

# **ASIAN DEVELOPMENT BANK**

## **PROJECT PROCUREMENT-RELATED REVIEW**

**Loans 2496-PNG(COL), 2497-PNG(COL), 3076-PNG(COL), and 3077-PNG:  
Highlands Region Road Improvement Investment Program (HRRIP) –  
Projects 1 and 2**

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

**Office of Anticorruption and Integrity**  
October 2017

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## CURRENCY EQUIVALENTS

(as of 28 February 2016)

Currency unit	=	Papua New Guinea Kina (PGK)
1 PGK	=	\$ 0.328999
\$1.00	=	PGK3.039514

## ABBREVIATIONS

ADB	-	Asian Development Bank
BER	-	bid evaluation report
BOQ	-	bill of quantities
BRIRAP	-	Bridge Replacement for Improved Rural Access Sector Project
DoW	-	Department of Works
DNPM	-	Department of National Planning and Monitoring
EOI	-	expression of interest
HRRIP	-	Highlands Region Road Improvement Investment Project
ICB	-	international competitive bidding
ICS	-	individual consultant selection
IFB	-	invitation for bids
IPC	-	interim payment certificate
NRA	-	National Road Authority
OAI	-	Office of Anticorruption and Integrity
OSFMD	-	Operations Services and Financial Management Department
PAI	-	Project Administration Instructions
PARD	-	Pacific Department
PIU	-	project implementation unit
PNG	-	Papua New Guinea
PNRM	-	Papua New Guinea Resident Mission
PPRR	-	project procurement-related review
QCBS	-	quality- and cost-based selection
TEC	-	technical evaluation committee

## NOTE

- (i) The currency equivalents above were used unless otherwise stated.
- (ii) In this report, \$ refers to US dollars.

### Project Procurement-Related Reviews

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

As mandated by the *Anticorruption Policy*, the Office of Anticorruption and Integrity (OAI) conducts project procurement-related reviews (PPRRs) or proactive integrity reviews to help prevent and detect integrity violations (e.g., fraud, corruption, collusion, coercion, abuse, conflict of interest, and obstruction) as defined in the *Anticorruption Policy* and ADB's *Integrity Principles and Guidelines*, as amended from time to time.

**Objective.** A PPRR assesses project integrity risks by identifying any red flags of integrity violations through (i) examination of processes, procedures, and documentation related to procurement, financial management, and contract implementation/management, and (ii) inspection of project outputs. OAI recommends enhancements to mitigate or eliminate opportunities for integrity violations.

OAI conducts **follow-up reviews** on selected PPRRs to assess the implementation progress of the PPRR recommendations and to assist the executing/implementing agencies and ADB in implementing any remaining recommendations.

A PPRR is neither an investigation of fraud and corruption nor an evaluation to assess development effectiveness of ADB-funded projects. It does not review project outcomes or development impact, which can only be assessed after the completion of a project.

## EXECUTIVE SUMMARY

1. The Office of Anticorruption and Integrity (OAI) of the Asian Development Bank (ADB) conducted a project procurement-related review (PPRR) of the Highlands Region Road Improvement Investment Program (Investment Program) under Loans 2496-PNG(COL), 2497-PNG(COL) for Project 1 and Loans 3076-PNG(COL) and 3077-PNG for Project 2 (“the Project”). Further document review and analyses were completed subsequent to the fieldwork in May 2016.<sup>1</sup> This report presents the findings and recommendations resulting from the PPRR.
2. The \$750 million Investment Program, of which \$209 million is allocated for Projects 1 and 2 (\$100 million and \$109 million respectively) and implemented by the Department of Works (DoW), aims to establish a sustainable road system in Papua New Guinea’s (PNG’s) highlands region that will enable maximum use of its natural, mineral, and human resources. The main objective of the PPRR is to assess project integrity risks by identifying any red flags of integrity violations. Recommendations from the PPRR are intended to strengthen project oversight, enhance internal controls, and optimize project management. If replicated, lessons learned from this PPRR will also improve other ADB-financed and/or administered projects in PNG.
3. The PPRR (i) assessed the project implementation unit’s (PIU’s) internal controls and processes and capacity to implement the Project, (ii) verified the procurement documentation as well as related expenditures of sampled awarded contracts, and (iii) inspected one of the two roads with substantial construction progress.
4. Delays in providing the key procurement- and disbursements-related documents for seven (7) of the 10 selected contracts limited the scope of the review.<sup>2</sup> Due to the delay, pertinent procurement and disbursements documents were no longer reviewed, therefore no conclusive assessment could be made on the integrity and competitiveness of the bid process, and the validity and accuracy of the disbursements. Consequently, there is no assurance that loan funds were appropriately used for Project development objectives, or that the procurement and disbursements activities are free from fraud and corruption.
5. There were a total of 21 findings noted in nine (9) of the 10 contracts (valued at \$142.64 million) reviewed. Approximately \$142.55 million of the total contract value of \$142.64 million was found to be vulnerable to Project loss.<sup>3</sup> See **Figure 1**.

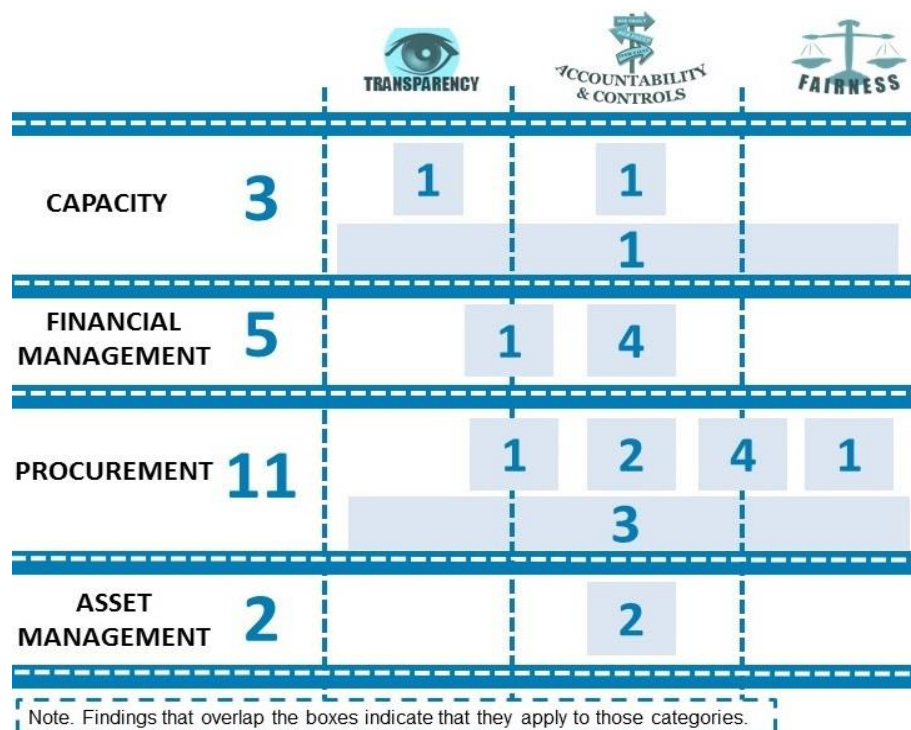
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<sup>1</sup> The last correspondence received from DoW by the PPRR Team after the fieldwork, was in July 2017.

<sup>2</sup> As of the PPRR cut-off date, 15 contracts were awarded and 10 of which have been selected for review.

<sup>3</sup> The potential amount of Project loss only includes the values of the contracts affected. The full financial impact of the findings may be difficult to identify and quantify since this also includes costs of implementation delays, increased monitoring and review, potential revenue from toll fees, and other variables. This amount includes contracts without procurement- and financial management-related documents.

Figure 1: Overview of Key PPRR Findings



6. The PPRR identified serious findings that, if not mitigated, may adversely impact the accomplishment of project objectives. The key findings, highlighted below, will require remedial actions.

#### Weak records management

DoW did not provide in a timely manner most of the procurement and financial management documents (i.e., bid and proposal submissions of most bidders/firms, interim payment certificates, performance security, and supporting documents for claims) during the four-week PPRR fieldwork. This same issue was noted in the 2016 PPRR of the Bridge Replacement for Improved Rural Access Sector Project (BRIRAP), and in a 2006 PPRR of a selected project which DoW both administered. A decade after the first PPRR was conducted, there is no discernible improvement in records management practices in ADB-financed projects in PNG.

#### Weak financial management and project procurement capacity

The technical evaluation committee does not have a member who possesses financial knowledge/expertise to assess the bidders' qualification in accordance with the relevant evaluation criteria. Moreover, the PIU is very dependent on the capacity of consultants in managing its financial disbursements, including records management and control. The Project includes strengthening DoW' financial management capacity. However, there was no evidence from the PPRR to identify that there has been any financial management capacity-building on this project.

The PPRR established that PNG Resident Mission (PNRM) exercised poor oversight as there was no robust checking of the bid evaluation reports (BERs) despite obvious errors in the evaluations that were conducted.

### Unsubstantiated claims

Supporting documents for claims from contractors and consultants, such as approval of increase in markup rate of 10% to 30% in a civil works contract, additional housing allowances, signed timesheets, and proof of air travel for consultancy services contracts were not provided.

### Erroneous evaluation and declaring unqualified consultant compliant

There were evaluation errors, such as (i) declaring a bidder with an invalid bid security as compliant, (ii) shortlisting a lower ranked firm during EOI stage and subsequently replacing it during Request for Proposal issuance, (iii) declaring unaudited financial statements as audited, and (iv) incorrectly identifying the nationality of a shortlisted firm.

Also, expressions of interest (EOI) received after the deadline were still accepted, with three firms incorrectly being shortlisted.

### Conflict of interest issues

A former ADB staff, who was primarily involved in the processing, implementing, and supervising of the HRRIP and another DoW-implemented project prior to his retirement, was engaged by DoW under HRRIP as Project Implementation Advisor. This is a conflict of interest and a breach of ADB's Project Administration Instruction No. 2.01.

In addition, a former consultant of the current supervision consultants for HRRIP was engaged by DoW to handle financial management and disbursements for both HRRIP and BRIRAP. The said consultant was working for HRRIP through the supervision consultants before being directly engaged by DoW. There is conflict of interest when the former consultant processes the payments for claims of the supervision consultants (his former employer) under the HRRIP. While the PIU claims to have implemented procedures to address the conflict of interest, there was no evidence to support that the procedures were implemented.

### Potentially favored firms

All three supervision, maintenance, and improvement contracts were awarded to one consulting firm. A fourth contract was awarded to the same consulting firm as construction supervision consultant for Project 2, after the PPRR fieldwork. Also, all five civil works contracts for Projects 1 and 2 were awarded to one construction firm. The absence of pertinent procurement documents (e.g., bid and proposal submissions, bid opening records, bid advertisement/notices) at the time of the PPRR restricted the team from assessing whether ADB procurement procedures were followed. It also raises concerns on the possibility of awarding multiple contracts to favored bidders.

### Poor project outputs

Landslides were noted at the sides of the roads due to the steep slopes. The PPRR engineer also noted some missing embankment protection/revetment in a few areas, and ineffective gabion protection that will not help stabilize the slope. These exposed the beneficiaries to safety issues.

7. Strong procurement and internal controls mitigate the risk of improper use of Project funds and assets, maximize development effectiveness, and deter fraud and corruption. The PPRR findings were discussed with DoW, PIU, and ADB's PNRM and their feedback on the preliminary findings are incorporated in this report. ADB's Pacific Department (PARD) and PNRM should closely monitor the implementation of the PPRR recommendations to improve Project integrity

and implementation. OAI plans to conduct a follow-up review in 2018 to assess the implementation status of the recommendations.

8. HRRIP is the fourth PPRR of a selected ADB-financed project in Papua New Guinea, and the third under the transport sector administered by DoW. The findings in the previous PPRR report issued in 2006 have recurred in this PPRR. In particular, these are the findings on non-compliance with ADB *Procurement Guidelines*, evaluation irregularities, deficiencies in disbursements processes (i.e., unsubstantiated claims), and records management issues. The same issues were also noted in the 2016 PPRR of BRIRAP. There is therefore, the need for concerted efforts among PARD (and PNRM), DoW, and the PIU to institute appropriate measures to prevent these findings from recurring. The Ministry of Finance is encouraged to take the lead in addressing these issues and collaborate with ADB to strengthen PNG's capacity to manage for development results.

9. To assist DoW and PIU in ensuring integrity in project implementation, the PPRR team provided due diligence and PPRR-prepared checklists for executing agencies (procurement, financial management, and asset management) training during the fieldwork in Port Moresby.

10. OAI acknowledges the cooperation and support of DoW, PIU and PARD, in particular PNRM, that has been extended to the PPRR team.



## I. OVERVIEW

1. The Office of Anticorruption and Integrity (OAI) of the Asian Development Bank (ADB) conducted a project procurement-related review (PPRR)<sup>4</sup> of the Highlands Region Road Improvement Investment Program (Investment Program) under Loans 2496-PNG(COL), 2497-PNG(COL) for Project 1 and Loans 3076-PNG(COL) and 3077-PNG for Project 2 (“the Project” or HRRIP) in Port Moresby, Papua New Guinea (PNG). Further document review and analyses were completed subsequent to the fieldwork in May 2016. This report presents the findings and recommendations resulting from the PPRR.

2. The PPRR verified Project compliance with applicable ADB policies, guidelines, and loan agreements, focusing on preventing and detecting integrity violations. The Project vulnerabilities and risks in the areas of procurement and financial management were identified through the review of sampled contracts.

### ***Project Background***

3. The \$750 million Investment Program, of which \$209 million is allocated for Projects 1 and 2 (\$100 million and \$109 million respectively). The Investment Program is intended to establish a sustainable road system in PNG’s highlands region that will enable maximum use of its natural, mineral, and human resources. The expected outcomes of the Project are (i) improved access to ports, markets, and livelihood opportunities and (ii) reduced travel time and transport costs in the highlands region of PNG.

4. The Department of Works (DoW) is the executing agency. The implementing agencies are the National Road Authority for road maintenance of the Project, and the Highlands Road Management Group, the project implementation unit (PIU) for the road improvement works.<sup>5</sup>

### ***PPRR Scope and Coverage***

5. The PPRR covered the procurement processes and documentation relating to 10 of the 15 contracts awarded as of 28 February 2016 (or 98% of the value of contracts awarded). These comprise eight (8) contracts under Project 1 and two (2) contracts under Project 2.<sup>6</sup> The PPRR also reviewed the available disbursements-related documents of the selected contracts. The Mendi-Kandep road was also inspected. The PPRR scope and coverage summary is presented in **Figure 2**.

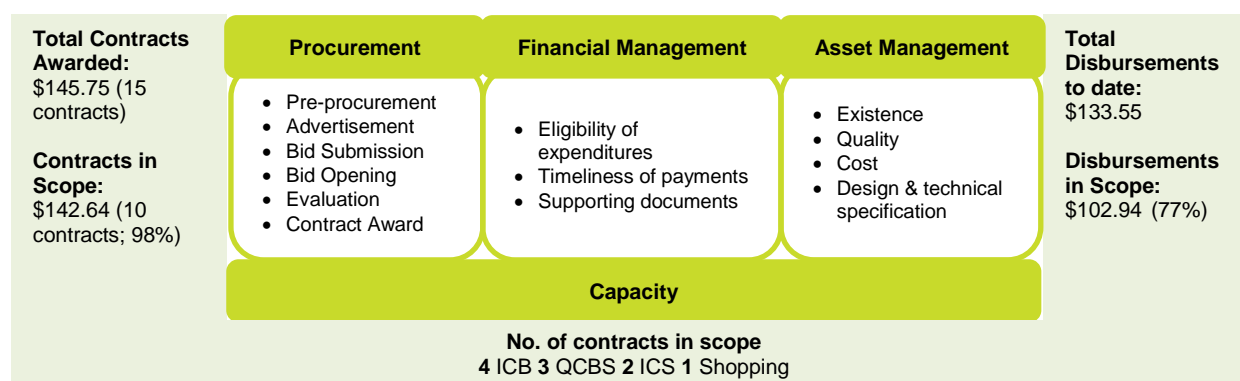
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<sup>4</sup> The PPRR was conducted by OAI staff members and engaged consultants.

<sup>5</sup> Additional project information can be found in <https://www.adb.org/projects>.

<sup>6</sup> The PPRR cut-off date is 28 February 2016.

**Figure 2: PPRR Scope and Coverage (\$ in millions)**



### **Scope Limitation**

6. Delays in providing the key procurement- and disbursements-related documents (i.e., bid and proposal submissions of most bidders/firms, interim progress certificates, performance security, and supporting documents for claims made) for seven (7) of the 10 selected contracts limited the scope of the PPRR.<sup>7</sup> Due to the delay, pertinent procurement and disbursements documents were no longer reviewed, therefore no conclusive assessment could be made on the integrity and competitiveness of the bid process. Consequently, there is no assurance that loan funds were appropriately used for Project development objectives, or that the procurement and disbursements activities are free from fraud and corruption.

## II. FINDINGS

### **PROJECT VULNERABILITIES**

7. The key PPRR findings are categorized by area of project implementation, as follows: (i) capacity, (ii) financial management and disbursements, (iii) procurement, and (iv) asset management. A total of 21 findings were noted in 9 of the 10 contracts reviewed, including 3 findings on capacity. Of the total reviewed contract value (\$142.64 million), the PPRR identified approximately 99% (\$142.55 million), including those without procurement- and financial management-related documentation, vulnerable to Project loss.<sup>8</sup>

8. In financial management and disbursements, procurement, and asset management, 18 types of findings were noted, resulting in a total of 57 instances across the nine (9) contracts. **Figures 3a to 3c** summarize these findings.

<sup>7</sup> The list of the procurement- and disbursements-related documents required for the PPRR was provided to DoW with a copy sent to the PIU and PNRM, on 9 Feb 2016, prior to the PPRR fieldwork on 7 March to 1 April 2016.

<sup>8</sup> Refer to footnote 1.

**Figure 3a: Financial Management and Disbursements - Instances of Findings**

<b>FINANCIAL MANAGEMENT</b>	<b>No. of Instances</b>	<b>%</b>
<b>Unsubstantiated claims</b>		
<b>Inadequate supporting documents on claims</b>	<b>7</b>	<b>50%</b>
<b>Ineligible expenses charged under contingencies</b>	<b>2</b>	<b>14%</b>
<b>Excessive markup and other expenses</b>	<b>2</b>	<b>14%</b>
<b>Unreconcilable withdrawal applications and payments</b>	<b>2</b>	<b>14%</b>
<b>Lack of performance security to cover the extended period of work completion and defects liability period</b>	<b>1</b>	<b>7%</b>
<b>TOTAL</b>	<b>14</b>	<b>100%</b>

**Figure 3b: Procurement - Instances of Findings**

<b>PROCUREMENT</b>	<b>No. of Instances</b>	<b>%</b>
<b>Erroneous evaluation</b>	<b>24</b>	<b>57%</b>
<b>Non-compliance with contract terms and/or ADB Guidelines</b>	<b>12</b>	<b>29%</b>
<b>Other Procurement-related Issues</b>	<b>4</b>	<b>10%</b>
<b>Non-disclosure Issues</b>	<b>2</b>	<b>5%</b>
<b>TOTAL</b>	<b>42</b>	<b>100%</b>

**Figure 3c: Asset Management - Instances of Findings**

<b>ASSET MANAGEMENT</b>	<b>No. of Instances</b>	<b>%</b>
<b>Poor project outputs</b>	<b>1</b>	<b>100%</b>
<b>TOTAL</b>	<b>1</b>	<b>100%</b>

9. The PPRR identified serious findings that, if not mitigated, may adversely impact the accomplishment of project objectives. Activity and control owners should pay particular attention and prioritize the implementation of corrective actions for these serious findings.<sup>9</sup> Failure to take action could result in major adverse impact on the project and ADB's reputation. The key findings, in order of severity, are highlighted in the succeeding sections.

<sup>9</sup> The activity and control owners are the assigned individuals/entities (e.g. PIU Director, TEC members) who will implement action plans to operationalize the recommendations made in this report.

## A. Capacity



### Weak project implementation capacity

- a. Weak records management
- b. Weak financial management capacity
- c. Weak project procurement capacity



- a. Diminished transparency and accountability.
- b. Resulted in payments of unsubstantiated claims.
- c. May result in awarding of contracts to unqualified bidders which may lead to implementation delays, integrity issues, and misuse of project funds.

### Weak project implementation capacity

10. The PNG Resident Mission's (PNRM's) fiduciary oversight needs improvement due to the lack of quality in its review of the bid evaluation reports and claims made. The weak fiduciary oversight of PNRM resulted in procurement and disbursements-related issues. Some of these could have been prevented or resolved in a more timely manner had PNRM provided sufficient review and oversight. PNRM should meticulously review bid evaluation reports (BERs) and supporting documents for claims and communicate concerns or errors to DoW for rectification. In addition, claims made should be validated against contracts, including contract variations, if any.

#### a. *Weak records management*

11. DoW did not provide in a timely manner most of the procurement and financial management documents during the four-week PPRR fieldwork. OAI requested the required documents to DoW on 9 February 2016, prior to the PPRR fieldwork. DoW stated that they had difficulty in retrieving the documents due to inadequate labelling of boxes when they were moved to the storage containers. The said documents, including procurement documents and interim payment certificates (IPCs) for civil works, were provided on 30 March 2016, two days before the PPRR exit conference, in properly labelled boxes (see photos in **Figure 4**).

**Figure 4: Boxes of documents**



12. Due to the delay in providing access to these documents, they were not reviewed by the PPRR team. The PPRR was, therefore, restricted in its review of documents only made available. The PPRR was unable to establish the fairness and integrity of the procurement process and validity and accuracy of disbursement claims made.

13. In the past decade, there is no discernible improvement in records management practices. This issue on missing documents was also noted during the 2006 PPRR and the 2016 PPRR of the Bridge Replacement for Improved Rural Access Sector Project BRIRAP (BRIRAP). Good records management practices promote transparency and effective and efficient records retrieval.

14. **Recommendations.** At a minimum, properly sort and label documents for easy identification and retrieval. The PIU should keep a logbook for proper records tracking. Documents should also be logged in and out of the storage containers.

15. In addition, ADB's Pacific Department (PARD) and PNRM should ensure that DoW reinforce their records management and control at all levels of project implementation to facilitate retrieval. Moreover, PARD and PNRM should revisit its capacity-building programs to strengthen the capacity of PNG's executing agencies in ensuring proper records management, as this is a recurring issue.

16. **Actions taken.** PNRM assisted the PIU in engaging additional staff to improve records management. PIU indicated that they have established a "user-friendly" filing system that tracks all correspondence. PIU further indicated that they will keep a checklist to ensure that all procurement and financial management documents are properly maintained.

*b. Weak financial management capacity*

17. The PIU is very dependent on consultants in managing its financial disbursements, including records management and control. Financial management and disbursements issues were mostly claims that are not properly supported or are not in accordance with the contract.

18. **Recommendations.** DoW and PNRM should closely collaborate in building local financial management capacity and ensure that the PIU is not dependent on consultants for critical functions, such as financial management and disbursements.

*c. Weak project procurement capacity*

19. None of the technical evaluation committee (TEC) members possessed financial knowledge/expertise to evaluate the criteria requiring such expertise.<sup>10</sup>

20. **Recommendations.** DoW should have at least one financial expert as a member of the TEC. Also, PARD, PNRM, and ADB's Operations Services and Financial Management Department (OSFMD) should collaborate with DoW to strengthen the capacity of the EA's TEC through procurement review training sessions, focusing on bid evaluation.

21. **Actions taken.** DoW stated that they have now included a financial expert in the TEC for Project 3 of the HRRIP. The financial expert will also support Packages 3 and 4 of another DoW

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<sup>10</sup> DoW stated in its response to the BRIRAP draft report that while they did not have a financial expert member of the TEC, "any and all financial advice needed was sought from financial experts in the PIU and DoW prior to issuing the BER recommendation."

project, the Bridge Replacement for Improved Rural Access Sector Project, funded by European Investment Bank.

22. In addition, DoW has initiated in-house training on ADB's procurement guidelines for the PIU. It is closely working together with the international consultants to improve financial management and procurement capacity.<sup>11</sup>

23. PARD has initiated actions to address the findings.<sup>12</sup> Through technical assistance and other resources, for example, PARD/PNRM has increased training and provided international procurement specialists to some executing agencies in PNG to improve the quality of bid evaluation reports. Also, in late 2016 PARD undertook a procurement risk assessment and a financial management assessment of DoW. From these analyses, PARD/PNRM are aware of the identified substantial risks. Future interventions are being designed to strengthen DoW in procurement, financial management, and project administration to address and mitigate these risks.

## B. Financial Management and Disbursements



### Unsubstantiated claims

- a. Excessive markup and other expenses
- b. Inadequate supporting documents on claims
- c. Ineligible expenses charged under contingencies

Certain claims with inadequate supporting documents led to overcharging. Such practice, if not mitigated, creates opportunity for fraud.

Unreconcilable withdrawal applications and payments

Failure to reconcile ADB payments and claims resulted in unaccounted withheld claims by ADB which could result in over or underpayment of contractor/consultant claims.

### Unsubstantiated claims

#### a. *Excessive markup and other expenses*

24. In one civil works contract, the contractor charged a 30% markup on expenses claimed as contingencies. While the contract provides for a markup of 10%, all IPCs included a markup of 30% of the contingency expenses incurred by the contractor.<sup>13</sup> The contingency claimed by the contractor for PGK 178,286, included an expense relating to DoW's "business fees" amounting to PGK 13,000. This represents "business fees" of PGK 10,000 plus 30% mark-up (PGK 3,000) based on the cash voucher attached to the claim.

<sup>11</sup> Based on DoW's response to the draft report dated 27 July 2017.

<sup>12</sup> Based on PARD's response to the draft PRR report on BRIRAP.

<sup>13</sup> Particular Conditions of Contract 13.5.

25. In one consulting services contract, the housing allowance claimed under the Maintenance Engineer was beyond the contract's housing allowance provision. The excess housing allowance of \$4,000 was claimed by the consultant comprising \$2,000 for the Team Leader and \$2,000 for one extra Maintenance Engineer.

*b. Inadequate supporting documents on claims*

26. In the consultancy and civil works contracts reviewed, supporting documents for claims were incomplete, as follows:<sup>14</sup>

- i. Timesheets not attached or without required signature.
- ii. Lack of supporting documents (e.g., Letter from Office of Engineer,<sup>15</sup> Approved statement of General Expenses) for IPCs/claims submitted.
- iii. Invoice does not stipulate designation of employees paid and therefore, it could not be determined if the remuneration was paid to employees in accordance with the contract.
- iv. Insufficient supporting documents for remuneration claimed for office support staff.
- v. Unsupported domestic air travel claims.

*c. Ineligible expenses charged under contingencies*

27. In one withdrawal application of a civil works contract, there were expenses for PGK 11.7 million relating to bill of quantity (BOQ) line items that were claimed under Contingencies. In one consulting services contract, per diem at the rate of PGK100 per day was claimed for drivers for 6 days. However, there was no provision for such in the contract. Moreover, the names of the drivers were not stated in the claims.

28. DoW, in response to the draft report, indicated that they will strictly follow the conditions of the contract in ongoing and future contracts, i.e., claims are substantiated by the required supporting documents. DoW also ensured to undertake due diligence and approval processes, and introduce internal controls to mitigate the risk of processing unsubstantiated claims.<sup>16</sup>

29. **Recommendations.** It is recommended that the PIU should:

- a. Recover excess markup and "business fees" charged against the Project funds, and review contractor's claims to properly account for all potential excess charges.
- b. Ensure that prior to endorsing claims for payment, supporting documents are checked for accuracy and completeness, and information in the claims are validated against the contracts and supporting documents. In addition, adequate records management practices should be employed and strengthened to ensure that supporting documents for claims are properly maintained.
- c. Assess the validity of the BOQ line item expenses that were charged under contingencies. If valid, contract variations should be made, otherwise these should be recouped.

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<sup>14</sup> The supporting documents may have been in the boxes of documents provided two days before the exit conference.

<sup>15</sup> The Letter from Office of the Engineer serves as the certification for the payment of each IPC.

<sup>16</sup> Refer to footnote 11.

**ADB payments and claims in withdrawal applications are unreconcilable**

30. The PPRR team reconciled selected claims under the withdrawal applications and ADB's Loan Financial Information System report for two ICB contracts. It was noted that in multiple claims, ADB did not pay the full amount of the claim for reasons such as disallowance or withholding pending further clarifications.

31. According to the PIU, they do not receive notification from ADB's Controller's Department with regard to details and reasons for withheld/disallowed payments. In the absence of such details on withheld/disallowed payments, the PIU could not monitor which claims were withheld.

32. Based on additional inquiries and review of four withdrawal applications, ADB Controller's Department sent letters to the Secretary, DoW to notify them of the amounts paid and disallowed including explanations of the nature of the disallowed amounts (e.g., provisional sum for contingencies).

33. **Recommendation.** DoW should forward to the PIU all communications sent by ADB Controller's Department notifying DoW of the amounts paid and disallowed amounts. These should include an explanation of the nature of disallowed amounts sent by ADB Controller's Department. The ADB Project Officer should monitor that PIU is made aware of the payments made through close coordination with the Project Director.



## C. Procurement



### Erroneous evaluation

- a. Unqualified consultant/bidder declared compliant
- b. Lack of proper disclosure in the evaluation report
- c. Erroneous information in the bid evaluation report
- d. Incorrect nationality of a shortlisted firm

### Conflict of interest issues

- a. Non-compliance with ADB's Project Administration Instructions on engagement of former ADB staff who processed/implemented the same project
- b. Engagement of former specialist of the Project's supervision consulting firm for the same role

### Potentially favored firms

Inconsistent information on bidder's representative and missing Power of Attorney

Inaccurate information in the evaluation reports



Errors in evaluation/shortlisting diminished the quality and integrity of the evaluation. If not mitigated, these may result in awarding of contracts to unqualified entities.

- a. Undermined ADB's efforts to protect projects from undue influence in the performance of official duties.
- b. Impaired the quality of the services delivered.

Awarding contracts to the same consulting or construction firm could adversely affect the firm's capacity to properly deliver the services.

Inadequate due diligence on bidder's submissions may result in legal risks and/or awarding of contracts to unqualified bidders.

Inaccurate information in the evaluation reports caused confusion and diluted the quality and integrity of the bid evaluation reports.

**Erroneous evaluation and declaring unqualified consultant compliant**

*a. Unqualified consultant declared compliant*

34. In one consulting services contract, an expression of interest (EOI) received after the submission deadline was still considered for evaluation. In one civil works contract, one of the losing bidders submitted an invalid bid security and yet was still declared as compliant. Whilst neither firm nor bidder was awarded a contract, the acceptance of an EOI after the deadline and a bid with no security compromises the integrity of the procurement process.

35. **Recommendations.** DoW should ensure that the evaluation committee meticulously reviews proposals and bids submitted. EOIs submitted after the deadline should not be accepted. DoW should also conduct due diligence on documents that appear questionable (e.g., contradicting with other known or submitted information) and seek clarifications when necessary.

*b. Lack of proper disclosure in the evaluation report*

36. In one consulting services package, there was no justification for the shortlisting of one of the lower ranked firms during the EOI evaluation and its subsequent replacement during issuance of the RFP. Communications relating to the replacement, if any, were not made available to the PPRR team.

37. **Recommendation.** DoW should ensure that the evaluation committee properly documents in the evaluation reports and/or attachments, the rationale for exceptions and/or decisions made. This is to improve transparency in the procurement process.

*c. Erroneous information in the bid evaluation report*

38. In two civil works contracts, the information (i.e., submission of cash flow statements for the last 3 years, and audited financial statements) in the bid evaluation report was inaccurate. In a civil works contract's BER, one of the losing bidders did not submit cash flow statements for the last 3 years. However, these were noted to be available in the bid submission. In the other civil works contract, the BER stated that the financial statements submitted were audited. However, the statements showed no indications that they had been audited, as there were no stamps, opinion, etc. These errors did not change the evaluation results, but reflective of the substandard quality of the evaluation.

39. **Recommendations.** DoW should ensure that the evaluation committee, including representatives from the PIU, exercise due care in reviewing the documents submitted along with the bids and proposals. The absence of these documents could unjustly disqualify bidders and/or consultants or may qualify bidders who are deficient. In addition, due diligence should be conducted and clarifications sought for questionable documents, e.g. financial statements that are neither stamped nor signed by the auditors or not in the auditors' letterhead.

d. *Incorrect nationality of shortlisted firm*

40. In the bid evaluation reports for two contracts, the nationality of a firm was incorrectly identified as PNG instead of Australia. This resulted in shortlisting of a firm not in accordance with ADB's Consulting Guidelines.<sup>17</sup>

41. Based on the review, the shortlist contains three firms from the same country out of the six shortlisted firms. This is not in accordance with ADB guidelines. In addition, the shortlist did not contain any bidder from a developing member country. In the absence of the longlist of firms that submitted an EOI and the related documents, the PPRR team was unable to conclude if the process for shortlisting consultants was fair and competitive. The BER should have included an explanation on the decision to accept this mix of shortlisted consultants.

42. **Recommendation.** For future evaluations, DoW should ensure that the evaluation committee, including representatives from the PIU, are prudent and diligent in (i) evaluating the proposals, and (ii) preparing the evaluation reports to accurately reflect the correct nationality of the firm.

43. DoW stated that the erroneous evaluation findings were due to the lack of awareness and capacity issues within the PIU. They will make sure that ADB Procurement Guidelines are strictly followed in the future. To ensure this is done, PNRM and OSFMD, as applicable, should meticulously review bid evaluation reports the DoW submits prior to issuing a 'no objection' or giving any advice or decision.

**Conflict of interest issues**

a. *Non-compliance with ADB's Project Administration Instructions (PAI) regarding hiring of former ADB staff*

44. A former ADB staff was engaged by DoW under HRRIP as Project Implementation Advisor (PIA) from 15 January 2015 with last payment made in August 2016. The PIA was previously Head, Project Administration Unit, PARD. He was primarily involved in the processing, implementing and supervising of the HRRIP and another DoW-implemented project before he retired from ADB.<sup>18</sup> This represents a conflict of interest. ADB considers it a conflict of interest "when a party has interests that could improperly influence its performance of official responsibilities and contractual obligations or compliance with laws and regulations".<sup>19</sup>

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<sup>17</sup> The ADB's Consulting Guidelines para. 1.14 requires that when the consultants associate with each other in the form of a Joint venture (JV), the nationality of the JV for the purpose of shortlisting will be defined by the nationality of the firm representing the JV. ADB Consulting Guidelines para. 2.8 and PAI 2.03 para. 16 require that the shortlist should contain no more than two firms from any one country and at least one firm from the developing country (unless qualified firms from developing countries were not identified).

<sup>18</sup> The other DoW-implemented project is the Bridge Replacement for Improved Rural Access Sector Project.

<sup>19</sup> PAI No. 2.01, item E. Conflict of Interest paras. 7 and 8. ADB Project Administration Instructions provide that "former ADB staff who was previously primarily involved in processing and/or supervising a TA, loan and/or grant project must not be hired to implement assignments under those projects."

*b. Former Financial Management Specialist of the Project's supervision consulting firm engaged by DoW for the same role*

45. A former consultant of Firm A was engaged by DoW in January 2016 when his contract with Firm A ended. DoW engaged this consultant to handle the financial management and disbursements for both HRRIP and BRIRAP under the subject ADB loans. Since he is a former consultant of Firm A, there is a conflict of interest. He is responsible for processing payments for Firm A's claims under the HRRIP. The PIU claimed that they manage this conflict by having the Project Manager sign off on all Firm A's claims.

46. While the PIU has implemented a procedure to address the conflict of interest, its implementation is weak. The PPRR team identified that claims in all 18 withdrawal applications of Firm A were not properly supported. These are claims for remuneration for experts not in the contract, unsigned daily timesheets of experts and missing travel expense documents.

47. *Actions taken.* DoW, in their response to the draft report, indicated that the newly recruited Senior Accountant will process payments in the future.<sup>20</sup>

48. **Recommendations.** PARD (through PNRM) should (i) identify the gaps in procedures when the former ADB staff was engaged, (ii) hold staff responsible for providing the no objection given the non-compliance to PAI 2.01 (Conflict of Interest), and (iii) establish procedures to appropriately address gaps (e.g., include in procurement briefings to Project Officers and Analysts) and ensure compliance with the PAI.

49. In addition, DoW and PNRM should closely monitor Firm A's performance by carefully reviewing the monthly progress reports prepared and submitted by Firm A and validate the information through more frequent review missions. This is to ensure that they are delivering, in accordance to their contracts, timely and with quality.

**Potentially favored firms**

50. Awarding of multiple contracts to the same firms raises concerns of favoritism. As the critical procurement documents (e.g., bid and proposal submissions, bid opening records, bid advertisement/notices) were not provided in a timely manner, this restricted the PPRR team's review. Thus, the PPRR team was unable to assess the appropriateness of evaluations and awarding of multiple contracts to Firm A and Contractor A.

51. Firm A is the supervision, maintenance and improvement consultant under the three contracts for HRRIP. The PPRR Team was made aware that as of 20 September 2016, DoW awarded a fourth contract to Firm A as construction supervision consultant for Project 2. DoW also awarded all five (5) international competitive bidding (ICB) civil works contracts for Project 1 & 2 to Contractor A.

52. DoW indicated that it will make sure that the procurement process is competitive and strictly follow ADB Guidelines. DoW will discourage favoritism, any deviations or compromise to the procurement process.<sup>21</sup>

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<sup>20</sup> Refer to footnote 11.

<sup>21</sup> Refer to footnote 11.

53. **Recommendation.** PARD and PNRM should collaborate with DoW to ensure that the procurement process is competitive, and that firms are properly evaluated in compliance with ADB's Procurement Guidelines. PNRM should revisit the procurement process, in consultation with the OSFMD, especially the evaluation of the contracts relating to Firm A and Contractor A.

**Inconsistent information on bidder's representative and missing power of attorney**

54. In one civil works contract, there were five different signatories across the documents. Table 1 below summarizes the inconsistencies.

**Table 1**

ELI-1	Business License	Power of Attorney	Authorized person signing the POA	Letter of Technical Bid	Contract Agreement/Letter of Acceptance
Person A {Contractor A (Country A)}	Person B {Contractor A (Country B)}	Person C {Contractor A (Country A)}	Person D {Contractor A (Country B)}	Person C {Contractor A (Country A)}	Person E {Contractor A (Country B)}

55. There is no information in the BER to indicate that any clarification was sought from Contractor A. The minutes of contract negotiations and the power of attorney submitted during negotiations, if any, were not provided to the PPRR team.

56. In another civil works contract, Contractor A's representative as stated in the bid form (ELI 1 Bidder's Information) is different from the one in the letter of bid and contract. Since the power of attorney authorizing the person in the bid form was not in the set of 'Conformed Documents' dated February 2012, the PPRR could not establish which one is the authorized representative. If issues like these continue, contracts may be awarded to unauthorized firms and may expose the executing agency and/or ADB to legal and reputational risks.

57. **Recommendations.** DoW should ensure that the evaluation committee, including representatives from the PIU, review the consistency of information across submitted bid documents. DoW should also conduct a reasonable level of due diligence, especially for documents and information that are inconsistent. If necessary, DoW should seek clarifications from the bidder. PNRM and PARD, as applicable, should diligently review submissions from DoW prior to issuing no objection letters or providing any advice or making decisions. Information from the evaluation reports should be checked against source documents. Inquiries made on documents reviewed should be properly documented.

**Inaccurate information in the evaluation reports**

58. The following are the inaccuracies in the evaluation reports vis-à-vis source documents:

- a. expression of interest (EOI) advertisement and submission dates
- b. number of submissions (e.g., bidders, financial proposals)
- c. location of submissions

59. The quality of the evaluation reports reflects the capacity of the committee members. It is also indicative of the integrity of the procurement process.

60. **Recommendations.** DoW should ensure that the evaluation committee, including representatives from the PIU, provides accurate and valid information (i.e., advertisement dates,

submission dates and time, no. of bids/proposals) in the evaluation reports, including the rationale for certain exceptions and decisions made. PNRM should thoroughly review BERs and call DoW's attention when inaccurate information is provided. Information provided in the evaluation reports should be checked against source documents, especially for high risk contracts, prior to giving no objection letters. Inquiries and clarifications should be documented. For transparency, decisions made and justifications for deviations should be reflected in the evaluation reports.

## D. Asset Management



Poor project outputs



Poor project outputs exposed the beneficiaries to safety issues. If not mitigated, DoW and ADB could be exposed to reputational risk.

61. The asset inspection was conducted after the PPRR fieldwork review of procurement and financial management and disbursements documents. The engaged engineer conducted the asset inspection, including review of relevant documents and discussion of issues with key project staff, from 25 to 31 May.

### **Poor project outputs**

62. During site inspection, the following issues on the Project outputs were noted:

- Very steep unprotected slopes along the road inspected, where landslides were already noted in certain locations.
- Missing embankment protection/revetment in certain areas.
- Ineffective gabion protection that will not stabilize the slope.

63. The issues on project outputs may have been prevented or detected early on had there been stronger project implementation capacity. The findings on weak project procurement and financial management capacity may have contributed to these issues on project outputs. In addition, the potentially favored firms might have been complacent in ensuring the quality and safety of the roads.

64. DoW responded that they followed the given design with minor adjustments made during construction. DoW could have improved the quality of the design to address the steep slopes preventing the landslide, however, there would have been a financial impact. DoW has taken note of this issue for future projects.

65. **Recommendation.** DoW, together with the supervision consultants, should revisit the design for the ongoing and future contracts under this Investment Program and work on enhancing the protection along the Project roads to prevent landslides and other potential safety hazards. PNRM and PARD should be made aware of any changes agreed between DoW and the consultants.

## OVERALL RECOMMENDATIONS

66. Given the severity of findings in the recent PPRRs on two projects being implemented by DoW, the following are additional general recommendations that need heightened attention.

- PARD and PNRM should:
  - Meticulously evaluate the capacity of DoW and PIU in financial management, procurement, and project supervision and monitoring for all projects they implement to ensure similar findings do not recur. This includes reconsideration of the use of “prior review” mode.
  - Step up project supervision and monitoring mechanisms for PNG projects, especially for those transactions prone to integrity violations.
    - i. PNRM, and PARD should consider conducting more frequent review missions to closely monitor progress and compliance.
    - ii. OSFMD should consider conducting more frequent visits to guide and train PIU and provide support of an ADB Financial Management Specialist to improve compliance. Also, they should consider expediting the out-posting of a Procurement Specialist.
    - iii. ADB’s Controller’s Department should consider reviewing the Project disbursements.
- DoW should establish and/or strengthen required financial management systems and internal controls, especially on records management, over project funds across all levels of project implementation.
- DoW and ADB should work together to ensure that procurement integrity and transparency are established at the commencement of every development project, and observed through implementation.
- DoW should notify relevant staff about all recommendations highlighted in this report, and keep PARD and OAI updated on the implementation progress.

67. OAI intends to work closely with DoW and PNRM in addressing the recommendations as documented in the Action Plans of DoW. This will be done through special review missions with the frequency and duration agreed with DoW and PNRM.

<h3>III. CONCLUDING REMARKS</h3>
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68. The findings in this report should be resolved throughout the remaining life of the Project, and in future projects implemented by the DoW. The PPRR Team encourages PNRM to continue to work closely with the government to enhance its commitment in promoting transparency, fairness, and accountability. An Action Plan Template was provided to be used for monitoring the implementation of the recommendations.

69. OAI thanks the DoW and the PIU for their cooperation, assistance, and valuable inputs during the PPRR. The support and cooperation of PARD and PNRM in this exercise is also much appreciated. OAI values the courtesy and support extended to the PPRR Team and remains available for consultation on any matters in this report or issues that may affect the integrity of project implementation.