The PMU has been involved in at least two large Civil works tendering packages for the ADB and one for the World Bank. They have been party to the ADB recruitment of Consulting Services.

The GoT has adequate and relatively recent Procurement Legislation – The Tuvalu Public Procurement Act 2013, Tuvalu Procurement regulations 2014/5 and the Tuvalu Public Procurement Manual. There is also a defined procedure (Regulation 74) which details what to do for Procurement complaints and Appeals. Section 4 of the Tuvalu Public Procurement act allows for Donor funded Procurement to be exempt from the rules of the Act and regulations.

The PMU has recent and very relevant experience with e-procurement.

The PMU is developing a suite of Bidding Documents through the DSC and exposure to Procurement on projects with the ADB, DFAT and the World Bank. This also serves to re-force the guiding global principles of procurement throughout Tuvalu, the Ministries and the CPU.

5.2.2 Weaknesses

The PMU has very little actual tendering experience. They have successfully contracted a Contractor for the Nukulaelae Boat Harbor and are now 18 months into that contract; however, none of this would have been possible without the skills and contributions of the DSC. The EA/IA has no procurement capacity and devolves all non-donor funded procurement to the CPU. The PMU have the capacity to manage the Project and disburse funds, but not to undertake Procurement. The PMU is gaining in experience and familiarity with procurement of large contract, consulting services for ADB Procurement, but is still weak. Strong support is needed for EA/IA, CPU and the PMU in understanding and following ADB evaluation processes and contracting rules. Historically, evaluations have been an ad hoc affair for the CPU and at times only one person evaluates. The DSC although technically very qualified must ensure procurement personnel are fully experienced in Donor funded evaluations and reporting.

As procurement activities increase for both projects the PMU will be stretched to cope. The PMU should consider accepting the challenge of managing its own record keeping (regulation 72 of the Procurement regulations)

5.2.3 Conclusion

The EA/IA and the PMU are committed to the Project and additional financing. Good procurement diligence is in place and managed by the DSC. Tuvalu itself has the basic foundations for undertaking fair and transparent procurement through its act, regulations and manual. Procurement decisions are oversights by the Procurement Review Committee, whilst the PMU is protected in the first instance by No Objection and Prior Review requirements of the ADB. The PMU should consider the ongoing use of e-procurement where it can as this may well encourage more interest by regional contractors and suppliers in providing to Tuvalu.

The PMU can draw on the success of Nukulaelae and monitor closely the bidding and contract award for Niutao.

6 OPTIONS ANALYSIS

Different options have been assessed for the procurement of the contracts under the project.

6.1 Civil works contract

6.1.1 Contract packaging

The options for the contract packaging of the civil works contract are:

- **Option 1:** one contract for the marine side works and one contract for the landside works
- **Option 2:** one single contract for the marine and landside works

It is recommended that there is single, over-arching package / contract for the whole of the Works. The reasons for this approach can be summarized as follows:

- The project is of a size that can be handled by international contractors.
- It is not sufficiently large that it would require multiple packages / contracts.
- A single package will also be able to better manage interfaces between marine and landside works.
- A single point of accountability.
- The Contract Value needs to be large enough to attract international contractors.
- Reduce mobilization costs to the remote and isolated site.
- More contract packages place a larger procurement burden on government, which is already limited.

A single contract will be more attractive for an international contractor that is specialized in marine construction. It is possible that the lead contractor would engage sub-contractors to undertake certain parts of the project, including supply of materials and delivery of onshore civil works.

Considering the above, the table below shows the result of option assessment:

Table 3: Assessment of options for contract packaging

Options	Attractiveness to international contractors (1-10)	Contract management efficiency (1-10)	Specialization of contractors (1-10)	Overall (1-10)
Option 1: One contract for the marine side works and one contract for the landside works	7	7	9	7.7
Option 2: One single contract for the marine and landside works	10	10	7	9.0

Therefore, Option 2, a single contract for the marine and landside works, is recommended.

6.1.2 Procurement method

There are several procurement methods that can be considered as options for a project:

- Open Competitive Bidding with or without Prequalification
- Limited Competitive Bidding
- Framework Agreement
- Request for Quotations (RFQ)
- Electronic Reverse Auction

- Direct Contracting
- Force Account

Since detailed design will be completed by the time of procurement of the civil works, it is proposed to deliver the project as a 'Construct Only' contract (with minor elements of repairs procured as design and build).

Three different options for the procurement method have been assessed:

- **Option 1:** Open Competitive Bidding without Prequalification
- **Option 2:** Open Competitive Bidding with Prequalification
- **Option 3:** Limited Competitive Bidding
- **Option 4:** Direct Contracting

Open Competitive Bidding ensures there is a maximum chance of receiving competitive bids, which is particularly important given the identified lack of market interest in the works. Precisely for this reason, prequalification is not proposed, as the number of bidders will be small. Direct contracting is a possibility given that works under the original Project are progressing well. However, these works experience some issues as described earlier that justify an open competitive bidding. In case that the open competitive bidding fails to attract contractors and bids are above the project budget and rebidding is necessary, alternative formulas such as limited competitive bidding or direct contracting are proposed.

Considering the above, the table below shows the result of option assessment:

Table 4: Assessment of options for procurement method

Options	Efficiency in the procurement process (1-10)	Suitability (1-10)	Transparency and value for money (1-10)	Overall (1-10)
Option 1: Open Competitive Bidding without Prequalification	7.0	7.0	10.0	8.0
Option 2: Open Competitive Bidding with Prequalification	5.0	1.0	10.0	5.3
Option 3: Limited Competitive Bidding	8.0	6.0	6.0	6.7
Option 4: Direct Contracting	9.0	5.0	4.0	6.0

It is proposed then *Open Competitive Bidding without Prequalification* as the procurement method. In case that this procurement fails, alternative arrangements are proposed, such as limited competitive bidding, inviting those bidders that registered for the bidding, or direct contracting.

6.1.3 Bidding procedures

Different options were analyzed regarding the bidding procedures:

- **Option 1:** single-stage one-envelope process
- **Option 2:** single -stage two-envelope process
- **Option 3:** two-stage process

Given that the detailed design will be completed by the time of issuing the invitations for bidding, technical proposal will have sufficient information on the client's requirements and specifications to be able to prepare conforming technical proposals and hence the use of a two-stage process is not considered needed. In relation to the options for the single-stage, since the procurement will be mostly supported with an independent consulting support, the risk of opening technical and financial proposals simultaneously is minimized and, therefore, the option of single-stage one-envelope process is recommended.

Considering the above, the table below shows the result of option assessment:

Table 5: Assessment of options for procurement method

Options	Procurement time (1-10)	Suitability (1-10)	Overall (1-10)
Option 1: Single-stage one-envelope process	9	9	9.0
Option 2: Single -stage two-envelope process	9	8	8.5
Option 3: Two-stage process	6	6	6.0

It is proposed then *Single-stage one-envelope process* as the procurement procedure.

6.2 Construction supervision consultancy contract

Two options were assessed for the recruitment of the construction supervision consultant (firm):

- **Option 1:** open competitive selection of the consultant
- **Option 2:** single sourcing of the same consultant that undertook construction supervision in the original Project

The request for proposal and subsequent contract did not include a provision that, subject to satisfactory performance, the consultant could be directly engaged for subsequent stages of the project. Transparency and fairness cannot be then ensured. Given the nature of the services and low complexity of the works themselves, consistency in the technical approach, although desirable, is not assessed as a critical factor.

Considering the above, the table below shows the result of option assessment:

Table 6: Assessment of options for the selection method of the Construction supervision consultancy contract

Options	Consistency in technical approach (1-10)	Continuation of liability (1-10)	Transparency (1-10)	Overall (1-10)
Option 1: Open Competitive Selection	7.0	7.0	10.0	8.0
Option 2: Single Source Selection	8.0	8.0	3.0	6.3

It is proposed then the *open competitive selection of the construction supervision consultant*.

6.3 Contracts to establish a PMU

Two options were assessed for the recruitment of the PMU consultants:

- **Option 1:** open competitive selection of the consultant
- **Option 2:** single sourcing of the same consultants forming the existing PMU

The open competitive selection of the PMU consultants will ensure fairness with other national applicants. However, PMU consultants have an essential role in stakeholder engagement and communication, and have substantially learned the practices for financial management, procurement, contract management and implementation of ADB projects. Considering this fact and lack of similar available expertise in Tuvalu, it is proposed the single source selection of the same consultants forming the existing PMU.

Considering the above, the table below shows the result of option assessment:

Table 7: Assessment of options for the selection method of the PMU consultants

Options	Consistency in technical approach (1-10)	Availability of similar staff (1-10)	Transparency (1-10)	Overall (1-10)
Option 1: Open Competitive Selection	7.0	7.0	10.0	8.0
Option 2: Single Source Selection	9.0	9.0	7.0	8.3

It is proposed then the *single source selection* of the same consultants forming the existing PMU.

7 PROCUREMENT PLAN

7.1 Project Procurement Plan

The following table lists goods, works, nonconsulting, and consulting services contracts under the project according to the conclusions and outcomes of the previous options analysis.

Table 8 Goods, Works, and Nonconsulting Services

Package Number	General Description	Estimated Value (\$)	Procurement Method	Review	Bidding Procedure	Advertisement Date	Comments
CW-1	Maritime and land civil works	14,000,000	OCB (Works)	Prior	1S1E	Q1/2021	Prequalification of bidders: No Domestic preference applicable: Yes AC: Yes e-GP: Yes, e-Bidding

CW = civil work, OCB = open competitive bidding, Q = quarter, S = stage, E = envelope, AC = Advance contracting
Source: Asian Development Bank

Table 9 Consulting Services

Package Number	General Description	Estimated Value (\$)	Selection Method	Review	Type of Proposal	Advertisement Date	Comments
CS-01	Construction Supervision Consultant	1,500,000	QCBS	Prior	FTP	Q4/2020	Type: Firm Assignment: International QCR: 90/10 AC: Yes eGP: Yes, ADB CMS
CS-02	Program Manager	200,000	SSS	Prior	REOI	Q4/2021	Type: Individual Assignment: National AC: No e-GP: No
CS-03	Project Manager	150,000	SSS	Prior	REOI	Q4/2021	Type: Individual Assignment: National AC: No e-GP: No
CS-04	Project Accountant	150,000	SSS	Prior	REOI	Q4/2021	Type: Individual Assignment: National AC: No e-GP: No
CS-05	Project management consultant for Ship Replacement Project	750,000	QCBS	Prior	FTP	Q2/2020	Type: Firm Assignment: International QCR: 90/10 AC: Yes eGP: Yes, ADB CMS

CS = consulting service, I = individual, ICS = individual consultant selection, SSS = single source selection, AC = Advance contracting, FTP = Full Technical Proposal, REOI = Request for Expression of Interest, QCBS = quality and cost-based selection, QCR = quality/cost ration, CMS = Consultant Management System (ADB).
Source: Asian Development Bank.

8 APPENDIX

Appendix 1: Project Procurement Risk Assessment Questionnaire

QUESTION	RESPONSE ¹	RISK ²
A. ORGANIZATIONAL AND STAFF CAPACITY		
PROCUREMENT DEPARTMENT/UNIT		
A.1 Does the agency or Government have a Procurement Committee that is independent from the head of the agency?	Yes, The Tuvalu Public Procurement Act 2013 informs various Procurement review Committees and Panels. The Tuvalu Procurement Regulations 2014 define members comprising the Procurement Review Committee and its responsibilities; it is a high-ranking Committee with remit over all procurement greater than \$5000. Note that the Secretary of the submitting Ministry is also allowed on the Panel. All Procurement must receive a No Objection from the PRC and then if above a certain Threshold will be sent for approval by Cabinet.	Moderate
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?	No, it does not have a specific Procurement unit, but most agencies have a nominated, though unqualified procurement Officer. No permanent office acting as Secretariat per se but the CPU is the feeder of all Procurement to the PRC	Moderate
A.3 If yes, what type of procurement does it undertake?	CPU performs all procurement >\$5000. It can undertake International donor funded procurement, if the Donor agency agrees (doing for DFAT). However, World Bank and ADB funded Procurement is undertaken by the Project PMUs	Moderate
A.4 How many years' experience does the head of the procurement department/unit have in a direct procurement role?	There is no Procurement department/unit in the IA. The PMU is responsible for all ADB and World Bank Project procurement, including the OIMIP and MICRO Projects. The PMU is well staffed and have the full support of a World Bank Procurement Specialist and the Cardno (PPTA?) Procurement Specialist. CPU head and other staff have limited experience <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.	Moderate
A.5 How many staff in the procurement department/unit are: i. full time ii. part time iii. seconded	1 full time staff (within IA) performing procurement related tasks. The PMU comprises: Vete – Program Manager - PMU. Kaimalie Kino loele (Project Accountant for both) and Siulai Fiona Elisala Project Manager for MICRO Jesus Renzoli Procurement Specialist for WB WB funding for Office Clerk 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.	Moderate
A.6 Do the procurement staff have a high level of English language proficiency (verbal and written)?	The PMU staff are qualified and familiar with projects and have English language proficiency Yes. All CPU staff have some level of Tertiary Education	Moderate to Low

¹ 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.

² 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.

QUESTION	RESPONSE¹	RISK²
A.7 Are the number and qualifications of the staff sufficient to undertake the additional procurement that will be required under the proposed project?	IA staff are not qualified to take on this type of procurement. The PMU within IA has this responsibility PMU Staff available and understand the work of the projects for Nukulaelae, Nanumaga, Niutao, Funafuti and now Nui. The PMU have successfully tendered for the Nukulaelae Boat Harbor. Note the PMU is supported and must remain supported by qualified Procurement specialist with Donor funded experience. Tendering for the Boat harbors and mobilization of staff has proven to be difficult and time consuming CPU have gained some experience of working with ADB SBD's for ICB from OIMIP, and other Donor funded ICB projects since OIMIP, and once again will have support of PDA Consultant, to help manage the process.	* Moderate
A.8 Does the unit have adequate facilities, such as PCs, internet connection, photocopy facilities, printers etc. to undertake the planned procurement?	Yes	Low
A.9 Does the agency have, or have ready access to, a procurement training program?	ADB Procurement Advisor is providing on-going training. The PDA Consultant will also support training in ADB Procurement procedures. The PMU staff have attended training and the Procurement Staff are trained ADB/WB Procurement Specialists GoT is not in a position to undertake may offer Procurement Training of their own Procurement regulations but this has not been established as yet 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.	Moderate to Low
A.10 At what level does the department/unit report (to the head of agency, deputy etc.)?	The PMU would Report to the Head of (Secretary) of IA for all Procurement within this Project. All Procurement receiving a No Objection from ADB is sent to the PRC for Approval and then to Cabinet before Contract award can be made	Moderate
A.11 Do the procurement positions in the agency have job descriptions, which outline specific roles, minimum technical requirements and career routes?	The PMU has qualified persons 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.	Moderate
A.12 Is there a procurement process manual for goods and works?	Yes, the Public Procurement Regulations of Tuvalu, 2014 and revised 2015. CPU also has Procurement Guidelines Manual developed by ADB Advisor.	Low
A.13 If there is a manual, is it up to date and does it cover foreign-assisted projects?	Yes, however when dealing with foreign loan IA/CPU would normally follow the Donors guidelines. CPU Manual is based on ADB Guidelines.	Low
A.14 Is there a procurement process manual for consulting services?	Yes, in the Procurement Guidelines Manual. But for external funded projects, Procurement in the instance of TOIMIP is not undertaken by the CPU. The PMU within the IA would use Banks/other donors guidelines.	Low
A.15 If there is a manual, is it up to date and does it cover foreign-assisted projects?	The PMU has successfully contracted for the Design and Supervision services (Consulting) for OIMIP for Nukulaelae and Niutao and Nui. As above. In 2017, CPU completed procurement for Consulting services for Funafuti School Project under DFAT, and some other projects.	Low
PROJECT MANAGEMENT UNIT		

QUESTION	RESPONSE¹	RISK²
A.16 Is there a fully (or almost fully) staffed PMU for this project currently in place?	Yes, the PMU will undertake this additional procurement. The PMU has successfully tendered for and contracted the Nukulaelae Boat harbor and also design and Supervision Consultants. The PMU is not capable of undertaking this work in (their) own right	* High - Moderate
A.17 Are the number and qualifications of the staff sufficient to undertake the additional procurement that will be required under the proposed project?	Yes, the PMU will undertake this additional procurement with the caveat that the PMU needs additional support both technically and for Procurement from the Design and Supervision consultants The PMU will need to consider the additional levels of Approval required once ADB has issued NOL as this could add several weeks before Contract award is official	* Moderate to High
A.18 Does the unit have adequate facilities, such as PCs, internet connection, photocopy facilities, printers etc. to undertake the planned procurement?	Yes	Moderate
A.19 Are there standard documents in use, such as Standard Procurement Documents/Forms, and have they been approved for use on ADB funded projects?	ADB PMU will use the Standard Bidding Documents approved by ADB The DSC Consultant will prepare the Project Bidding Documents for approval by ADB The CPU has standard Bid documents based on ADB templates	Low
A.20 Does the agency follow the national procurement law, procurement processes, and guidelines?	Yes, for fiscal budget procurement transactions, IA follows the procurement law in the country.	* Moderate
A.21 Do ToRs for consulting services follow a standard format such as background, tasks, inputs, objectives and outputs?	ADB projects TOR follows the requirements of ADB as stated and TOR approved by ADB before advertisement.	Low
A.22 Who drafts the procurement specifications?	For the ADB Project/s the DSC Consultant's Procurement Specialist will draft the documents which are reviewed/approved by ADB. Technical specifications are prepared by the DSC with assistance from the PMU	Moderate
A.23 Who approves the procurement specifications?	For ADB project/s documents are normally approved by ADB. The documents are reviewed/approved by the PMU Project Director.	Moderate
A.24 Who in the PMU has experience in drafting bidding documents?	DSC consultants will support the PMU. Ex-Director of PWD is Project Manager of PMU, but the PMU devolves preparation of the Bidding Documents	Low/Mod
A.25 Are records of the sale of bidding documents immediately available?	For OIMIP (Nukulaelae), the documents were issued free of charge to interested parties. Documents issued for Niutao were uploaded for free download on the INTEND Platform. This will likely be the scenario for Nui Bidding.	Low
A.26 Who identifies the need for consulting services requirements?	The need is identified in projects design by PPTA. ADB would have final decision	Moderate
A.27 Who drafts the Terms of Reference (ToR)	The TORs are drafted by PPTA and Detailed Design Consultants if appropriate, reviewed/endorsed by the PMU and approved by Minister/ADB	Low/Mod
A.28 Who prepares the request for proposals (RFPs)	Same as above and no objected by ADB	Low/Mod
B. INFORMATION MANAGEMENT		
B.1 Is there a referencing system for procurement files?	Yes, the CPU numbering system; but, it only started in 2015, and current status needs to be checked.	Moderate - Low

QUESTION	RESPONSE ¹	RISK ²
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?	These are prescribed in the Procurement Regulations, 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.3 Does the Agency adhere to a document retention policy (ie for what period are records kept).	The PMU also retains its copies. There is a 5-year retention period as per the Tuvalu Procurement Law, and Procurement Rules and Regulations.	Low/Mod
B.4 Are copies of bids or proposals retained with the evaluation?	Both the CPU and the PMU keep a copy.	Low/Mod
B.5 Are copies of the original advertisements retained with the pre-contract papers?	Yes, Both the CPU and the PMU keep a copy.	Low
B.6 Is there a single contract file with a copy of the contract and all subsequent contractual correspondence?	According to the Procurement Law, it should. In practice, still record keeping is needs improvement	Low
B.7 Are copies of invoices included with the contract papers?	Yes, we have Interim Monthly Payment Certificates that includes the invoices	Low/Med
B.8 Is the agency's record keeping function supported by IT?	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
C. PROCUREMENT PRACTICES		
Goods and Works		
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.	The PMU has undertaken the recruitment of the Design and Supervision Consultants for OIMIP and for the World Bank funded MICRO project. The PMU has successfully tendered for and Contracted the Civil works (Large) for Nukulaelae and recently commenced Bidding for the Niutao Boat Harbor. Due to COVID-19 worldwide travel restrictions the PMU has held the first Pre-Bid Meeting online with 26 participants. Their experience has been increasing. Resources remain the problem.	Moderate
C.2 If the answer is yes, what were the major challenges faced by the agency?	Earlier PPARs have identified Evaluation as a major stumbling Block and certainly undertaken outside of ADB Guidelines. Evaluations managed by the CPU were commonly done by one person. The PMU is well structured and supported now in OIMIP to have a Procurement Specialist facilitate the Evaluation and report writing process and is also strongly supported with Technical expertise from the DSC.	* Mod/High
C.3 Is there a systematic process to identify procurement requirements (for a period of one year or more)?	Yes. Annual procurement planning in tandem with annual budget formulation is regulated under the Procurement Regulations and Procurement Act. There is no recent data on actual compliance with this requirement or what is actually done with the information once it is received. .	Moderate
C.4 Is there a minimum period for the preparation of bids and if yes, how long?	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 is more suitable	Mod/High*

QUESTION	RESPONSE¹	RISK²
C.5 Are all queries from bidders replied to in writing?	Yes, the responses are circulated to all firms participating	Low/Mod
C.6 Does the bidding document state the date and time of bid opening?	Yes, it is stated for all methods of procurement except for minor procurement.	Low
C.7 Are bids opened in public?	Recent Bid Openings have been scheduled to occur in the Tuvalu High Commission in Fiji, making access more equal to all Bidders. However, this requirement, in the recent Niutao Bidding has been changed to online Bid submission through the INTEND Platform, because of COVID -19 Travel restrictions.	Low
C.8 Can late bids be accepted?	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
C.9 Can bids (except late bids) be rejected at bid opening?	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
C.10 Are minutes of the bid opening taken?	Yes	Low
C.11 Are bidders provided a copy of the minutes?	Yes	Low
C.12 Are the minutes provided free of charge?	Yes	low
C.13 Who undertakes the evaluation of bids (individual(s), permanent committee, ad-hoc committee)?	For all Bid Evaluations under OIMIP and managed by the PMU, will be facilitated by a qualified ADB procurement Specialist with a Technical and Financial Evaluation Committee comprising several members. 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.	* Mod/High
C.14 What are the qualifications of the evaluators with respect to procurement and the goods and/or works under evaluation?	The PMU does not have sufficient persons or technical knowledge to undertake the Evaluation alone. The PMU will rely upon Technical and procurement support for the DSC	*Mod/High
C.15 Is the decision of the evaluators final or is the evaluation subject to additional approvals?	The evaluation by the PMU is reviewed and approved by ADB and if accepted given a No Objection. This No Objection and BER are then sent to the Procurement Review Committee, which is made up of high level GOT officials (IA would be represented), for approval before submission to Cabinet. The DSC Consultant will also have prepared the evaluation report and written the recommendations	Moderate
C.16 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. From submission of the BER to contract signing, OIMIP took less ~3.5 - 4 months.	Moderate
C.17 Are there processes in place for the collection and clearance of cargo through ports of entry?	Normal GOT Customs Clearance Process in place	Moderate
C.18 Are there established goods receiving procedures?	As above	Moderate

QUESTION	RESPONSE¹	RISK²
C.19 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
C.20 Is the agency/procurement department familiar with letters of credit?	IA/CPU is familiar, but this facility is not used in Tuvalu.	Moderate
C.21 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. There is no update to this information	* Mod/High
Consulting Services		
C.22 Has the agency undertaken foreign- assisted procurement of consulting services recently (last 12 months, or last 36 months)? (If yes, please indicate the names of the development partner/s and the Project/s.)	The PMU has undertaken Consultancy services for the Design and Supervision Consultants in the past two years CPU has procured consultancy services in the past 12 months. Refer above – for DFAT Schools Project and OIMIP.	* Moderate
C.23 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
C.24 Are assignments and invitations for expressions of interest (EOIs) advertised?	Yes.	Low
C.25 Is a consultants' selection committee formed with appropriate individuals, and what is its composition (if any)?	The PMU can with the assistance of the Procurement specialists and done by CPU staff in the past sometimes by only one person. ADB Advisor has 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
C.26 What criteria are used to evaluate EOIs?	Experience and Qualifications of the longlisted firms relevant to the assignment	Moderate
C.27 Historically, what is the most common method used (QCBS, QBS, etc.) to select consultants?	QCBS, 90/10 or 80/20	Low/Med
C.28 Do firms have to pay for the RFP document?	No, if issuing an RFP to the short-listed bidders a fee is not usually charged. This could be a costly exercise for Tuvalu to send internationally by courier – so would be another benefit of e-procurement	Low
C.29 Does the proposal evaluation criteria follow a pre-determined structure and is it detailed in the RFP?	Yes, for ADB project/s ADB SRFP to be used.	Low
C.30 Are pre-proposal visits and meetings arranged?	Difficult to organize due to Tuvalu geographical location but done for large projects. Prebid Meeting and site visit was conducted for OIMIP.	Moderate
C.31 Are minutes prepared and circulated after pre-proposal meetings?	Yes, this is part of the responsibilities of the PMU's DSC.	Moderate
C.32 To whom are the minutes distributed?	Yes. For the PMU, all registered Bidders or Bidders who have downloaded documents are issued with minutes	Moderate
C.33 Are all queries from consultants answered/addressed in writing?	Yes. For the PMU, responses are sent to all registered Bidders or Bidders who have downloaded documents Same as above	Moderate
C.34 Are the technical and financial proposals required to	For Consulting Services – yes, only the technical envelope is opened	Moderate

QUESTION	RESPONSE ¹	RISK ²
be in separate envelopes and remain sealed until the technical evaluation is completed?		
C.35 Are proposal securities required?	Requests for proposals do not ask for Bid Securities	Moderate*
C.36 Are technical proposals opened in public?	It is the process, but in most CPU minor Procurement, no participants have attended. OIMIP Proposals opened in front of bidders attending.	Moderate
C.37 Are minutes of the technical opening distributed?	Yes, Same as above for minutes of any pre- proposal meeting.	Moderate
		High*
C.39 Who determines the final technical ranking and how?	Under the PMU evaluation methodologies for ADB Consultant Services, the Technical Evaluations are done by assigning the pre-agreed score in criteria and sub-criteria. Evaluations should be based on a consensus but should there be disagreement or outliers are present in the Evaluation scoring then the chair would preside and make decisions.	Moderate*
C.40 Are the technical scores sent to all firms?	Process is that technical scores will be distributed to all firms.	Moderate
C.41 Are the financial proposal opened in public?	Yes, the opportunity exists but logistically not usually possible	Moderate
C.42 Are minutes of the financial opening distributed?	Not usually – the process is recorded, but minutes not issued at this stage	Moderate
C.43 How is the financial evaluation completed?	The Financial Proposals are reviewed against what was offered Technically, adjusted as appropriate, and corrected for arithmetical or computational errors	High*
C.44 Are face to face contract negotiations held?	Generally negotiated remotely by email. Face to face applied for OIMIP Skype or ZOOM can be used, or alternatively suggest amore localized country such as Australia or Fiji	Moderate - High*
C.45 How long after financial evaluation is negotiation held with the selected firm?	2-3 weeks	Moderate - High*
C.46 What is the usual basis for negotiation?	Under QCBS there is no negotiation of rates only scope of work, reimbursables and staff experience	Moderate*
C.47 Are minutes of negotiation taken and signed?	Minutes will be taken and signed by both parties	Moderate
C.48 How long after negotiation is the contract signed, on average?	Expected maximum 4 weeks	High*
C.49 Is there an evaluation system for measuring the outputs of consultants?	PMU with the help of the DSC may have instigated this following difficulties with Nukulaelae – under lessons learned.	Moderate - High*
Payments		
C.50 Are advance payments made?	Yes	Low
C.51 What is the standard period for payment included in contracts?	30 days	Moderate
C.52 On average, how long is it between receiving a firm's invoice and making payment?	Most time under 30 days.	Moderate
C.53 When late payment is made, are the beneficiaries paid interest?	No record of this happening to date	Moderate
D. EFFECTIVENESS		

QUESTION	RESPONSE¹	RISK²
D.1 Is contractual performance systematically monitored and reported?	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.	Low/Mod
D.2 Does the agency monitor and track its contractual payment obligations?	The PMU is responsible for this task. This is still to be tested as activity is very minor at present. A QA in the PMU would be advantageous.	Moderate
D.3 Is a complaints resolution mechanism described in national procurement documents?	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) Complaints Mechanisms are detailed in the Procurement Regulations, Part 13.	Low - Moderate
D.4 Is there a formal non-judicial mechanism for dealing with complaints?	Procurement Regulations No 13 clearly detail a formal non-judicial right of recourse and review about procurement decisions. . It is quite thorough	Mod/High
D.5 Are procurement decisions and disputes supported by written narratives such as minutes of evaluation, minutes of negotiation, notices of default/withheld payment?	Yes, normal all decisions shall be supported by documents.	* Moderate
E. ACCOUNTABILITY MEASURES		
E.1 Is there a standard statement of ethics and are those involved in procurement required to formally commit to it?	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".	* Mod/High
E.2 Are those involved with procurement required to declare any potential conflict of interest and remove themselves from the procurement process?	Yes, this is the normal process under ADB anti-corruption practices.	* Moderate
E.3 Is the commencement of procurement dependent on external approvals (formal or de-facto) that are outside of the budgeting process?	ADB Approvals will apply to Nui Boat Harbor additional financing	Moderate
E.4 Who approves procurement transactions, and do they have procurement experience and qualifications?	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.	*Moderate
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?		
Bidding document, invitation to pre-qualify or RFP	ADB approved	Low
Advertisement of an invitation for bids, pre-qualification or call for EOIs	ADB, Agency	Low
Evaluation reports	Procurement Review Committee/ADB/ Cabinet	Low/Mod
Notice of award	ADB no objection and then to CPU and concerned Minister/s according to the thresholds established by the Tuvalu Public Procurement Act (2013)	Low/Mod

QUESTION	RESPONSE¹	RISK²
Invitation to consultants to negotiate	Approved by Secretary of IA	Low
Contracts	CPU, concerned Minister/s and no objected by ADB (in ADB funded project)	Low/Mod
E.6Is 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?	No	Low
E.7Is there a written auditable trail of procurement decisions attributable to individuals and committees?	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.	*Mod/High

¹⁴ 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.

¹⁵ 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 3).