

**PMD-PROCUREMENT CAPACITY ASSESSMENT**  
Report and Recommendations

<b>Proposed Project Name:</b> Northern Smallholder Livestock Commercialization Project	<b>Proposed Amount (US\$):</b> \$21 million
<b>Executing/Implementing Agency:</b> Project Management Division, Department of Planning and Cooperation, MAF	<b>Source of Funding:</b> ADB's Special Fund Resources
<b>Assessor:</b> Vanthong Inthavong	<b>Date:</b> 27 August 2014

**EXPECTED PROCUREMENT**

1. The Project involves of Department of Livestock and Fisheries and Department of Planning and Cooperation, and various provincial agriculture and forestry departments, and district agriculture and forestry offices. The procurement works of this proposed Project will be procured in accordance to ADB's procurement guidelines (March 2013, as amended from time to time) in case of goods and works, and ADB's consulting services guidelines (March 2013, as amended from time to time) in case of consulting services. Procurement of ADB-financed works and goods contracts estimated to cost more than \$1 million for works and \$0.5 million for goods shall be procured under international competitive method (ICB), contracts estimated cost between \$100,000 and ICB thresholds will be procured through the national competitive bidding procedures (NCB), minor items estimated to cost below \$100,000 will be procured through shopping method. Contracts estimated to cost less than \$10,000 may procure under direct contracting method; prior justifications are required for all contracts where "direct contracting" will be applied.

2. Overall the goods contracts have an estimated of \$3.50 million, works contracts have an estimated of \$1.47 million, and consulting services contracts have an estimated of \$5.93 million.

**GENERAL PROCUREMENT ENVIRONMENT ASSESSMENT**

3. Risk Assessment- overall risk rating is "average to high"

- legal and regulatory framework = average to high
- institutional framework = average to high
- Procurement market and operation = average
- Integrity of the procurement system = high

4. Summary of Findings- there is an established procurement legal and policy framework in Lao PDR. In 2004, the Prime Minister's Office issued the Prime Minister Decree No. 03/PM dated January 9, 2004, otherwise known as the Decree on Government Procurement of Goods, Works, Maintenance and Services. The Implementing Rules and Regulations was issued through Ministry of Finance Decree No. 063/MOF, dated March 12, 2004, and was subsequently amended by Ministry of Finance Decree No. 0861/MOF, dated May 5, 2009. To supplement its application and full implementation, the Procurement Decree and its implementing rules and regulation, as amended, are supported by corresponding Standard Bidding Documents (SBDs) for Goods and Works and a Procurement Manual issued by the Ministry of Finance, Procurement Monitoring Office (PrMO). Pursuant to the Lao PDR's procurement legal and policy framework (the Procurement Decree), the Goods, Works, Maintenances and Services financed and administered by the Project are procured only if they are contained in the Annual Procurement Plan. Proposed items that are not in the Procurement Plan are not procured until the Plan has been updated and approved.

5. Harmonized standard bidding shall be used entire Project. In addition;

- All procurement transaction need to also complied with the national Procurement Decree
- All contracts need to be registered once signed by the contractors/suppliers

- No procurement accreditation program

### **ORGANIZATIONAL AND STAFF CAPACITY**

6. Risk\_Assessment = *average to high*

7. Summary of Findings:

- Project Management Division (PMD), under Department of Planning and Cooperation (DOP), Ministry of Agriculture and Forestry (MAF) shall act as the key body running all procurement works, whether goods, works or consulting services of the Project. They shall be the facilitator (procurement secretariat) in undertaking all procurement transaction in collaboration with Project Management Unit (PMU) which is located in Department of Livestock and Fisheries (DLF).
- From a procurement perspective, the organization or PMD appears to have limited capacity to undertake the additional procurements works, and among the various divisions within the DOP and DLF, PMD seems to be the youngest, with respect to procurement of the foreign- assisted projects.
- The assessment revealed that PMD composes of eleven (11) staff, namely; one Director, three deputy directors and seven officers. However, the following risk factors are worth noting:
  - ✓ There are no specific job descriptions for each staff members, and responsibilities are simply assigned by the Director or his OIC. This will make it difficult to build the capacity through a specialization of activities and a possible rotation of roles, and since responsibilities will tend to be focused on individuals rather than positions, any movement out of the office will create an added burden for the remaining staff members.
  - ✓ Out of the 11 staff, only two have attended procurement training organized by ADB and WB and have some procurement experience as a member of a procurement committee. The rest of the staff have very limited knowledge on procurement, particularly for foreign assisted projects. In addition, there is a lack of tailored training, as they reported having attended only the very general courses. Needless to say, the level of their motivation complements their receptiveness to more procurement trainings.
  - ✓ English proficiency is also a major constraint. There are only four individuals who have English skills, but their proficiency may not be sufficient.

### **INFORMATION MANAGEMENT**

8. Risk Assessment = *average to high*

9. Summary of Findings- from this assessment, it is notable that:

- There is no information management system for procurement files
- Not any of PMD staff have attended any training on record filing or information management. From this assessment, it is noted that the record keeping system/mechanism needs to be improved once the Project is approved, including allocating more filing infrastructure facilities
- No electronic records are available
- PMD appears to keep sufficient copies of essential procurement documents, supported by a practical reference system. However, the following risks may be pointed out:
  - (a) There is no separate storage room for procurement records, and the current space in PMD is inadequate in terms of both space and security;
  - (b) The copies of invoices, payments, receipts and contract papers are separately filed in the offices; and

- (c) As yet, there is no clear rule and/or regulation of what period the procurement documents and records must be kept, therefore PMD's filing space is full of very old procurement documents.

## **PROCUREMENT PRACTICES**

### **Procurement of Goods and Works**

10. Risk Assessment = *average*
11. Summary of Findings:
- The Project Management Division has limited experience in the procurement of goods and works for ADB and WB financed projects. Further, only a few of the staff have attended any procurement training. The agency has inadequate experience and knowledge in managing procurement processes in national/international competitive bidding (NCB/ICB) methods.
  - The Admin/Finance Subdivision will play the key role in the procurement process, including preparation of bidding documents, leading bid opening, evaluating bids and preparing bid evaluation reports, but their understanding of Procurement Guidelines, processes and standard bidding documents seems inadequate. Through this assessment, they reported that other than the Director and one Deputy Director, none of the staff have studied the ADB Procurement Guidelines and the Implementing Rules and Regulations in detail. However, no major challenges were reported either on contracts financed by the Government of Lao PDR, or by foreign assisted projects.
  - With regard to the approval transaction, Director DOP is considered to be the point of approval before seeking external endorsement. The no-objection letter from ADB is required and considered to be the final approval for contracts financed under the project.

### **Consulting Services**

12. Risk Assessment = *average*
13. Summary of Findings:
- There are established Procurement Committees (PCs) in the Ministry of Agriculture and Forestry which also act as Consulting Services Selection Committees, which were created pursuant to the Procurement Decree and its IRRs. These PCs, however, are created on an *Ad Hoc* basis. The members change from time to time depending on the availability of representatives from each identified office; this setup affects the institutional and project memory, procurement knowledge, experience and expertise of procurement officials. In addition to these challenges, the personnel performing the procurement have little or no training or formal education on the rudiments of public procurement, local or foreign, thus, procurement capacity and performance are impaired affecting the efficiency, effectiveness and economy of the procurement exercise.
  - The assessment notes also that PMD does not have any experience in leading the recruitment of consulting services, whether for firms or individuals. However, PMD is a member of the BEC, therefore it has experience as a committee member.

## **EFFECTIVENESS**

14. Risk Assessment = *average*
15. Summary of Findings – from this assessment, it is noted that there is no monitoring and reporting system established in PMD, no system for tracking payment obligations nor a formal mechanism for dealing with complaints.

### **ACCOUNTABILITY MEASURES**

16. Risk Assessment = *average to high*

17. Summary of Findings:

- State audit organization (SAO) undertakes the auditing works for the entire country, including ADB financed projects. However, it appears that there are no clear procedures on the auditable trail of procurement decisions attributable to individuals or committees. SAO seems to have limited capacity to undertake additional audits due to understaffing.
- PMD is nominated by MAF for the coordination of all procurement for the Project, but it has not yet identified its procurement needs nor prepared the technical specifications for each particular procurement.
- DG DOP approves all steps of the procurement process starting at approval of the draft bidding documents, invitation for bid, bid evaluation report and recommendation of award of contracts. ADB no-objection is considered at final approval for prior review procurement.
- With regard to the contractual performance monitoring and reporting, it appears that the project itself performs this role, but it is not clearly established.
- Through this assessment, it appears that there is a series of steps for verification and endorsement of claims in addition to that by the Project Director and DG DOP; the approving authority for bidding documents is different to that for approval for invitation documents, and different to that for evaluation and contract awards. The user unit/Project signs the contracts with successful bidders.

### **SPECIFIC RECOMMENDATIONS, PROJECT IMPLEMENTATION**

18. Risk/Capacity Constraint	19. Recommended Action	20. Responsibility and comment
<ul style="list-style-type: none"> <li>• There are no specific job descriptions for individuals undertaking the procurement duties, and responsibilities are simply assigned by the managers.</li> <li>• Inadequate procurement knowledge and lack of experience in procuring of goods, works and consulting services.</li> <li>• Inadequate English skills of staff undertaking procurement for the proposed project.</li> <li>• No clear procedures on auditable trail of procurement decisions and limited capacity to undertake additional audits due to understaffing of the exiting auditor, SAO.</li> </ul>	<ul style="list-style-type: none"> <li>• PMD (may) need to develop the job descriptions for its staff. This will allow each staff member to have a clear description of his/her role, value and responsibilities in order to expand individual skills.</li> <li>• Provide procurement training to the staff involved in the procurement to strengthen their capacity. The training should be step by step basis on procurement procedures. Further, it recommends that during the first two years of the Project life, and external procurement specialist should be recruited to accelerate procurement works and to build procurement capacity of PMD and Project staff.</li> <li>• PMD management (may) need to provide English training for its staff to those assigned to undertake the procurement works.</li> <li>• Project may consider hiring an external auditor for the Project and to improve accountability.</li> </ul>	<p>PMD/ Project/ ADB</p>

<b>GENERAL RECOMMENDATIONS, PMD CAPACITY</b>		
<b>21. Risks/Capacity Constraint</b>	<b>22. Recommended Action</b>	<b>23. Responsibility and comment</b>
<ul style="list-style-type: none"> <li>• There is no separate storage room to keep procurement records, and the current space in the Project office is inadequate in terms of both space and security</li> <li>• The copies of invoices, payments, receipts and contract papers are separately filed in different locations of the PMD.</li> <li>• Responsibility not clearly established among the individuals working in the PMD.</li> <li>• PMD is new and has inadequate experience and skills with regards to all procurement issues.</li> </ul>	<ul style="list-style-type: none"> <li>• PMD should identify a separate and secure storage to keep all its procurement documents and files, with sufficient capacity to handle all records for the project</li> <li>• PMD needs to have a copy of all invoices, payments, receipts and contract papers that are being maintained separately.</li> <li>• PMD should appoint one individual as a focal person for procurement matters. This person should play the key role as the Project Procurement Officer and works fulltime with external procurement specialist.</li> <li>• Procurement Monitoring Office (PrMO) of MOF should provide their support to strengthen PMD, ADB may need to assist as required. Project Management Unit should assist the PMD as much as possible</li> </ul>	PMD/ Project/ ADB
<b>GENERAL RECOMMENDATIONS, PROCUREMENT ENVIRONMENT</b>		
<b>24. Risk/Capacity Constraint</b>	<b>25. Recommended Action</b>	<b>26. Responsibility and comment</b>
<ul style="list-style-type: none"> <li>• Limitation of skills and unfamiliarity with ADB standard bidding documents and harmonized procurement documents. Therefore, it should be ensured that the harmonized procurements and ADB procurement guidelines are actually adopted and used for the Project</li> </ul>	<ul style="list-style-type: none"> <li>• ADB should require Prior Review for all contracts for procurement goods and works under NCB and ICB, and procurement of consulting services.</li> <li>• Since PMD is new, at least first three contracts procured under shopping for goods and works should be prior review</li> </ul>	PMD/ Project/ ADB