

## Procurement Capacity Assessment

### Report and Recommendations

<b>Project Name:</b> Proposed Anhui Intermodal Sustainable Transport Project	<b>Proposed Amount (US\$):</b> 635.1 million (proposed ADB Financing of \$200.00 million)
<b>Executing Agency:</b> Anhui Provincial Department of Transport	<b>Source of Funding:</b> Ordinary Capital Resources
<b>Assessor:</b> Ahmadou Barry, OSP2 Sharad Saxena, EATC	<b>Date:</b> 11 July 2013

#### Expected Procurement

1. The proposed project includes five outputs targeting roads, inland water transport and an intermodal port requiring ADB financing as follows: (i) road network and safety improvements; (ii) road construction and public transport improvement; (iii) inland waterway network upgrade; (iv) intermodal port; and (v) institutional capacity building
2. The Civil Works component requiring ADB financing has an estimated value of \$426.5 million covering (i) road construction or upgrade; (ii) waterworks dam, shiplock construction, river widening/dredging/realignment/slope protection; (iii) bridge. The works will be divided in 18 contracts grouped in 15 packages to be procured through ICB and 3 through NCB. All packages, having ADB financing, will follow ADB Procurement Guidelines.
3. The Goods component requiring ADB funding has an estimated value of \$5.44 million, to procure (i) signage (roads); (ii) equipment for dam; (iii) equipment for intermodal port; (iv) hardware and software for intelligent shipping component. The goods are divided into 5 contracts, one (1) to be procured through ICB and the other 4 through NCB
4. The Consulting Services component is fully financed by ADB and has an estimated value of \$0.25 million, to hire (i) one (1) national firm under CQS to conduct roads safety audits; and (ii) one (1) international consultant to support the implementation of the intelligent shipping component. All CS packages will be fully financed by ADB and will follow ADB Guidelines on the Use of Consultants.

#### General Procurement Environment Assessment

Risk Assessment: **Average**

##### Summary of Findings

The following aspects of the general procurement environment in the People's Republic of China (PRC) tend to increase the procurement risk assessment level for this project, because they are inconsistent with both ADB's procurement policies and internationally accepted practices or standards:

- a. There are actually two national procurement laws – the Tender and Bidding Law (1 January 2000) and the General Procurement Law (1 January 2003).
- b. Consulting Services are not clearly addressed in the two national procurement laws.
- c. The national procurement laws are not clear with respect to the participation of state-owned enterprises (SOEs).
- d. As a general rule, domestic goods, construction or services are preferred for all government procurements.
- e. The national procurement laws do not provide a national standard for quality control purposes.
- f. General exceptions from the application of the national procurement laws are given to military procurements, urgent procurements and those with security and confidentiality implications. The

latter exceptions are not qualified, and so there appears to be much room for the exercise of discretion and varying interpretations.

- g. Consolidated historical procurement data are not readily available to the public.
  - h. There is no comprehensive training program that is linked to a procurement accreditation or professionalization program in PRC.
5. Fortunately, the above items are generally addressed by either:
- a. The modifications listed in the NCB Annex to the Procurement Plan (attached as Appendix 10 of the Report and Recommendation of the President), which provides additional assurances with respect to items 2.a, 2.c, 2.f and 2.g above; and
  - b. Existing practices under ADB-financed projects in PRC and assurances by the PMO on the use of ADB's Standard Bidding Documents (SBDs) for ICB and the Standard SBD's developed by MOF ( approved by ADB and WB) for all NCB procurement
  - c. Use of accredited procurement agents to carry out the procurement which gives assurances that procurement is handled in a professionalized manner.

### **Organizational and Staff Capacity**

Risk Assessment: **Average**

#### Summary of Findings

- 6. The executing agency for the project is the Anhui Provincial Department of Transport (APDOT) with city and county government serving as implementing agencies for road components and the Anhui Provincial Port and Shipping Construction Investment Group Co. (APPSCIG) for the IWT-related outputs.
- 7. The existing Project Management Office (PMO) established under APDOT will coordinate project implementation among IAs and represent APDOT. The PMO also serves as the liaison with ADB and will have responsibility for the procurement of the Goods, Civil Works and Consulting Services to be financed under this project. The PMO has a Procurement Unit with three (3) permanent staff with experience of procurement of goods and works under ADB and WB financing.
- 8. The actual procurement for all packages financed by ADB will be carried out by an accredited Procurement Agent (PA) while the technical specifications/requirements will be provided by the Design Institute contracted by IAs.
- 9. The organizational structure of the project appears to be strong and conducive to a satisfactory performance of procurement related functions.
- 10. The PMO has prepared a manual containing the applicable procedures for procurement under ADB projects. While the proposed manual demonstrates a good understanding of procurement principles, some proposed procedures are not fully compliant with ADB requirements (as discussed further) and does not address consulting services in a comprehensive manner. There is a need to improve the manual before implementation starts.

### **Information Management**

Risk Assessment: **Low**

#### Summary of Findings

- 11. PMO has adequate facilities for filing of project documents including procurement documents in compliance with the audit requirement of PRC. The following documents are kept in the records: signed original contract and the evaluation report should a copy of the original invitation document, winning bid or proposal, and contract administration documents. Documents are kept for at least 10 years as indicated by PMO.

## **Procurement Practices**

### Procurement of Goods and Works

Risk Assessment: **Low**

#### Summary of Findings

12. The PMO was established specifically to handle foreign funded projects. The PMO has gained substantive experience implementing ADB and WB projects. Procurement projects under foreign financing are undertaken by accredited Procurement Agents (PA) in line with PRC's national procurement laws.
13. HBOT indicated that the selection method for Procurement Agent was through a competitive process. Responsibilities of PA are as follows: (i) Finalization and issuance of bidding documents, (ii) organize bid evaluation and prepare bid evaluation reports.
14. The following gaps were noted with ADB procedures:
  - Price control of bids (use of "bracketing" whereby bids that do not fall within a determined price range are disqualified, disclosure of price estimates, etc.);
  - Rejection of bids when there are less than three qualified bidders;
  - Rejection of bids when the bids are above the budget.

### Consulting Services

Risk Assessment: **High**

#### Summary of Findings

15. While HBOT has experience in procuring consulting services (primarily Procurement Agents and Design Institutes) under domestic financing, similar experience under foreign financing appears to be limited.
16. Discrepancies are noted with ADB Procedures are noted as follows:
  - Results of evaluation are not disclosed to consultants;
  - Use of securities for selection of consultants
  - Evaluation committees randomly selected may not have adequate knowledge of ADB Procedures
17. It should be noted though that CS services represent only a minor activity in this project with little risk on project implementation. It is recommended though given EA's lack of experience with ADB CS procedures that ADB project implementation provide support to ensure that CS are implemented timely.

## **Effectiveness**

Risk Assessment: **Low**

#### Summary of Findings

18. The organization of the PMO into four distinct specialized units provides a sound structure for the efficient delivery of project. It is noted that there is a formal non-judicial process for dealing with complaints which should facilitate the resolution of problems that may otherwise hamper project implementation.

<p><b>Accountability Measures</b></p> <p><b>Risk Assessment: Average</b></p> <p><u>Summary of Findings</u></p> <p>19. Oversight of the bidding by the Government is exercised by the PMO. All procurement transactions require the approval of head of PMO who has substantive experience of ADB and WB financed projects.</p> <p>20. Some weakness is perceived in relation to the fact that those involved in procurement do not have to sign a statement of ethics or declare conflict of interest. Given the way BEC members are selected, the risk of conflict of interest is not negligible where large contractors with multiple branches are involved in the bidding.</p> <p>21. Such risk is partially mitigated by the provisions of the national procurement laws of PRC with procurement-related sanctions for both bidders and government staff. Moreover, Article 59 of the Government Procurement Law contains provisions relating to ethical standards for procurement personnel.</p>		
<p><b>Summary Assessment</b></p> <p>22. In general, procurement risk for this EA is perceived as low, many of the risks encountered in the PRC being mitigated by the following considerations: (i) APDOT has successfully implemented ADB and WB projects; (ii) the same as for previous ADB and WB projects will be extended for the implementation of this project; (iii) PMO staff are experienced with ADB projects and have attended trainings on ADB Procedures.</p> <p>23. There is concern about the English language proficiency of staff assigned to the implementation of the project which will limit to effectively communicate with international consultants and ADB. It is recommended that translator/interpretation services be provided at critical stages of the implementation of the project.</p> <p>24. Some concern exists regarding the capacity and experience of PMO for the procurement of consulting services which may adversely affect the timeline and quality of selection. However, due the small amount at \$0.25 million and nature of the services, such a shortcoming is not deemed critical for project implementation. It is recommended though that ADB project implementation teams support the EA for the selection of the CS to ensure timely and quality selection.</p>		
<p><b>Specific Recommendations, Project Implementation</b></p>		
<p><b>Risks</b></p>	<p><b>Recommended Action</b></p>	<p><b>Responsibility and comment</b></p>
<p>Gaps noted in procurement and consulting services stemming from application of local procedures to externally financed bidding. Risk: delays in procurement due to lack of compliance or misprocurement</p>	<ul style="list-style-type: none"> <li>• IA to appraise itself of ADB's Guidelines and ensure compliance. Training as indicated below will be useful to this aim</li> <li>• Most importantly IA should become aware of the provisions of the NCB annex which sets out the conditions under which local procedures are admissible in general and under NCB.</li> <li>• Risk is partially mitigated by the use ADB SBDs and guidance provided therein as well as the use of MOF.</li> </ul>	<p>PMO</p>
<p>Conflict of interest</p>	<ul style="list-style-type: none"> <li>• BEC members to be required to sign a declaration of no conflict of</li> </ul>	<p>PMO</p>

	interest	
<b>Capacity Constraint</b>	<b>Recommended Action</b>	<b>Responsibility and comment</b>
Capacity to handle consulting services is weak and may hamper recruitment	In addition to training which includes sessions on Consulting services ADB to provide support for recruitment of consultants	ADB
English language skills are weak may hamper ability to supervise international consultant in an effective manner	<ul style="list-style-type: none"> <li>• IA should consider English language training for its Procurement staff.</li> <li>• IA to make adequate arrangements for the provision of quality translation/ interpretation services</li> </ul>	PMO

### Procurement Capacity Assessment Agency Questionnaire

Risk Ratings	Extremely High	High	Average	Low
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#### I. Specific Assessment and Ratings

Question	Answer/Finding	Risk
<b>A. ORGANIZATIONAL AND STAFF CAPACITY</b>		
A.1. How many years experience does the head of the procurement department/unit have in a direct procurement role?	10 years	Low
A.2. How many staff in the procurement department/unit are:	3	Average
i. Full Time?	3	
ii. Part Time?	0	
iii. Seconded?	0	
A.3. Does the procurement staff have English language proficiency?	One staff has good English language skills	Low
A.4. Are the number and qualifications of the staff sufficient to undertake the additional procurement that will be required under the proposed project?	Yes. It is noted that procurement will be conducted by a procurement agent	Low
A.5. Does the unit have adequate facilities, such as PCs, internet connections, photocopy facilities, printers, etc., to undertake the planned procurement?	Yes	Low
A.6. Does the agency have a procurement training program?	Staffs participate in trainings organized by MOF, ADB, WB.	Low
A.7. Does the agency have a Procurement Committee that is independent from the head of the agency?	No	High
A.8. Does the agency have a procurement department/unit, including a permanent office that performs the function of a Secretariat for the Procurement Unit, and which serves as the main support unit of the Procurement Committee??	No	High
A.9. If yes, what type of procurement does it undertake?	NA	
A.10. At what level does the department/unit report (to the head of agency, deputy etc.)?	Deputy Director	Low
A.11. Do the procurement positions in the agency have job descriptions, which outline specific roles, minimum technical requirements and career routes?	Yes	Low
A.12. Is there a procurement process manual for goods and works?	Yes	Low
A.13. If there is a manual, is it up to date and does it cover foreign-assisted projects?	Yes. Actually deals only with foreign assisted projects (primarily ADB and WB)	
A.14. Is there a procurement process	Yes together with that of procurement	

Question	Answer/Finding	Risk
manual for consulting services?		
A.15. If there is a manual, is it up to date and does it cover foreign-assisted projects?	See A13	
A.16. Are there standard documents in use, such as Standard Procurement Documents/Forms, and have they been approved for use on ADB funded projects?	Yes. Use of standard NCB documents developed by MOF with support of WB and ADB. MOF has organized specific training for the same	
A.17. Does the TOR follow a standard format such as background, tasks, inputs, objectives and outputs?	Yes	
A.18. Who drafts the procurement specifications?	Design Institutes or Consulting firms	Low
A.19. Who approves the procurement specifications?	APDOT	
A.20. Who drafts the bidding documents?	Tendering company.	
A.21. Who manages the sale of the bidding documents?	Tendering company	
A.22. Who identifies the need for consulting services requirements?	ADB, WB and EA	Average
A.23. Who drafts the terms of reference (ToR)?	Procurement Department of PMO	
A.24. Who prepares the request for proposals (RFPs)?	Tendering company	
<b>B. INFORMATION MANAGEMENT</b>		
B.1. Is there a referencing system for procurement files?	Yes. Central files system.	Low
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?	An assistant overseen by head of procurement department	Low
B.3. For what period are records kept?	More than 10 years	Low
B.4. Are copies of bids or proposals retained with the evaluation?	Yes	Low
B.5. Are copies of the original advertisements retained with the pre-contract papers?	Yes	Low
B.6. Is there a single contract file with a copy of the contract and all subsequent contractual correspondence?	Yes	Low
B.7. Are copies of invoices included with the contract papers?	Yes	Low
<b>C. PROCUREMENT PRACTICES</b>		
<b>Goods and Works</b>		
C.1. Has the agency undertaken foreign-assisted procurement of goods or works recently (last 12 months, or last 36 months)? (If yes, please indicate the names of the development partner/s and the Project/s.)	Yes <ul style="list-style-type: none"> <li>• WB - Anhui Road Project</li> <li>• WB - Anhui Inland Waterway Project</li> <li>• ADB - Anhui Integrated Transport Sector Improvement Project.</li> </ul>	Low
C.2. If the above answer is yes, what were	• Procurement is lengthy	

Question	Answer/Finding	Risk
the major challenges?	<ul style="list-style-type: none"> <li>Not procurement specialist assigned as focal point leading to inconsistent advice and difficulties to obtain timely responses from ADB to procurement issues. Felt that WB procurement was more efficient in that respect</li> </ul>	
C.3. Is there a systematic process to identify procurement requirements (for a period of one year or more)	Yes. For ADB project use of procurement plans prepared during processing	Low
C.4. Is there a minimum period for preparation of bids and if yes how long?	Yes minimum of one month	Low
C.5. Are all queries from bidders replied to in writing?	Yes	
C.6. Does the bidding document state the date and time of bid opening?	Yes	Low
C.7. Is the opening of bids done in public?	Yes	Low
C.8. Can late bids be accepted?	No	
C.9. Can bids be rejected at bid opening?	No	
C.10. Are minutes of the bid opening taken?	Yes	Average
C.11. Who may have a copy of the minutes?	Notary unit, Tendering company, PMO and ADB	
C.12. Are the minutes free of charge?	Yes	Average
C.13. Who undertakes the evaluation of bids (individual(s), permanent committee, ad-hoc committee)?	BEC composed of expert selected from MOT or APDOT database of experts, Individuals from Government, University, companies, etc.	
C.14. What are the qualifications of the evaluators with respect to procurement and the goods and/or works under evaluation?	See C13	Average
C.15. Is the decision of the evaluators final or is the evaluation subject to additional approvals?	No additional approval needed	Low
C.16. Using at least three real examples, how long does it normally take from the issuance of the invitation for bids up to contract effectiveness?	3 to 6 months	Average
C.17. Are there processes in place for the collection and clearance of cargo through ports of entry?	Yes	Low
C.18. Are there established goods receiving procedures?	Yes	Low
C.19. Are all goods that are received recorded as assets or inventory in a register?	Yes	Low
C.20. Is the agency/procurement department familiar with letters of credit?	Yes	Low
C.21. Does the procurement department register and track warranty and latent defects liability periods?	Yes	Low
<b>Consulting Services</b>		
C.22. Has the agency undertaken foreign-assisted procurement of consulting	ADB	High



Question	Answer/Finding	Risk
services recently (last 12 months, or last 36 months)? (If yes, please indicate the names of the development partner/s and the Project/s.)		
C.23. If the above answer is yes, what were the major challenges?	Lack of foreign fund project experience. Disbursement requirements complicated	
C.24. Are assignments and requests 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)?	Yes. Committee made of individuals from experts database, APDOT, Anhui Finance Dept.	Average
C.26. What criteria is used to evaluate EOIs?	Experience of firm	High
C.27. Historically, what is the most common method used (QCBS, QBS, etc.) to select consultants?	QCBS, ICS, SSS	High
C.28. Do firms have to pay for the RFP document?	No	Low
C.29. Does the proposal evaluation criteria follow a pre-determined structure and is it detailed in the RFP?	Yes	Low
C.30. Are pre-proposal visits and meetings arranged?	No	High
C.31. Are minutes prepared and circulated after pre-proposal meetings?	No	
C.32. To whom are the minutes distributed?	No	
C.33. Are all queries from consultants answered/addressed in writing?	Yes	High
C.34. Are the technical and financial proposals required to be in separate envelopes?	Yes	
C.35. Are proposal securities required?	Yes.	High
C.36. Are technical proposals opened in public?	No	High
C.37. Are minutes of the technical opening distributed?	No	
C.38. Do the financial proposals remain sealed until technical evaluation is completed?	Yes	Average
C.39. Who determines the final technical ranking and how?	Evaluation committee based on criteria	
C.40. Are the technical scores sent to all firms?	Notice by E-mail	
C.41. Are the financial proposal opened in public?	Yes	High
C.42. Are minutes of the financial opening distributed?	Yes	
C.43. How is the financial evaluation completed?	Scoring following criteria	High
C.44. Are face to face contract negotiations held?	Yes, sometimes	
C.45. How long after financial evaluation is	Not defined. For domestic consultant	

Question	Answer/Finding	Risk
negotiation held with the selected firm?	generally within a week	
C.46. What is the usual basis for negotiation?	Work plan, personnel, compliance with TOR	
C.47. Are minutes of negotiation taken and signed?	Yes	
C.48. How long after negotiation is the contract signed?	Within one month. Mention of a performance guarantee?	High
C.49. Is there an evaluation system for measuring the outputs of consultants?	Yes	High
<b>Payments</b>		
C.50. Are advance payments made?	Yes	Low
C.51. What is the standard period for payment included in contracts?	1 month	Low
C.52. On average, how long is it between receiving a firm's invoice and making payment?	21-28 days	
C.53. When late payment is made, are the beneficiaries paid interest?	Yes	
<b>D. EFFECTIVENESS</b>		
D.1. Is contractual performance systematically monitored and reported?	Yes	Low
D.2. Does the agency monitor and track its contractual payment obligations?	Yes	Low
D.3. Is a complaints resolution mechanism described in national procurement documents?	Yes	Low
D.4. Is there a formal non-judicial mechanism for dealing with complaints?	Yes	Low
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	Low
<b>E. ACCOUNTABILITY MEASURES</b>		
E.1. Is there a standard statement of ethics and are those involved in procurement required to formally commit to it?	No	Average
E.2. Are those involved with procurement required to declare any potential conflict of interest and remove themselves from the procurement process?	No	High
E.3. Is the commencement of procurement dependent on external approvals (formal or de-facto) that are outside of the budgeting process?	APDOT	Low
E.4. Who approves procurement transactions, and do they have procurement experience and qualifications?	PMO	Average
E.5. Which of the following actions require approvals outside the procurement unit or the evaluation committee, as the case may		Low

Question	Answer/Finding	Risk
be, and who grants the approval?		
a) Bidding document, invitation to pre-qualify or RFP	PMO following review by external expert appointed by APDOT	
b) Advertisement of an invitation for bids, pre-qualification or call for EOIs		
c) Evaluation reports	BEC (independent of PMO)	
d) Notice of award		
e) Invitation to consultants to negotiate		
f) Contracts	Signed by Legal representative of IA	
E.6. Is the same official responsible for: (i) authorizing procurement transactions, procurement invitations, documents, evaluations and contracts; (ii) authorizing payments; (iii) recording procurement transactions and events; and (iv) the custody of assets?	No	Low
E.7. Is there a written auditable trail of procurement decisions attributable to individuals and committees?	Yes	Low

## II. General Ratings

Criterion	Risk
<b>A. Organizational and Staff Capacity</b>	Average
<b>B. Information Management</b>	Low
<b>C. Procurement Practices</b>	Procurement: Average/CS: High
<b>D. Effectiveness</b>	Low
<b>E. Accountability Measures</b>	Average
<b>OVERALL RISK RATING</b>	Low