

SOCIALIST REPUBLIC OF VIETNAM
Enhancing Teacher Education Program

Fiduciary Systems Assessment
(FSA)

June 3, 2016

PREPARED BY
THE WORLD BANK

Contents

- Executive Summary 4**
- A. Program Description..... 8**
- B. Institutional Framework and Fiduciary Arrangements under the Program..... 10**
 - Planning and Budgeting..... 11
 - Procurement 14
 - Fund Flow 23
 - Internal Control..... 24
 - Accounting and Financial Reporting 25
 - Auditing 26
 - Internal Audit and Related Activities 26
 - External Audit..... 27
- C. Governance and Accountability..... 28**
 - Legal Framework..... 28
 - Complaints Handling System 29
 - Sanction and Debarment Process..... 31
- D. The Program Expenditure Framework 31**
- E. Summary of Fiduciary Risks..... 33**
- F. Monitoring Fiduciary Performance over Program Period 35**
- G. Fiduciary Elements of the Implementation Support Plan..... 36**

List of Acronyms and Abbreviations Used

AC	Anticorruption
BER	Bid Evaluation Report
CPD	Continuous Professional Development
DC	Direct Contracting
DLI	Disbursement-linked Indicator
DOET	Department of Education and Training
DPI	Department of Planning and Investment
ETEP	Enhancing Teacher Education Program
FSA	Fiduciary Systems Assessment
GI	Government Inspectorate
IA	Internal Audit
ICT	Information and Communication Technology
IER	Internal Expenditure Regulation
IFB	Invitation for Bid
INT	Integrity Vice Presidency
IO	Investment Owner
IVA	Independent Verification Agency
MBD	Model Bidding Document
MOET	Ministry of Education and Training
MOF	Ministry of Finance
MPI	Ministry of Planning and Investment
NA	National Assembly
NTEP	National Teacher Education Program
OCB	Open Competitive Bidding
OPRC	Operational Procurement Review Committee
PA	Performance Agreement
PAP	Program Action Plan
PforR	Program-for-Results
PMB	Program Management Board
POM	Program Operations Manual
PP	Procurement Plan
SAV	State Audit of Vietnam
SSS	Single Source Selection
ST	State Treasury
TABMIS	Treasury and Budget Management Information System
LTTU	Teacher Training University
VPPN	Vietnam Public Procurement Newspaper

Executive Summary

1. A Fiduciary Systems Assessment (FSA) has been carried out to evaluate the arrangements relevant to the Enhancing Teacher Education Program (ETEP) to determine whether it provides reasonable assurances that the financing proceeds will be used for intended purposes, with due attention to the principles of economy, efficiency, effectiveness, transparency, and accountability. This assessment follows the principles governing fiduciary assessment for Program-for-Results Financing as set out in OPCS5.04-POL.01.
2. The FSA has been prepared based on interviews and analysis of procurement, financial, and governance reports and other relevant documents at the national level—the Ministry of Education and Training (MOET), the MOET Inspectorate, the MOET Department of Finance and Planning, and the eight participating Lead Teacher Training Universities (LTTUs). Based on the assessment and agreement on actions required to strengthen the systems, which are reflected in the Program Action Plan (PAP), the overall fiduciary framework for the program is considered adequate to support program management and to reach the desired results.

Procurement

3. The procurement under the program is carried out in accordance with the national procurement laws and regulations. A review of the national procurement legal framework found that it (a) requires procurement planning to be prepared and approved in a timely manner with proper linkage to budget availability; (b) mandates open competitive bidding (OCB) as the default procurement method and provides detailed procedures for OCB; (c) provides a reasonably clear allocation of responsibilities and accountabilities to the procuring entities, employers, and program owners; and (d) provides sanctions against unacceptable practices including fraud and corruption.
4. Procurement complaints are handled in accordance with the procedures stated in the 2013 Procurement Law and Decree No. 63/2014/ND-CP. These procedures require the complaints to be signed and stamped by a legitimate representative of the complaining bidder. Anonymous complaints are not normally considered which may discourage people to provide information concerning fraud and corruption in the program. For complaints related to contract awards, the complainant has to deposit a fee which would be cashed (that is, not returned) if the complaint is not substantiated. Complaints are handled by procuring entities or the Investment Owners (MOET and LTTUs) and appeals reviewed by a competent agency, which is normally the MOET under this program. This procedure seems to be rather rigid and discourages complaints.
5. Procurement under the proposed program will mainly include civil works of small- and medium-size lecture halls (approximately US\$200,000–US\$1.5 million); small upgrading construction; goods (including furniture, information and communication technology [ICT] equipment, and so on) packages of small- and medium-size laboratories, libraries, or classrooms; and consulting services including detailed designs, construction supervision, and auditing services for subprograms under the program. There are no large contracts valued at or above the Operational Procurement Review Committee (OPRC) thresholds (US\$75 million for works, US\$50 million for goods, US\$40 million for non-consulting services, and US\$20 million for

consultant services) under the program. Therefore, obviously the program will not finance any high-value contract equal to or above the OPRC thresholds and/or estimated monetary value equal to or more than 25 percent of the estimated total program expenditures.

6. The program will be subject to Vietnam's national debarment procedures. Exclusion from participation in future tenders is governed by the Law on Procurement that provides a defined set of *prohibited acts* which, if committed, may lead to debarment. For procurement, initial sanctioning decisions are made by the investment owners (IOs). It is recommended that the MOET and LTTUs refer to the debarment lists issued by the Ministry of Planning and Investment (MPI) and the Department of Planning and Investment (DPI) in determining bidder eligibility. Under this Program, it is recommended that the World Bank debarment list will also be applicable.

7. The assessment found the following specific procurement-related issues that could, directly or indirectly, compromise the efficient achievement of the program objectives: (a) excessive use of direct contracting (DC) results in lack of transparency and competition; (b) incorrectly rejecting bid(s), such as a bid rejected due to the offered price being higher than the cost estimate, or due to minor deviations and non-compliances; (c) lack of experienced procurement personnel within the MOET and LTTUs to cope with large procurement workload under the program (construction of lecture halls and consulting services) and; (d) unavailability of budget resulting in delays in the procurement process or contract implementation. In the context of the program, these issues will be addressed by a series of actions being included in the PAP and through the Operations Manual (OM). The overall procurement risk after mitigation measures is assessed as Moderate.

Financial Management

8. The principal law governing budget management is the revised State Budget Law approved by the National Assembly (NA) in 2015 which will come into force for the 2017 budget year. This revised law strengthens the legal platform for budget management. It clarifies the powers and responsibilities of stakeholders participating in the budget process. The budget process takes place between July and around December when budget allocation is entered into the Treasury and Budget Management Information System (TABMIS)¹ by the MOET Department of Planning and Finance.

9. The identified risk relating to budgeting and planning process is that the current budget allocation process does not ensure that sufficient funds are allocated for the program activities and the performing LTTUs. To mitigate this risk, for the program, a performance-based budgeting process will be introduced in which the MOET will sign a Performance Agreement (PA) with each participating LTTU. The budget allocation to the LTTUs will be based on the actual performance of the LTTUs which is measured by the indicators, equivalent to the disbursement-linked indicators (DLIs), set out in the PA. A program deposit account will be created in the ST at the LTTU level to manage proper budget allocation, execution, and reporting of the LTTUs.

¹ TABMIS is a computerized system used by State Treasury (ST) to record public expenditures.

10. With regard to accounting and financial reporting, the capacity of the ST and each implementing agency (the LTTUs and the MOET concerned departments) is assessed as adequate, given TABMIS (at the ST) and the accounting systems (at the LTTU) are fully operational and the accounting staff are capable of handling accounting and reporting tasks. For the program, it is proposed that each LTTU will prepare financial reports which will be sent to the MOET for consolidation. The frequency, timing, and template of the financial reports will follow the guidance from the MOET and be indicated in the PAs signed between the MOET and the LTTUs. An independent verification agency (IVA) will also be selected to provide independent confirmation of the results reported by the participating LTTUs.

11. Internal controls exist in the MOET and LTTUs with the formally documented Internal Expenditure Regulation (IER). While the framework of internal controls for expenditure and specific internal controls at the LTTUs are adequate, the comprehensiveness and quality of internal controls procedures documented in the IER varies from university to university. Under the program, the IER of the LTTUs will be reviewed and a standard IER with suggested content will be developed for the use of the LTTUs and for the MOET's reference when reviewing the endorsement of those IERs.

12. The absence of an internal audit (IA) function and inefficiency of the existing inspection function which may not provide adequate assurance for internal controls of the program is a Substantial financial management risk. Under the program, technical assistance will be provided to build capacity of an IA function in all the LTTUs involved within two years of the Credit effectiveness. The financial audit will be conducted in accordance with the audit terms of reference provided in the Operations Manual (OM) by an independent auditing firm acceptable to the Bank. A third-party independent results verification agency as well as procedures will be put in place to track DLIs and Program outputs and outcomes.

13. Government systems for financial management in the program need to be strengthened, particularly to enable the implementing agencies to record, control, and manage all program resources and produce timely, understandable, relevant, and reliable financial information. These measures include (a) specific guidance on the performance-based budget allocation system and fund flow arrangements for the program, issued by the Ministry of Finance (MOF) and the MOET and (b) the establishment and operation of an effective IA function for the LTTUs. The overall financial management risk after mitigation measures is assessed as Substantial.

Governance

14. The Anticorruption (AC) Law and the Law on Higher Education stipulate the obligation of education institutions to disclose information to the public on the operations of the institutions. The program implementing agencies have done a good job of disclosing information on their general operations such as commitment to education quality, results, fees, and other related charges through their website. Financial information of the institutions, including investments for education and financial statements, however, were not yet adequately disclosed to the public.

15. The Laws on Complaints and on Denunciation as well as the Law on Anticorruption stipulate that a complaints handling system will receive, record, and provide necessary investigative actions where it is deemed legitimate. The Program implementing agencies have

already issued detailed procedures and established internal People Inspection Committees for handling grievances. Under the program, complaints of all kinds, which could include allegations of fraud or corruption, should mainly be submitted in writing to the key implementing agencies, which are the MOET and the LTTUs. Where crimes are alleged, allegations will be passed to the police and prosecutors for handling. Although Government agencies are not required to handle anonymous complaints, all the key implementing agencies maintain the practice of accepting, recording, and giving these complaints some consideration when they contain credible evidence of fraud and corruption.

16. The Government, through the MOET, the MOET Inspectorate, and other implementing agencies, will improve reporting systems and establish a database to strengthen the Framework for Complaints Handling and combat fraud and corruption under the program. The Government has confirmed its commitment to the implementation of the Guidelines on Preventing and Combating Fraud and Corruption in Program-for-Results Financing and will require the application of Bank suspension and debarment lists that will be made readily available to participating cities. These actions will be reviewed during program supervision. In addition, the Government will oblige all program participants to cooperate with Bank investigations.

17. No complaints have been recorded by the Bank complaint database in the education sector during 2014–2015. Of the complaints registered concerning the education sector, which is about 10 percent of the total complaints of the portfolio during the ten-year period from 2005 to 2015, two complaints were substantiated and forwarded to the Integrity Vice Presidency (INT) for further action in 2006 and 2011. No evidence of fraud and corruption has been disclosed by the INT on the two cases. Most of the complaints registered in the sector so far concern goods contracts; hence, the need for more due diligence actions with regard to contract management of the program implementing agencies.

18. The program implementing agencies have committed to actions, which are stipulated in the PAP to help enhance transparency and minimize risks of fraud and corruption. These actions include that (a) the program implementing agencies disclose financial information properly and (b) maintain databases on public consultation, corruption, fiduciary, procurement; program implementation complaints and responses to those complaints; and beneficiary feedback to implementing agencies and responses to such feedback. The information would be aggregated at the national level by the MOET Inspectorate and will be reported to the Bank periodically.

Key Performance Indicators

19. Key indicators of fiduciary performance have been identified and compiled to form a reference framework to be monitored over the life of the program. These specific indicators, for both financial management and procurement, will be measured periodically and compared to an initial baseline to assess the extent of improvement in Program fiduciary performance.

20. In assessing the performance of the fiduciary systems under which the program operates, the Bank identified a number of weaknesses which, once addressed either before effectiveness or during implementation of the program, will result in program fiduciary systems that provide reasonable assurance that the program expenditures will be used appropriately to achieve their intended purpose. The FSA identifies risks and proposed mitigation measures. Before the

mitigation measures are taken, Program fiduciary risk is assessed Substantial. During preparation, the Bank assessed all available options—dated covenants, capacity building, DLIs, and program design revisions—to help mitigate these risks. The results of the assessment and recommendations are reflected in the Program action plan.

A. Program Description

Enhancing Teacher Education Program

21. The proposed ETEP PforR will support the Government of Vietnam in developing the implementation framework for its National Teacher Education Program (NTEP). It will specifically support plans to improve teacher continuous professional development (CPD) system, which is a key part of the NTEP. It will do this by piloting a performance-based grant system that will provide the participating LTTUs with a combination of much needed resources along with a clarification of implementation responsibilities, a results-based orientation, improved planning, and a strengthening of oversight and accountability through audits and verification activities. The program development objective is to develop teacher education institutions to enhance teacher effectiveness through improved professional development.

National Teacher Education Program

22. The *National Teacher Education Program* (NTEP) establishes a new framework for the provision of training, retraining and continuous professional development to school teachers and principals so that they may build and maintain the professional profile necessary to meet the requirements of the FCER. The Program will be implemented from 2016 to 2021. The NTEP aims to achieve the following objectives by that date:

- For general education and continuing education teachers and management staff:
 - 100 percent of teachers and principals meet qualification requirements pursuant to Amended Law on Education in 2009 and Higher Education Law 2012,
 - 100 percent of teachers and principals are trained and capable of implementing the new curriculum and using the new textbooks;
 - Over 70percent teachers and principals achieve higher levels of the professional standards;
 - Over 80 percent principals are trained and awarded certificates in education management;
- *For teacher training institutions:*
 - 100 percent teacher training institutions update their training programs and curricula, build the capacity of their human resources, improve physical conditions, and restructure to provide high quality training and CPD services;
 - 100 percent teacher training institutions work closely together and with other actors in teacher education, and contribute to shared resources to meet the need for teacher education of all provinces.
- *For education management at all levels:*

- 100 percent education management authorities at all levels have enhanced planning and management capacity to implement, monitor and evaluate the implementation of teacher education policies; and
 - 100 percent policy and legal documents in teacher training are amended and updated to response to the new context of general education.
- *For schools:*
 - 100 percent schools have enhanced capacity to effectively implement and manage CPD at the school level.

23. NTEP is structured around six “solutions areas”. Each presents a set of strategies grouped by functional category or by type of teacher education.

- *Strengthen teacher education management and planning by* i) updating and further developing the regulatory framework and related policies in support of teacher education; ii) enhancing the capacity of national and local teacher education departments; and iii) establishing a ICT based teacher education information management system;
- *Renovate pre-service teacher education by* (i) helping teacher training institutions prepare new curricula, training content, delivery mechanisms, support systems for student teachers; (ii) establishing outcome standards for all training programs, (iii) developing assessment tool kits for student-teachers, and (iv) implementing relevant research projects;
- *Establish and deliver Continuous Professional Development programs for teachers and school managers by:* (i) developing new types of e-learning programs for the delivery of CPD, (ii) training national general education experts who can support efforts to improve CPD, (iii) establishing a cadre of Core Teachers and Principal Advisors at local levels, (iv) providing support programs for Core Teachers and Principal Advisors once deployed to schools; (v) developing materials and support tools for Core Teachers and Principal Advisors to implement CPD at the school level; and (vi) developing more systematic mechanisms to assess the quality and impact of CPD programs;
- *Build capacity of key lecturers and managerial staff of teacher training institutions by:* (i) providing relevant training programs and courses, (ii) holding national and international conferences and/or workshops; (iii) engaging in scholar and academic exchanges, and (iv) reviewing and renovating regulations on recruitment, work position and other human resource related procedures;
- *Enhance physical environment and facilities/equipment of teacher training institutions:* (i) upgrading and conducting minor rehabilitation of classrooms, IT centers, teaching practice centers, laboratories, and IT facilities for distance and e-learning at the eight LTTUs, (ii) supporting the development of e-libraries for the eight LTTUs and (ii) enhancing the physical conditions of other teacher training institutions;
- *Promote socialization and international cooperation in teacher education* by means of workshops, conferences, exchanges and fora.

24. Of the above solution areas, ETEP will focus primarily on efforts to improve Continuous Professional Development provided school-based to teachers and principals. In essence, the enhanced CPD system will provide more training and support that is of high quality, relevant, and timely -- directly to teachers and principals at the school level. Internationally, this is considered best practice for teacher training and support.²

25. The National Teacher Education Program aims to reinforce the provision of CPD through two main vehicles: (i) Core Teachers and Principal Advisors, who will be assigned to schools and school clusters to provide face-to-face training and support and (ii) an online platform that can provide needs-based, interactive training and support directly to teachers and principals. A rigorous training and support needs assessment system, based on professional standards and context-specific needs defined by teachers and principals, will inform the development of tailored training programs and applications. To ensure the dynamism and quality of the enhanced CPD system, eight Lead Teacher Training Universities (LTTUs) in respective catchment areas (corresponding approximately to regions) will train and provide support to Core Teachers and Principal Advisors; develop the online services and applications; and help develop the needs assessment systems. These LTTUs will provide technical leadership and guidance for this school-based CPD system.

B. Institutional Framework and Fiduciary Arrangements under the Program

26. The governance arrangements for the Program are described and evaluated in both the Program detailed description. Program implementation involves the following stakeholders: the MOET—the line Ministry, the MOF, eight LTTUs, and an agency, which will be responsible for verification of results. Although the Departments of Education and Training (DOETs) are not directly involved in the implementation of the ETEP, they play an important role in the NTEP in monitoring and implementing relevant policy actions at the provincial and district levels. Of these institutions, the MOET and the eight LTTUs will be the main implementing agencies to produce results. The LTTUs are principally responsible for most of the technical aspects, procurement, financial management, and disbursements. Even though the LTTUs are the main implementing agencies for the program, plans, budgets, and investment plans of the LTTUs are subject to approval of the MOET, which assigns technical departments, including the Department of Teachers and Education Managers to conduct appropriate reviews and recommend decisions. The MOET will also be in charge of the technical aspects, procurement, financial management, and disbursements in relation to its scope of work.

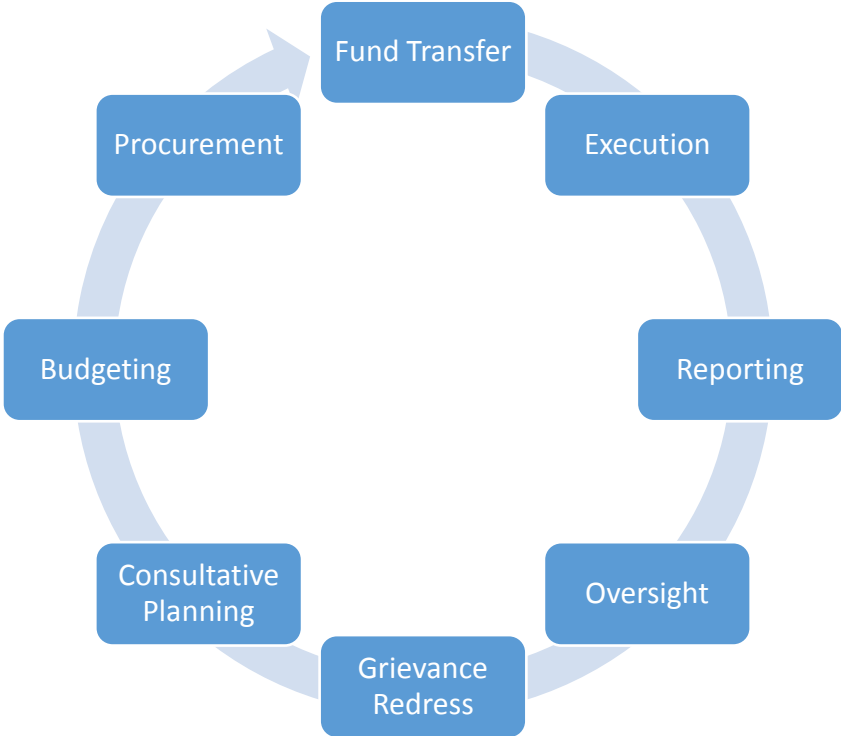
27. The assignment of roles of participating agencies has important implications for fiduciary arrangements under the Program, particularly in relation to cross-cutting issues of financial management, procurement, and governance. Major interfaces between levels of implementing agencies occur in procurement, where the national Government establishes rules and procedures; provinces set cost norms; and the MOET approved procurement plans (PPs) the LTTU and MOET management units and oversees compliance with regulations and procedures. A similar

² Francesca Caena, 2011. *Quality in Teachers' Continuing Professional Development*. Education and Training 2020: Thematic Working Group 'Professional Development of Teachers', European Commission, Directorate-General for Education and Culture.

division of powers is apparent in financial management, where the MOET establishes budget norms and guidelines in accordance with the MOF regulations and allocates budget to the LTTUs. Disbursements to the LTTUs are made via the ST systems who play the verification function on payment requests while the Department of Finance and Planning (of the MOET) oversees the compliance with financial management regulations. An additional and often overlapping system of Government inspections works alongside a multi-tiered complaints handling system that also involves multiple levels of Government, as described in more detail below.

28. The interface between concerned agencies occurs through and within the annual (and repeated) public expenditure management cycle. This cycle is summarized diagrammatically in Figure 1.

Figure 1. Public Expenditure Management Cycle



Planning and Budgeting

Current Arrangements

29. The principal law governing budget management is the revised State Budget Law approved by the NA in 2015, which will come into force in the 2017 budget year. This revised law strengthens the legal platform for budget management. It clarifies the powers and responsibilities of stakeholders participating in the budget process. The Public Investment Law 2014 (effective from 2015) provided the principles of public investment management. The two important provisions from the planning and budgeting perspectives are that (a) the Medium-term Public Investment Plan must be prepared upon which budget allocation will be made for the medium

term and every year and (b) all agencies are not allowed to incur budget arrears of capital expenditure (that is, the delivered works and services shall not exceed the allocated budget).

30. The eight LTTUs are divided into two groups: the stand-alone LTTUs (Hanoi, Hanoi 2, Vinh, Ho Chi Minh City, and the National Institute of Education Management) who report directly to the MOET and the member LTTUs who are the members of a parent university (Hue, Danang, and Thai Nguyen). Vinh is exceptional as the teaching departments do not constitute a university as the others. The key difference in the planning and budgeting process of these two groups is the presence of an additional layer of the parent university, which means additional steps of authorization are required. In the stand-alone LTTU, the annual proposal of budget will be submitted to the MOET in July. The MOET will consolidate the budget of these LTTUs (in August) and MOET PMU and submit it to the Government (in September), who then sends the national budget to the NA for approval (in October). The Government will then allocate the approved budget to the ministries and provinces (in November) and the MOET will have to complete allocating budget to the LTTUs in December. The process is completed when budget allocation is entered into the TABMIS. The allocation for the LTTUs will be entered into the TABMIS by the Department of Finance and Planning of the MOET (in December/January). For the member LTTU process, two additional steps are required, where (a) the budget proposal of the member university must be submitted to the parent university for consolidation and submission to the MOET and (b) the allocated budget to the parent university (by the MOET) will be reallocated to the member university by the parent university. TABMIS information of the member university will also be entered by the MOET. The process of Vinh University is similar to the stand-alone ones, except that no further formal allocation is made to teacher training departments. The allocation of teacher training departments is merely an internal matter of the Vinh TTU.

31. Treatment of the off-budget revenue. All the LTTUs generate revenue from tuition fees and certain activities provided to the public such as training, research, consulting services, and so on (self-generated revenue). While the tuition fees are the revenue of the Government budget, the revenue from services provided to public is not accounted for as the revenue of the state budget (so it is called off-budget revenue). The self-generated revenue accounts for about a third to a half of the total revenue of a LTTU. The following aspects are to be noted in the treatment of the off-budget revenue:

- a. The LTTU has to include the self-generating revenue into the budget proposal submitted to the MOET. The contents of the budget proposal therefore consist of (i) total expenditure, (ii) total self-generated revenue, and (iii) Government budget to cover the gaps between total expenditure and total self-generated revenue.
- b. According to the majority of the LTTUs, the Government budget is not sufficient to cover the recurrent expenditure, so all the major capital expenditure is financed by the self-generated revenue.
- c. The Government budget granted/allocated to the LTTUs is determined on an incremental basis (that is, taking or giving certain increase/decrease from the budget of the previous year—recently the rate is 10 percent). Budget for the base year is determined based on the number of students and norm per student.

- d. The off-budget revenue depends considerably on the actual level of activities performed which sometimes is quite different from the forecast and which in turn has impact on the total expenditure incurred by the LTTUs.
- e. While the Government budget granted/allocated to the LTTUs must be fully used during the fiscal year, the self-generated revenue financed activities can be carried forward.

Performance and Identified Risks

32. Overall, the process follows the concept of incremental budgeting, which also takes into account to a certain extent, the medium-term demand for development. The budget is developed generally based on the norms per student/ teacher. The allocated budget depends on the availability of the central budget (the Government granted budget). Nevertheless, the LTTUs will have more autonomy if the share of their self-generated revenue increases in the total annual budget. The following issues are identified:

- a. *Less-effective budget allocation mechanism.* The allocation mechanism, which follows an incremental approach based on the norms per student/teacher, does not adequately take into account (i) the priorities for development and (ii) the actual performance of the universities.
- b. *Insufficient allocation for capital expenditure.* Almost all capital expenditure is financed by the self-generated revenue. For the last the years, the Government budget granted for capital expenditure has been very limited.
- c. *Delayed entering information into the TABMIS.* Although the budget allocation information is available by the end of the previous fiscal year, the allocation could only be entered into the TABMIS in February of the spending year until when the payments are not allowed to be made (except for salary payments, which is considered as budget advance).
- d. *Capability to reliably forecast the off-budget revenue.* The capability of off-budget revenue forecast varies from university to university, which critically affects the level of payments that could be made for development.

33. Several risks to the Program have been identified. They include the following:

- a. *There may be lack of clarity on roles and responsibilities of the parent universities toward budget allocation for the Program activities.* Because the budget proposal of the *member* LTTU is consolidated in the budget of the *parent* university and the budget allocation is also determined by the *parent* university, the lack of clarified roles and responsibilities may cause (i) omission or wrong budget proposal and allocation and (ii) delayed allocation for the Program activities.
- b. *The less-effective budget allocation does not ensure that sufficient funds are allocated for the Program priorities and for the performing universities.* As

discussed above, the budget allocation based on the norms of student/teacher does not encourage the performance of the universities or the implementation of the priorities of the Program.

- c. *The budget allocation may not be sufficient for implementation of the Program.* Due to the constraints of the budget, the universities may not have sufficient additional budget allocated to carry out the activities of the Program, which are newly added to their current mandates.

Proposed Arrangements and Actions

34. Two actions are recommended to address the above risks and will be included in the PAP.

- a. *Performance-based budgeting.* This budgeting will be put in place in which the MOET will sign PAs with all the participating LTTUs. The budget allocation to the LTTUs will be based on the actual performance of the LTTUs as detailed in the PAs. The actual performance of the LTTUs is measured by indicators that are identical with the DLIs of the Program.
- b. *Target allocation of budget.* The budget for the Program will be allocated to the LTTUs by the MOET as targeted allocation. This will mean that the amount allocated to the LTTUs will be specifically made on time and sufficient for the Program activities.

Procurement

Scope of Procurement Required for the Program

35. Procurement under the proposed Program will mainly include civil works for small and medium-size (approximately US\$200,000–US\$1.5 million) lecture halls; small upgrading construction; goods (including furniture, testing equipment, and so on) packages of small and medium sizes for laboratory, library, or classroom equipment/facilities; and consulting services, including innovation in teacher education detailed designs, construction supervision, and auditing services for subprograms under the Program.

36. There are no large contracts valued at or above the OPRC thresholds (US\$75 million for works, US\$50 million for goods, US\$40 million for non-consulting services, and US\$20 million for consultant services) under the Program. Therefore, the program will obviously not finance any high-value contract equal or above the OPRC thresholds and/or for contracts with estimated monetary value equal to or more than 25 percent of the estimated total Program expenditures. Program procurement will be carried out in accordance with Vietnam's procurement laws and regulations. Specific procurement methods that may be applicable to the Program include OCB, limited competitive bidding, DC, and shopping. It is envisaged that most of the civil works and goods contracts will be procured using OCB that is found by the Bank to have an acceptable level of transparency, economy, and efficiency.

Legal Frameworks

37. Procurement under the Program is carried out in accordance with the national procurement laws and regulations. The procurement activities under the proposed Program will be governed by the Public Procurement Law No. 43/2013/QH13 approved by the Vietnam NA on November 26, 2013, and effective from July 1, 2014; Decree No. 63/2014/ND-CP dated June 26, 2014, issued by the Vietnam Government for detailing the implementation of selective articles of the Law on Public Procurement regarding contractor selection; and relevant circulars.

38. A review of the Public Procurement Law No. 43/2013/QH13 and the Decree No. 63/2014/ND-CP found that they (a) require procurement planning to be prepared and approved on time with proper linkage to budget availability; (b) mandate OCB as the default procurement method and provide detailed procedures for the same; (c) provide a reasonably clear allocation of responsibilities and accountabilities to the procuring entities, employers, and subprogram owners; and (d) provide sanctions against unacceptable practices, including fraud and corruption. In addition, the Government has issued various model bidding documents (MBDs)³ for goods, works, and consulting services (including forms and templates of contract) and bid evaluation templates for use by procurement practitioners, in which the National Competitive Bidding harmonized bidding documents have been issued together with the Asian Development Bank and the Bank in July 2015.

39. The Procurement Law requires that PPs shall be approved by competent agencies after the approval of investment decisions or they can be approved at the same time of the approval of investment decisions where conditions allow. The law also requires that PPs shall be prepared for the entire Program except where conditions (for example, investment decision, availability of Program funding sources, financing agreement for Official Development Assistance projects, and so on) do not suffice. PPs must be prepared based on the availability of Program funding sources. The law further stipulates that procurement packaging shall be done based on the technical nature and implementation sequence to ensure no restriction of prospective bidder participation and to ensure the consistency of contract implementation with overall Program implementation. It also prohibits any practices to willfully divide procurements into small contracts to enable the use of DC methods.⁴ Procurement Law No. 43 and Decree No. 63 still allow use of DC and single sourcing for small contracts below certain monetary thresholds.⁵

40. The OCB procedures described in the procurement laws and regulations generally accommodate transparency, economy, and efficiency of the procurement process. An OCB for civil works typically includes the following steps and requirements:

- a. *Preparation of bidding documents.* Bidding documents should be prepared using the MBDs issued by the MPI. Bidding documents should clearly state bid evaluation and qualification criteria and contain no restrictions. Bidding documents must be approved by a competent agency before issuance.

³ Please refer to Circulars No. 05/2015/TT-BKHDT dated June 16, 2015; No. 03/2015/TT-BKHDT dated May 6, 2015; and No. 01/2015/TT-BKHDT dated February 14, 2015.

⁴ Further details can be found in Circular No. 10/2015/TT-BKHDT dated October 26, 2015.

⁵ Decree No. 63 proposes a threshold of VND 1 billion (US\$48,000) and VND 0.5 billion (US\$24,000) under which goods, works, and non-consulting and consulting services may be procured through DC, respectively. Compared to the thresholds in the previous laws and regulations, this threshold is substantially lower, meaning more mandatory use of competitive bidding for the program.

- b. *Advertising of invitation for bids.* Invitation for bids (IFBs) must be advertised in the Vietnam Public Procurement Newspaper (VPPN), which is nationally available, for one issue and published on the MPI public procurement website (muasamcong.mpi.gov.vn). Bidding documents can be sold (at a maximum of approximately VND 2,000,000 or US\$90 for one set) or released free of charge to interested bidders three days after the advertising date. The laws prohibit any practices to restrict bidders from access to the bidding documents.
- c. *Preparation, submission, and receipt of bids.* Bidders will be allowed at least 20 days for preparation of their bids, counting from the date of bidding document issuance (after 3 days from the first day of advertisement). Upon the deadline for bid submission, the procuring entity shall immediately open all bids received in the presence of bidder representatives. The procuring entity shall read aloud bidder names, bid prices, discount offers, and other important information and prepare the minutes of bid opening and send a copy to each participating bidder.
- d. *Evaluation of bids.* The laws require that bid evaluation must be completed within 45 days after the date of bid opening. Extension of bid validity is permissible, but should not exceed 20 days. Evaluation of bids includes three main steps: (i) preliminary examination, which includes the checking on eligibility, bid security, bidder experience, and qualifications; (ii) detailed evaluation, which includes evaluation of technical responsiveness and calculation of evaluated bid prices through error corrections, adjustments, and discount application; and (iii) ranking of responsive bids to determine the top ranked bid for contract award consideration. The laws permit (i) the use of a merit point (scoring) system for technical evaluation of bids in addition to a pass and fail methodology and (ii) one-stage two envelopes for contracts above US\$1 million. This technical scoring methodology is subjective and may be abused because the bid price is already known, and therefore, the technical scores can be manipulated.
- e. *Contract award, negotiations, and signing.* The laws require that to be selected for contract award, the bidder must (i) have submitted an eligible, qualified, and technically responsive bid; (ii) have the lowest corrected price or the lowest evaluated bid price; and (iii) have the proposed contract price not exceeding the approved pre-bid cost estimate. The procuring entity will negotiate and sign the contract with the selected bidder based on the contract form included in the bidding documents and the selected bidder bids.
- f. *Publication of contract award.* After the contract is awarded, the procuring entity shall publish the contract award information in the VPPN. Information to be published includes name and descriptions of the contract, name of the successful bidder, and contract price.
- g. In case of OCB for consulting services, the procuring entity shall advertise in the VPPN to seek consultant interests; establish a short list of at least three qualified firms, prepare bidding documents using the MPI templates, issue the bidding documents to short-listed consultants, and give them at least 10 days for

preparation of proposals; receive proposals and immediately open the technical proposals; score technical proposals against prescribed evaluation criteria; publicly open the financial proposals of those consultants who secure the minimum technical score and conduct financial and final evaluation to determine the highest ranked consultant; and negotiate and sign the contract with the selected firm and publish the contract award in the VPPN.

Procurement Assessment

41. The assessment found the following specific, procurement-related issues that could, directly or indirectly, compromise the efficient achievement of Program objectives:

- a. *Excessive use of DC results in lack of transparency and competition.* Therefore, excessive use of this method may decrease the economy and efficiency of the expected results.
- b. *Incorrectly rejecting bid(s).* For example, if a bid is rejected due to the offered price being higher than the cost estimate or due to minor deviations and non-compliances, it may lead to the exclusion of a competitive bid and may therefore, adversely affect the economy and efficiency of the Program procurement.
- c. *Lack of experienced procurement personnel* within the LTTUs to cope with the large procurement workload and complex civil works packages under subprograms (construction of lecturer halls).
- d. *Unavailability of budget* may delay the procurement process or contract implementation and, as a consequence, may negatively affect the achievement of the results.

42. In the context of the Program, these issues will be addressed by a series of actions being included in the PAP and through the OM. To strengthen Program procurement implementation capacity, several crucial measures should be adopted, including additional experienced procurement staffing, intensive capacity development for Program implementing agencies and other stakeholders, and preparation and enforcement of a clear and hands-on OM.

43. The MOET is responsible for organizing such training courses as part of their capacity-building responsibilities. The MOET PMU and LTTUs should also hire qualified consultants to assist them in handling the procurement process for large civil works packages. In addition, the Government has established an e-Government Procurement System (e-GP, available at muasamcong.mpi.gov.vn) which allows procuring entities to electronically handle bidding process (e-tendering) in a more transparent and fair manner with lower administrative costs. The MOET PMU and LTTUs should be encouraged to gradually adopt this electronic procurement system for the Program, particularly for simple goods packages procured through shopping.

Procurement Systems and Approach

44. The accountability for procurement decision is in accordance with the Procurement Law and Decree. The implementation of procurement activities for goods, works, and consulting services

for a particular university is decentralized to the university level and the MOET normally has the role of the investment decider. It has, therefore, the authority to approve the subprograms and the PPs that are prepared by the MOET PMU and LTTUs, which have the role of the IOs. The IOs have responsibility to implement the approved PP accordingly, including making any needful decisions along the procurement process such as approving bidding documents and contract awards.

45. *Procurement administration.* In the role of IOs, each MOET PMU and LTTU (refer as IO) establishes a Program Management Unit (PMU) or a specific task team, which acts as a procuring entity, to assist the LTTU in preparing the subprograms and in handling all steps of the procurement process including (a) preparing bidding documents; (b) issuing the bidding documents; (c) receiving bids; (d) evaluating bids; and (e) making the final recommendation for the contract award for an IO approval. Bid evaluation is normally carried out by a committee (usually comprising 5–6 experts) established by the IO, including technical (specialized lecturers) staff and financial staff drawn from functional divisions under the IO. The committee carries out bid evaluation, prepares the bid evaluation report (BER), and makes recommendation of contract award to the rector of the IO for approval. Under each IO, a division such as Life Management or Technology and Science Division will assist the IO to handle the procurement process. The PMU also has the responsibility to sign and administer the contracts.

46. *Procurement planning.* The PP is prepared by the respective IO and submitted to the MOET for approval. There is not a comprehensive PP for all procurable items under the IO for a certain period but it is prepared for each subprogram based on the relevant program documents being approved, including design and detailed cost estimate. A PP for a subprogram could only be prepared after a certain amount of budget (at least 35 percent of the total cost) has been allocated for it.

47. Under each PP, packages are formed by considering various factors, including availability of budget, time constraint, technical aspects, and market conditions. After the PP is approved by the MOET, the IO implements the PP accordingly. The IOs/procuring entities are allowed to update a PP if there are substantial changes or modifications during the implementation. However, in practice they have always tried to avoid updating the PP as it takes time for the investment deciders to approve and that may cause implementation delay.

48. *Procurement practices.* As stated in the Procurement Law and Decree, the IOs and their procuring entities have the responsibility to manage the whole procurement process and to make needed procurement decisions along the process. Major aspects of the procurement practices including procurement methods, bidding documents, administering the bidding process, bid evaluation, and contract award are discussed in the following paragraphs.

49. *Procurement methods.* The IOs reported that OCB is commonly used for equipment supply and new building construction. The OCB procedures described in detail by the Law and Decrees are considered to have an acceptable level of transparency, economy, and efficiency. Contracts for small repairs or maintenance of current building are normally awarded on DC basis. The reason was that under the previous Law (Law No. 61) and Decree (Decree No. 85), the thresholds for using DC or Single-Source Selection (SSS) were high. For example, the thresholds are VND 5 billion (approximately US\$250,000) and VND 3 billion (approximately

US\$150,000), respectively, for works and consulting contracts. As most of the contracts for small repairs or maintenance of current building including works and consulting contracts were very small (varies from US\$20,000 to US\$200,000), they were usually awarded on the basis of DC/SSS.

50. As the thresholds for using DC/SSS have been reduced substantially under the new procurement Decree No. 63 (to approximately US\$48,000 for works and US\$24,000 for consulting services), it is foreseen that the opportunities for the IOs under the Program to apply DC/SSS will be relatively limited and OCB or limited competitive bidding will become the mandatory method to be used for most of the packages under the Program.

51. *Bidding documents.* These documents are prepared using the MBDs issued by the MPI. The MBDs include detailed bid evaluation criteria using pass/fail and/or merit point methods as permitted by the law. Bidding documents are prepared by the procuring entities such as Program Management Units under the IOs and approved by the IOs before being issued to potential bidders. Only for some large and complex packages, the procuring entities may hire a consultant to assist them in preparing the bidding documents. The MPI has recently issued the new MBDs that are harmonized with the Asian Development Bank and the World Bank that will be used for civil works contracts under the Program. Given the size of the works under the Program, the LTTUs confirmed that they would prepare the bidding documents.

52. *Advertisement.* Under the OCB procedure, the IFBs are advertised in the VPPN for one issue and also published on the MPI public procurement website (muasamcong.mpi.gov.vn), which is compliant with the Law and Decree. Bidding documents are issued to the potential bidders three days after the advertisement of the IFB, with a fee of about US\$90. It is a common practice that the procuring entities only sell the bidding documents to persons who have an introduction letter from the bidders, which should be properly signed and stamped by the bidders.

53. *Preparation, submission, and receipt of bids and bid opening.* Bidders are allowed 15 to 20 days for preparation of their bids counting from the date of issuance of bidding documents. Upon the deadline for bid submission, the procuring entities immediately open all bids received in the presence of bidder representatives at the time and place stipulated in bidding documents, which are issued to the bidders. The procuring entities read out important information, including bidder names, information related to bid security, bid prices, discount offers, and status of the bids received (sealed or not sealed). The procuring entities prepare the minutes of bid opening that are properly signed by all participants including members of Bid Opening Committee and all bidder representatives attending the opening. A copy of the bid opening minutes are distributed to all bidders who submitted bids. It is noted that the common number of bids received for each package was around 3–4 bids, accounting for 30–50 percent of the number of the sold bidding documents. This shows that the level of bidder participation is not very high.

54. After the bid opening, all received bids are classified as confidential documents and retained in a place that only authorized persons are able to access. Original bids are kept in a locked cabinet in the procuring entities' offices, and only copies of bids are used for evaluation. The procuring entities have been informed that if they receive less than three bids, they have to seek the opinion from the investment decider whether they can open the bids received or extend the

bid submission deadline to receive more bids. However, it is seldom that they receive less than three bids.

55. *Bid evaluation.* The procuring entities conduct bid evaluation and contract award in compliance with the Law and Decree. As a common practice, bid evaluation is carried out by a committee established by the procuring entities including five to ten persons who were normally the staff drawn from relevant units such as related faculty, technical, and financial units of the respective IOs. The procuring entities might also invite persons from other relevant departments to join the Evaluation Committee for a number of cases. An Evaluation Committee has the responsibility to (a) carry out the bid evaluation, (b) prepare the BER using an appropriate sample BER issued by the MPI, and (c) make the recommendation for contract award to the head of the IOs for approval. All the members of an Evaluation Committee possessed the MPI procurement certificate. For complex and large works packages, several procuring entities hired a consultant to assist them in carrying out the bid evaluation—the consultant is normally the one who prepares the bidding documents for the packages. In such cases, the role of the consultant is similar to members of the Evaluation Committee.

56. The bid evaluation and recommendation for contract award is carried out strictly based on the criteria provided in the bidding documents. Technical evaluation follows the merit point system or pass/fail criteria. However, the merit point system is used more often, especially with the relatively large and complex packages, while pass/fail criteria are normally used for the simple packages. Bids offering prices higher than the approved cost estimate could be rejected. It is a common practice that many bidders were rejected at the preliminary examination stage solely on the grounds related to their qualifications.

57. While the Law and Decree allows time for bid evaluation within 45 days from the date of bid opening, the time for bid evaluation under the Program is often from two to four weeks, depending on the complexity of the package, which is considered a reasonable period for bid evaluation. The completed BER for each contract was submitted to the IOs for approval before the procuring entities invited the winning bidders for contract negotiation. The IOs reported that the approval time is also relatively short, within one week after the BER has been submitted.

58. *Contract awards.* Contracts are generally awarded to the lowest evaluated responsive bidders. After the BER is approved by the IOs, contract negotiation is often conducted between the procuring entities and the winning bidders before contract signing. Signed contracts contain adequate major conditions and clauses. It was reported that most of contracts procured using OCB were awarded to local private enterprises or state-owned joint stock companies. The IOs stated that the saving through the OCB is commonly around 1 to 2 percent of the cost estimate, which is not considered to be a significant saving.

59. *Publication of contract award.* After the contract award has been approved by the IOs, the procuring entity publishes the contract award information in the VPPN as required by the law and regulations. Information to be published includes name and description of the contract, name of the winning bidder, and the contract price. As publication of the contract award is mandatory under the law and regulations, all the procuring entities under the Program are compliant with this.

60. *Control and oversight.* The implementation of the Program under the IOs, including procurement implementation, is subject to audit or inspection by various Government authorities such as the SAV and the Government Inspectorate (GI). The IOs informed the mission that the SAV usually carries out the audit annually or every two years. No major procurement issues have been reportedly identified by the audit done by the abovementioned Government agencies under the Program.

61. *Complaints handling mechanism.* Procurement complaints are handled in accordance with the procedures stated in the Procurement Law and Decree No. 63/2014/ND-CP. These procedures require the complaints to be signed and stamped by a legitimate representative of the complaining bidder. Anonymous complaints are not normally considered, which may discourage people to provide information concerning fraud and corruption in the Program. For complaints related to contract award, the complainant has to deposit a fee, which would be cashed (that is, not returned) if the complaint is not substantiated. Complaints are handled by procuring entities or subprogram owners (IOs) and appeals are reviewed by a competent agency, which is normally the MOET under this Program. This procedure seems to be rather rigid and discouraging of complaints.

62. The Bank's experiences in Vietnam shows that procurement complaints were frequently received under Bank-financed programs and most of them were anonymous. Bank policy requires anonymous complaints to be seriously considered and reviews of such complaints have helped to identify and address many procurement problems and unacceptable practices. The lack of a clear, consistent, and affirmative policy and procedure for these complaints is a clear weakness in the Program complaints handling system. Under the Program, the IOs should therefore be encouraged to accept and review anonymous complaints.

63. *Debarment.* The Program will be subject to Vietnam's national debarment procedures. Exclusion from participation in future tenders is governed by the Law on Procurement which provides a defined set of prohibited acts which, if committed, may lead to debarment. For procurement, initial sanctioning decisions are made by the IOs. Lists of debarred firms or individuals within a given province are prepared by the provincial DPI and are submitted to the Provincial People's Committee and the MPI on an annual basis. Under the law, bidders prohibited from tendering are listed in the tendering newsletter and on the tendering website controlled by the MPI. Provincial officials provided the assessment team inconsistent information regarding whether IOs consistently refer to the MPI sources and the DPI lists to determine bidder eligibility. Under this Program, it is recommended that the Bank's debarment list will also be applicable.

64. *Record keeping system.* Government regulations require Program documents and records to be maintained for at least five years after the completion of each subprogram. The IOs complied strictly with this requirement. Hard copies of all procurement-related documents were archived and can be easily retrieved.

65. *Staffing.* The IOs have adequate numbers of procurement staff who have attended the necessary training, possess procurement certificates issued by the MPI, and have gained good procurement experience for small works and goods packages. Most of the IO procurement staff have attended a training course on the new Law and Decree organized by the MOET and

delivered by the Public Procurement Agency under the MPI. They were able to self-prepare bidding documents and carry out bid evaluation. The IOs also have capable technical staff (or specialized lecturers) who usually provided assistance in the bidding process and subsequently assume the responsibility for contract administration of goods packages. The MBDs and contracts that are issued by the MPI are used. Under LTTUs, recently, no large complex civil works package has been procured; therefore, the procurement staff seem to lack experience in implementing procurement as well as contract administration of large and complex civil works packages. Obviously, it was observed that in some cases, preparation of the design and technical specifications for those packages was contracted out to consultants. No specific written code of ethics exists; nevertheless, procurement staff are required to observe relevant ethical requirements stated in the Government laws and regulations.

66. *Contract management and administration.* The LTTUs hired consultants to provide supervision and construction management services. It is reported that the contract execution was normally completed on schedule. There were also a number of cases of delay mainly due to shortage of funds, severe weather conditions, and weak capacity of the contractors. Particularly, one civil works contract for construction of a student hostel in the Hanoi National University of Education was commenced three years ago with a contract amount of VND 95.4 billion but has still not been completed due to a shortage of VND 30 billion.

67. Cost overruns also did not appear as an issue under the Program as the agencies generally manage to complete works within the agreed budget. It is noted that no serious disputes requiring resolution by a court were reported under the Program.

68. In Vietnam, the construction of civil works, especially larger works, is often delayed due to shortage of funds for contract. It is envisaged that implementation of civil works contracts under the Program may face similar challenges. In particular, civil works under the Program would require regular cash flow (including 20–30 percent of contract prices as advance payments, monthly payments, and so on). Due to the nature of the PforR instrument, a major portion (75 percent or more) of disbursements can only be made once the works have been completed and certified. A cash flow shortage is assessed to be one of the biggest challenges to good contract management and timely delivery of works and services under the Program. To effectively address this challenge, the MOET would have to ensure proper management of the advance disbursement and other partial disbursements as well as to find temporary funding sources.

Bank Experience on Comparable Programs in the Sector

69. The Bank has prepared and has been supervising the implementation of several PforR programs including the Rural Water Supply and Sanitation under the National Target Program—RWSS NTP and the PforR National Urban Development Program in the Northern Mountains Region—RBNUDP-NM in Vietnam. Even though this Program will be the first PforR in the education sector, the Bank has prepared a result-based Investment Project Financing, the School Readiness Promotion Program (SRPP-P117393- IDA 5207) which already has some similarities with the performance-based aspects of the ETEP. Lessons learned in the implementation of these programs were examined and adopted in this assessment. A particular lesson has been that delays in implementation can result from limited understanding of the operational modalities associated with the PforR mechanisms, particularly in relation to existing systems and the arrangements for

funding advances. The Bank's experience in other education programs has shown that one of the common procurement issues that caused implementation delays in those programs was the unfamiliarity and inexperience of program implementing agencies with Bank procurement rules and procedures and the de facto application of both Bank and Government rules and procedures. By allowing the use of only Government rules and procedures in this Program, this bottleneck will be removed. However, other issues that have arisen under those programs that may continue to occur during the implementation of this Program include the following:

- a. Procurement capacity weaknesses
 - b. Inappropriate bidding practices (such as excessive rejection of bids for minor deviations or omissions)
 - c. Procurement complaints
 - d. Potential collusion during the bidding process
5. Lessons learned in other programs suggest that, under this Program, such issues could be effectively mitigated through intensive training and capacity building, full reporting and serious handling of procurement complaints, and strengthened procurement oversight.

Fund Flow

Current Arrangements

70. There are two different arrangements for the two sources of funds of the LTTUs: (a) funds from the Government budget and (b) funds from off-budget revenue. For the first fund source, funds flow from the Government budget to the ultimate beneficiaries through the ST system, in parallel to the budget allocation. After expenditures are incurred and work completed, contractors/suppliers send supporting documents and request for payment to the LTTUs. The LTTUs review and transfer to the ST to verify and make payments to contractors/suppliers. The verification of the ST will be on whether (a) the expenditure (activity) has been planned/allocated for, (b) the payments are made in compliance with the contractual terms, and (c) the contract contents comply with laws and regulations.

71. For funds from *off-budget* revenue, all the proceeds will be deposited into a bank account maintained at a commercial bank. The payment to the contractors/suppliers will be made from this bank account after the verification and authorization of the management of the LTTUs. The ST is not involved in this verification and payment.

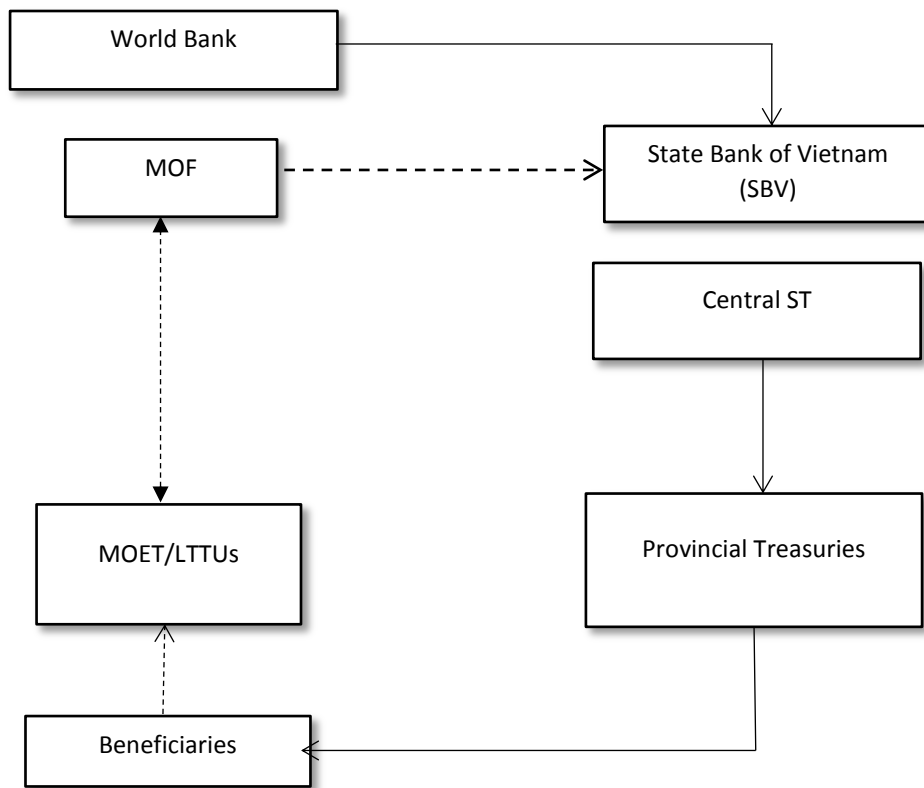
Performance and Identified Risks

72. In general, the fund flows arrangement adequately functions, except for the two following issues: (a) there is a 1–2 month delay in entering the budget allocation into the TABMIS by the finance agencies as mentioned above and (b) the controls over the payments made out of the off-budget revenue may not be effective.

Proposed Arrangements and Actions

73. The MOF recognizes the need to secure the Program fund in a special deposit account in the ST at the provincial level to manage proper budget allocation, execution, and reporting of the LTTUs. Funds transferred from the MOF to the LTTUs are performance based, resulting from the amount the LTTUs are entitled to request for advance and the amount reimbursed for DLIs achieved and verified. For the risk relating to the effectiveness of internal controls over the payment made out of the off-budget revenue, an IA-related mitigation measure will be proposed. Refer to the audit section for more details.

Figure 2. Proposed Fund Flow Diagram



Documentation Flow -----

Fund Flow _____

Internal Control

Current Arrangements

74. The Framework of Internal Controls requires that expenditures of the state budget must be controlled before, during, and after payment. To be paid, expenditures must be listed in the approved budget estimates, in line with standards and norms of the state, approved by the authorized officer of the spending unit, and must have adequate supporting files and documents.

75. Budget spending units are required to open an account at the ST and the financial agencies and the ST will control compliance with budget execution. The ST has the power and responsibility to determine which payments can be legitimately made from the state budget. The Treasury system is the main source of control over expenditures, with ST records being reconciled and the SAV providing assurance of the accuracy of ST financial data.

76. According to the State Budget Law, budget expenditures should be directly paid by the ST to suppliers and beneficiaries. An exception to this principle is made for petty expenditures with a value less than VND 5 million (US\$250 equivalent) and other special expenditures. For transactions of this size, cash payments remain common in Vietnam. For these small expenditures, advances of funds are made to the spending units, which then make payments to the suppliers or beneficiaries and subsequently, submit supporting documentation to the ST. The ST then verifies and records the actual expenditures against the relevant advances. Reconciliation between the ST and the LTTU of the expenditure is done periodically (quarterly and annually).

77. Each LTTU develops an IER, which covers the regulations and procedures for the expenditure relating to the key activities which are based on the relevant Government regulations. The typical contents cover critical areas such as segregation of duties, work acceptance and payments, asset count, cash reconciliation, and advance management. The IER shall be reviewed and updated annually at the annual staff meeting and issued by the head of the LTTU after getting endorsement from the parent university or the MOET. In some universities such as Da Nang, the ISO 9001 standards have been applied for management processes.

Performance and Proposed Arrangements

78. While the Framework of Internal Controls for expenditure and specific internal controls at the LTTUs are adequate, the comprehensiveness and quality of internal controls procedures documented in the IER varies from university to university. Under the Program, the IER of the LTTUs will be reviewed and a standard IER with suggested contents will be developed for the use of the universities and for the MOET, as reference sources when reviewing for endorsement of those IERs.

Accounting and Financial Reporting

Current Arrangement

79. The Accounting Law, which was approved by the NA in 2003 and became effective as of January 1, 2004 and revised in November 2015, governs the financial accounting and reporting for Government and its entities at all levels. The law (a) defines applicable principles and requirements and the scope of accounting; (b) prescribes the types of accounts, chart of accounts, financial statements, their disclosure and publication, their audit and inspection; and (c) assigns to the MOF the responsibility for formulating accounting standards in conformity with international financial reporting standards. An important provision of this law is the requirement for all spending units to publish their annual financial statements within 30 days of the date of approval by relevant authorities.

80. Accounting for the funds and use of funds granted from the state budget is duly done at both ST (with the roles of the Accountant General) and the universities (as the spending units). At the ST, accounting is fully integrated in the TABMIS which has been installed and properly functions at all ST units.

81. The accounting and reporting system applied in the LTTUs follows the accounting systems for the administrative agencies issued under the Decision 19 issued by the MOF in March 2006 which (a) follows the full double-entry system; (b) uses the modified accrual basis where accruals of some key expenditure are allowed and assets have been depreciated; and (c) sets out the (i) chart of accounts, (ii) detailed forms of accounting books, and (iii) detailed forms of financial reports. All the LTTUs have computerized accounting systems, which, however, are not integrated with the other modules/software of management such as the student management software.

82. Financial Reports are prepared and sent to the *parent* university (by the *member* university) or to the MOET on an annual basis. The *parent* university/the MOET will send a mission to the *member/stand-alone* university to verify the quality of the Financial Statements submitted. The Interim Financial Reports are sent on ad hoc basis, when requested by those agencies.

Performance, Identified Risks, and Proposed Arrangements

83. With regard to accounting and financial reporting, the capacity of the provincial ST and the LTTUs is expected to be adequate as the TABMIS is fully implemented and the accounting systems of the universities properly function. The accountants of the LTTUs are also capable of handling the accounting and reporting works.

84. According to the MOET, while the quality of the Financial Reports submitted by the LTTUs were acceptable, three out of eight LTTUs (namely Hanoi, Hanoi 2, and Ho Chi Minh City) consistently failed to submit the Financial Reports on time.

85. For the Program, it is proposed that each university will prepare a Financial Report which will be sent to the MOET for consolidation. The frequency, timing, and template of the Financial Reports will follow the guidance from the MOET and be indicated in the PAs signed between the MOET and the LTTUs, to ensure that receipts and uses of funds are properly recorded and reported.

Auditing

Internal Audit and Related Activities

Current Arrangement, Performance, and Identified Risk

86. The revised Accounting Law which was passed by the NA in November 2015, for the first time stipulates that the accounting units must establish an Internal Control System. The Government will provide details of IA in public agencies, to ensure, among others, the adequacy, effectiveness, and efficiency of the internal controls. Other than the Accounting Law, there is no further guidance on the Internal Control Framework and IA. The development of the IA in the

public sector is in a very early stage. The State Bank of Vietnam is the only public sector entity to have formally established an IA function.

87. On the other hand, the inspectorate functions exist in all large spending units and the activities these functions perform are governed by very formal and comprehensive laws and regulations. The inspectorates conduct regular inspection activities which are designed to ensure public sector entity compliance with Government laws and regulations. However, the inspection activities taken together do not constitute an integrated IA function as they lack some critical elements of IA. In addition, there are potential overlaps of inspections, which lead to inefficiency and hinder the operations of the entities inspected.

Proposed Arrangement and Actions

88. Under the , a TA will be provided to (a) assess the current arrangement of IA at the LTTUs and (b) build capacity of IA for the LTTUs so that the IA will be established and operational in accordance with the Government guidance on IA. It is anticipated that the IA capacity will be in place within two months of the effectiveness of the Credit. The established IA will (a) function in accordance with the Charter and Procedures, which are developed based on international best practices and standards and (b) closely coordinate with the existing inspectorate functions in each LTTU.

External Audit

Current Arrangement and Performance

89. The SAV is the auditor for the MOET. The external audit of the MOET is performed annually. In the context of that audit, the LTTUs, as dependent agencies under the MOET, will be selected on a sampling basis for the site visits. Thus, normally, each parent university will be visited every two years and visits to the member university are less frequent.

90. The following were noted: (a) the external audits of the universities are not performed annually by the SAV; (b) it takes 18 months from the end of the fiscal year to complete and publish auditor reports; (c) there are no separate audit report issued for each university (instead, a consolidated audit report was issued for the MOET); and (d) the audit report for the MOET is not made publicly available.

Proposed Arrangement and Action

91. The financial audit will be conducted in accordance with the audit terms of reference provided in the OM by an independent auditing firm acceptable to the Bank. The cost of the audit will be included in the Technical Assistance financing.

92. An IVA will be selected to provide independent confirmation of the results reported by the LTTUs through the MOET. Third-party independent results verification procedures will also be put in place to track DLIs and operation outputs and outcomes. The IVA will be selected within six months of credit effectiveness as indicated in the PAP.

C. Governance and Accountability

93. The system of Government in Vietnam is well established. The system contains the basic elements of good governance, including a separation of policy-making, execution, and oversight functions, both between and within levels of Government, and a system of regular reporting to high levels of Government. The Government structure remains strongly hierarchical, though with a number of parallel systems that may duplicate functions. A devolution process has notably taken place during the recent decades, including in the education sector. As such, budget units under the MOET, such as the LTTUs are increasingly being given more autonomy. The system of accountability, however, has not kept pace with the devolution process.

Legal Framework

94. All civil servants are required to conform to the Law on Cadres and Public Officials and the Law on Public Employees (2008). These laws provide certain ethics and code of conduct standards, including requirements for civil servants to perform their duties with integrity and in an impartial manner and prohibition of fraud and corruption. Bidding documents, required by the Procurement Law, must include a provision clearly stating various prohibited acts in the procurement process, including fraud and corruption. After bids are received and opened, they shall be required to be preserved at a safe place; information on such bids and bid evaluation processes shall be treated as confidential. Procurement decisions by the LTTUs are reviewed and approved by the MOET.

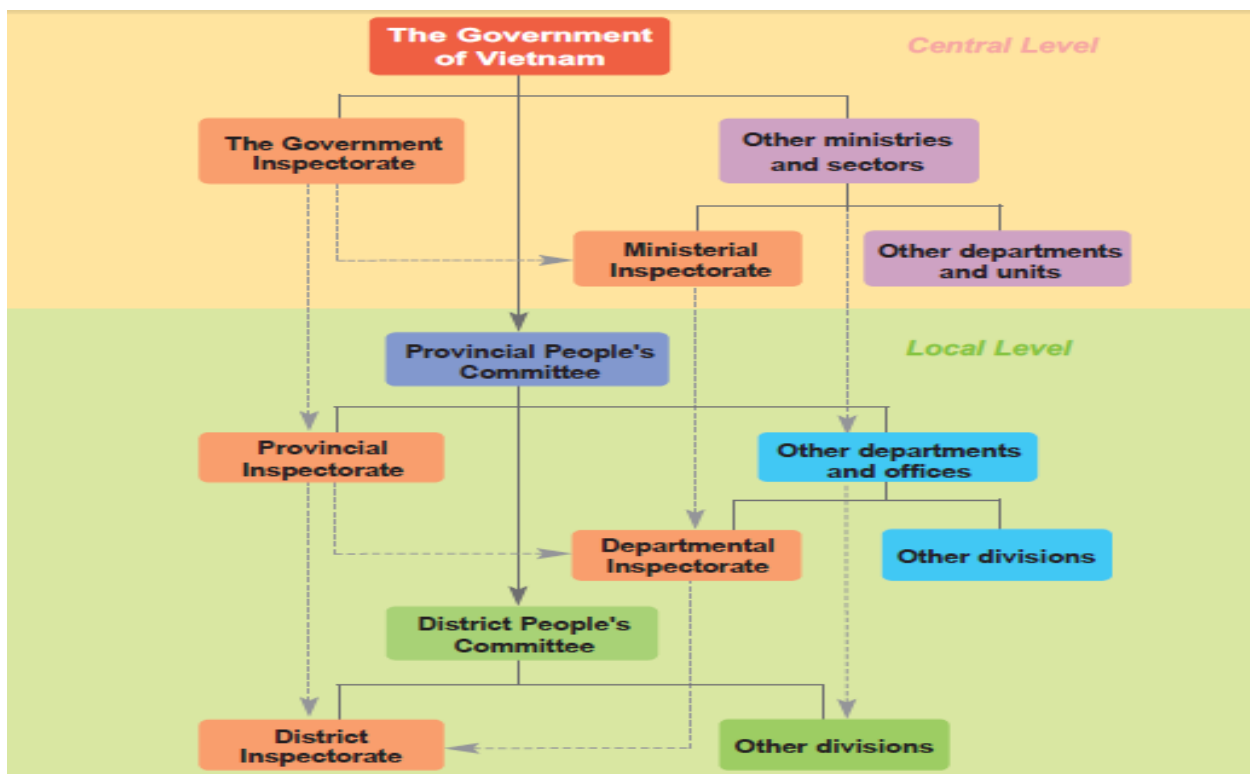
95. Activities to prevent and combat fraud and corruption in Vietnam are governed by the 2005 AC Law, which introduced new approaches to AC such as asset declarations for civil servants, job rotation, and a stronger focus on transparency. The law includes ambitious and all-embracing provisions on the prevention, detection, and handling of corruption, as well as the organization and mechanisms for concerned agencies (including media, social organizations, international organizations, and so on). The guideline for implementing the 2005 AC Law was issued through the Prime Minister Decision 30/2006/QD-TTg (February 6, 2006) and Resolution No. 4-NQ/TW (August 21, 2006) of the Party Central Committee (Session X). The AC Law was most recently amended in 2012, which introduced stricter transparency guidelines for public sector governance. Most notably, the amended AC Law is enhanced by Decrees No. 78 and 90, which clarify the implementation of provisions under the AC Law with regard to the assets and accountability of public officials.

96. With regard to transparency, the AC Law and the 2012 Law on Higher Education stipulate the obligation of education institutions to disclose information to the public on the management and use of public budget, state property and assets, staff and financial resources for education, the support provision and other investment for education, and other revenues. In particular, Circular 09/2009 of the MOET details that a public education institution must disclose and make publicly available the commitment to education quality; education accreditation results; condition to ensure quality of education; and the collection, management and use of tuition fees, recruitment charges, other revenues from consultancy, transfer of technology, investment for education, and other financial revenues and expenditure items.

97. The 2005 AC Law is also complemented and strengthened by the 2011 Laws on Complaints and Denunciations (Decrees 75/ND-CP and 76/ND-CP) which regulate the process and procedures for the handling and settlement of complaints. While the process is described and analyzed in more detail in the following paragraphs, it is important to note the clarification of roles of different Government bodies in charge of handling fraud and corruption complaints, as specified in Section 2 of this Law.

98. This is also in line with the 2010 Law on Inspection, which governs the extensive GI system of Vietnam. The key roles of the GIs are to (a) carry out socioeconomic inspections; (b) examine and inspect the settlement of citizen complaints and denunciations; and (c) detect corruption cases and recommend how to handle them. This effectively establishes a multi-tiered system of nonfinancial oversight, with inspectorate bodies existing at the central, provincial, and district administrative levels of Government, together with specialized sector inspectorates at the central ministries and their line agencies (illustrated in Figure 3). This operates in parallel to the IA system established under the 2015 State Audit Law (discussed already). Because of the establishment of numerous inspectorates, their authority to process and settle complaints and denunciations are tightly defined in relation to each other. If the denunciation does not fall under their jurisdiction, they must refer it to another authority.

Figure 3. Government Inspection Systems



Complaints Handling System

99. According to the Laws on Complaints and Denunciations and the AC Law, citizens can provide fraud and corruption complaints to several channels. In the ETEP, complaints related to

Program activities, which could include allegations of fraud or corruption, will most likely be submitted to the LTTUs as the owner of investment subprograms, or to the GI under the MOET.

- (i) *Through the LTTUs.* A complaint is often submitted in written format with full details of the complainant to the Administrative Unit of the LTTU or to the LTTU People Inspection Board, which will also transfer it to the People Inspection Board to log and forward the complaint to the LTTU leader. In addition to the written complaints channel, a complainant may also request a meeting with the LTTU management or attend the annual staff meeting, to raise the issue. Upon receiving the complaint, the LTTU leader will review and demand an explanation and/or clarification from the respective unit or individual. For the ETEP, this will most likely be the PMUs. During interviews, the LTTU leaders noted that they receive very few complaints, including through text messages, and most of them relate to personnel management. None recalled any credible complaint relating to fraud and corruption in their LTTU. Upon receiving the explanation from the concerned unit or individual, if the LTTU leadership considers the allegation credible, the People Inspection Board, in coordination with the MOET or the DOET Inspectorate, will be asked to take the lead in the inspection. Under the LTTU, the Inspection Board is very small with only one or two part-time staff without adequate inspection expertise. If the initial inspection reveals that crimes are alleged, the file will be turned over to the police. If warranted, corruption charges can be brought by local prosecutors in the Vietnam court system. Once the case is concluded, a formal response will be sent to the complainant to inform them of the key results and decisions taken. The formal response is required to be shared with the complainant within 45 days from the date of receipt. If not satisfied with the decision, the complainant reserves the right to appeal through a similar process to the higher authority (in this case, the MOET Inspectorate).
- (ii) *Through the GIs.* In addition to the LTTU system for handling complaints, citizens can also submit fraud and corruption allegation to the MOET Inspectorate, to be handled and inspected by some 40 inspectors at the national MOET GI or six to eight inspectors at each provincial-level MOET GI. These inspectors reserve the right to stop construction for investigation if they see any sign of fraud and corruption. The inspectorate passes on the case to the police and prosecutor once crimes are alleged. Both of these parallel complaints handling systems contain a reporting mechanism that can capture information on the number, type, and handling of fraud and corruption allegations, which they periodically report up to the national level.

100. The new Public Procurement Law No. 43 (approved in November 2013) and Decree No. 63 have a separate procedure for handling allegations of fraud and corruption in procurement,⁶ although they include provisions on prohibiting fraudulent and collusive practices. Procurement complaints are handled in accordance with the procedures stated in Decree No. 63/2014/NĐ-CP that require complaints to be duly signed and stamped by a legitimate representative of the complaining bidder (anonymous complaints are not considered). For complaints related to contract award, the complainant must deposit a fee equivalent to 0.02 percent of the contract

⁶ This is to distinguish fraud and corruption complaints with procurement petitions, for which the handling process is described under Integrity Aspects in the Procurement Section of this Assessment.

offered bid price (minimum VND 1 million and maximum VND 50 million) that will be forfeited if the complaint is not substantiated.

101. Complaints are handled by procuring entities or program owners and appeals are reviewed by a competent agency—the MOET under the ETEP. Complaints are handled as follows. First, they are reviewed by the procuring entity (equivalent to the PMU under the Program), which is responsible for responding to the complaining bidder within seven working days. If the procuring entity is incapable of resolving the complaint, or if the bidder is dissatisfied, the bidder may submit their complaint to the employer (equivalent to LTTUs under the Program) and the employer is responsible for replying to the bidder within seven working days. If the bidder is still dissatisfied, they may escalate to the competent agency (equivalent to the MOET under the Program). The competent agency is responsible for responding to the bidder within five working days. In case of complaints about bidding results, the complaints will be resolved based on the review and recommendation of a Consultative Committee, established on a case-by-case basis and headed by an authorized representative nominated by the minister. If the bidder remains unhappy, they may approach a court for redress.

Anonymous Complaints

102. According to the Laws on Complaints and Denunciations, the LTTUs and MOET are not required to handle anonymous complaints. The inability to submit anonymous complaints may be a disincentive for citizens to provide information about fraud and corruption in the Program. However, all participating LTTUs/GIs reportedly maintain the practice of accepting and logging anonymous complaints for their records. The officials noted that if anonymous complaints contained credible or serious allegations the inspectors would investigate them fully. The lack of a clear, consistent, and affirmative policy and procedure for handling these complaints is a clear weakness in the current complaints handling system.

Complaints Consolidation under the ETEP

103. Building upon the existing system of handling complaints at the MOET level, the GI under the MOET, will aggregate and inform the Bank of the number of fraud and corruption allegations, as well as on how they are handled (investigated, mitigated, and sanctioned). The information will be collected from each LTTU, the MOET PMU as well as from the concerned GIs under the MOET and will be done at least annually.

Sanction and Debarment Process

104. The abovementioned Laws on AC, on Complaints, and on Denunciation also regulate sanctions in line with the outcomes of the investigation carried out in the complaints handling process described already. Contractors can also be sanctioned for multiple warnings of poor performance according to the Procurement Law (Article 75(1) (c)). This provides significant discretion to the tendering authority to determine poor performance and if misused, could lead to sanctions and debarments for reasons beyond the violation of procurement rules and procedures or for fraud and corruption. Counterparts met during field visits were often unable to tell the team whether there had been any poor performance debarments in previous infrastructure programs.

105. Once the case is concluded, the LTTU and the MOET PMU will issue administrative sanctions on the responsible individual and firms. The outcomes are also reported vertically to the MOET Inspectorate and directly to the MPI, which maintains a national list of debarred firms and individuals (if related to procurement). This is consistent with Article 122 of Decree 63/2014/NĐ-CP issued by the Government on June 26, 2014, which regulates that any procurement sanctions issued will be applied nationally. It is recommended that the LTTUs check the national debarred list when taking procurement decisions.

D. The Program Expenditure Framework

106. The assessment of the Expenditure Framework focuses ‘on those Government budget and expenditure management issues that may put at risk the capacity of the Program to reach its expected results.’ It draws extensively on experience with similar national programs financed through results-based lending, in clarifying both policy and practice in program implementation. It also draws extensively on the design of the Program, specifically the introduction of a new, performance-based fiscal transfer to support LTTUs to plan, execute, and sustain investments alongside complementary measures to enhance LTTU capacities; improve oversight by the MOET and the SAV; and support the ongoing development of national Policy Frameworks on teacher development.

107. The Technical Assessment concluded that the Government has put in place budget and expenditure management systems and practices that, with some well-recognized difficulties, support the Program in reaching its expected results. Two sources of difficulty stand out, both of which are addressed by the structure of the proposed operation. The first is a budget cycle (common to all of Vietnam’s Government budgeting) with timing inconsistencies that result in very late budget decisions and fund transfers that are disruptive to investment programs. The second is that the medium-term plans and annual plans are made against notional resource availability, an important part of which is outside of central Government control. Thus, the key issue is to address delays in budget approval and better linking of annual budgeting and planning process to multiyear plans.

108. The IDA Credit will finance 37 percent of the expected expenditures of the NTEP.⁷ This will help ensure the financing sustainability and funding predictability of the Government Program. The proposed IDA allocation will be transferred annually as a grant. The Government will provide the LTTUs with a predictable annual allocation within a multiyear program envelope, including sufficient advances to commence with Program implementation. Funding to the LTTUs will also be disbursed in a single, predictable release, subject only to individual LTTUs achieving pre-specified performance targets that match the Bank’s DLIs.

109. The Expenditure Framework for the Program provides adequate resources to participating LTTUs to execute a set of high-priority activities. The teacher-student weighted distribution of resources and the counterpart financing requirement provide suitable proxies to match resources to actual needs and priorities of the LTTUs. These resources will provide a significant but manageable addition to resources available in each LTTU, and thus provide a real incentive for

⁷ About 25 percent of the program’s expected expenditures is covered by the recurrent budget for in-service teacher training and an additional 10 percent is supported by the Reform of General Education Project.

LTTUs to comply with performance requirements to actually receive disbursements. This compliance with performance requirements will, in turn, strengthen the overall sustainability of the Program capacity and support activities in the Program that are designed to assist LTTUs to improve management practices.

Bidding and Contracting

110. The procurement risk before mitigation is rated as Substantial and would be reduced to Moderate after the PAP has been successfully applied.

111. There are risks that existing procurement procedures and processes will result in a low level of competition in competitive bidding that will have an impact on cost-effectiveness and competitiveness. First, existing procedures may lead to an unjustified rejection of bids due to minor deviations and omissions and because of bid prices exceeding cost estimates. Second, DC procedures may be abused in ways that impact on cost-effectiveness and competitiveness. To mitigate these risks, it is recommended that procurement actions are included in the PAP that is agreed with the Government and effectively implemented during Program execution. Additionally, the LTTUs should be encouraged to use the e-GP system for managing procurement. The MOET should provide detailed guidance on procurement matters in the OM.

112. The primary risk to contracting is that a shortage of cash flows causes delays to contract payments which result in slow construction and late delivery of works and services. To mitigate this risk, LTTUs should appropriately use Program advances, all DLI disbursements, and mobilize other temporary funding sources for contract payments. Effective, timely budgeting, procurement planning and execution, and reporting procedures are important elements that should be in place to mitigate this risk.

Program Execution

113. There is a risk that a fragmented approach to procurement planning will affect the timeliness of Program implementation and service delivery; and that, unrealistic or late procurement planning for critical large works and consulting services contracts will result in completion delays; and willful packaging of works and services into small contracts for the use of DC will occur. These practices, should they occur, will affect cost-effectiveness and competitiveness. To mitigate these risks, it is recommended that LTTUs plan procurement for entire subprograms and phases with priority given to critical large works and consulting services. The LTTUs should also be encouraged to bundle small contracts into larger ones for the use of competitive bidding to the extent possible. The MOET should provide detailed guidance on these matters in the OM.

114. There is a risk that weak procurement capacity in the LTTUs will result in delays, low-quality procurement, or noncompliance affecting timeliness, cost-effectiveness, and competitiveness. To mitigate this risk it is recommended that

- a. the LTTUs be required to appoint or assign qualified procurement, contract management, and technical experts for the PMBs and
- b. the MOET provides procurement training and contract management for the PMBs under LTTUs.

E. Summary of Fiduciary Risks

115. The FSA identified the following key areas that need to be addressed to ensure that the Program is able to reach its stated goals.

Table 1. Summary of Fiduciary Risks

Ref.	Risk(s)	Proposed Mitigation Measure(s)
1.	<i>There may be lack of clarification on roles and responsibilities of the parent universities toward the budget allocation for the Program activities.</i> Because the budget proposal of the <i>member</i> LTTU is consolidated in the budget of the <i>parent</i> university and the budget allocation is also determined by the <i>parent</i> one, the lack of clarified roles and responsibilities may cause (a) omission or wrong budget proposal and allocation and (b) delayed allocation for the Program activities.	<i>Performance-based budgeting:</i> For the Program, the performance-based budgeting will be introduced according to which the MOET will sign a memorandum with all participating LTTUs, according to which the budget allocation to the LTTUs will be based on the actual performance of the LTTUs. The actual performance of the LTTUs is measured by indicators which are identical with the DLIs of the Program.
2.	<i>The less effective budget allocation does not ensure that sufficient funds are allocated for the Program priorities and for the performing universities.</i> As discussed above, the budget allocation based on the norms of student/teacher does not encourage the performance of the universities or the implementation of the priorities of the Program.	
3.	<i>The budget allocation may not be sufficient for implementation of the Program.</i> Due to the constraints of the budget, the universities may not be allocated with sufficient additional budget to carry out the activities of the Program, which are newly added to their current mandates.	<i>Target allocation of budget:</i> The budget for the Program will be allocated to the LTTUs by the MOET as targeted allocation. This would mean that the amount allocated to the LTTUs will be specifically made for the Program's activities.
4.	(a) <i>The controls over the payments</i> made out of the off-budget revenue may not be effective and (b) <i>lack of an integrated IA function and potential overlaps</i> of the existing inspections may not provide adequate assurance concerning the proper use of public funds and may also lead to inefficiency and hinder the operations of the entities inspected.	<i>Establishment of an IA function:</i> Under the Program, a Technical Assistance will be provided to (a) assess the current arrangement of the IA at the LTTUs, (b) build capacity of IA for the LTTUs so that the IA will be established and operational in accordance with the Government's guidance on IA within 2 years of the signing of the Financing Agreement.
5.	<i>Insufficient experienced procurement resources:</i> Although these agencies are experienced and capable of carrying out procurement activities in accordance with the national public procurement law and regulations, they may not have sufficient human resources to cope with such large and complex civil works packages.	IOs may hire consultant(s) to help them with some procurement activities such as preparation of bidding documents, bid evaluation, and contract administration.
6.	<i>Excessive use of DC</i> results in lack of transparency and competition. Therefore, excessive use of this method may decrease the economy and efficiency of the expected results.	<ul style="list-style-type: none"> • Encouraging limited or OCB for contracts even below DC thresholds. • Effectively controlling procurement planning to avoid unjustifiable contract splitting and combining to do bulk procurement wherever possible.
7.	<i>Unavailability of budget.</i> The procurement process may be delayed if budget is not available and such delay may negatively affect the achievement of the	An appropriate Annual Plan should be prepared taking into account realistic availability of the budget.

	results.	
8	<i>Incorrectly rejecting bid(s)</i> . For example, a bid may be rejected due to the offered price being higher than the cost estimate, or due to minor errors/discrepancies. This may lead to loss of a good bid and reduce competitiveness. It may therefore adversely affect the economy and efficiency of the Program procurement.	<ul style="list-style-type: none"> • All bids received before the deadline for bid submission will be evaluated • Bids will not be rejected on the grounds of minor deviation

Governance and Anticorruption Risks

116. There is a risk that a lack of clarity in the relative authority of various inspectorates may lead to a lack of follow-up of complaints. Due to the establishment of numerous inspectorates, their authority to process and settle complaints and denunciations is tightly defined with relation to each other. For example, according to the Law on Education, inspectors of the MOET or local education and training departments are only authorized to process complaints and denunciations relating to the violation of the Law on Education. If the denunciation does not fall under their jurisdiction, such as a denunciation in relation to a construction, they must refer it to another authority. The multiple agencies dealing with complaints and the interlocking ‘referral system’ that connects them can create a confusing and difficult situation for citizens trying to file complaints with the right authority. The fact that anonymous complaints are not required to be dealt with also can limit the ability of the LTTUs to detect fraud and corruption. The overall reform of the complaints handling system is beyond the scope of the Program due to its extensive nature. However, to mitigate these risks, it is recommended that improved and consolidated reporting on complaints, including anonymous ones, is required on a regular basis. The lack of any relevant prior complaints on fraud and corruption has meant that the team is unable to identify other gaps or weaknesses that may appear during implementation of the ETEP. Improved reporting would assist in monitoring this situation and would allow adjustments to be made during implementation if proven to be necessary.

117. There is a risk that inadequate staffing of inspection units may constrain the ability of the Program to collect, manage, and investigate allegations. While the central Government GIs have numerous staff to carry out the required inspections, the LTTU Inspectorate units are either under-staffed or lack expertise for undertaking inspection. It is recommended that the adequacy of staffing is reviewed at Program midterm, alongside a review of reports on complaints handling, to assess whether additional capacity support or other interventions are required.

118. There is also a risk that the formal denial of the submission of any anonymous complaints will prevent the discovery of procurement problems and compromise the quality of procurement work. It is recommended that all complaints, including anonymous ones, be duly considered and addressed. There is also a risk that the non-application of Bank debarment/suspension lists results in contract awards to debarred firms and/or individuals. It is recommended that agreements with the Government are reached to share Bank debarment lists with the participating LTTUs and that their compliance is supervised and audited during Program implementation.

F. Monitoring Fiduciary Performance over Program Period

119. While key fiduciary areas requiring specific actions for strengthening Government systems have been listed in the PAP, it will also be important to monitor the overall fiduciary performance throughout the duration of the Program. Table 2 identifies the specific indicators which should be monitored (together with the relevant baseline position) to provide the framework to measure improvements in the performance of financial management and procurement processes.

Table 2. Fiduciary Performance Indicators

Indicator	Measure	Baseline/Description
PROCUREMENT		
Contract packaging and distribution of procurement methods used	Numbers and percentages of contracts procured under OCB and DC	A typical PP for a works included one civil works or goods contract, one consultant contract for detailed design, and one consultant contract for construction supervision. This has resulted in many small contracts procured through DC.
Bidders' participation in OCB	Number of bidders submitting bids in each bidding process	3 to 4
Quality of bid evaluation practices	<ul style="list-style-type: none"> Number of bids rejected due to offered bid price being higher than the cost estimate and/or minor deviations or omissions Results of checking against the Government's and Bank's debarment/suspension lists shown in the BERs 	<ul style="list-style-type: none"> Almost 100 percent Occasional checking of the Government's debarment lists; no checking for Bank's debarment/suspension lists
Contract administration	<ul style="list-style-type: none"> Percentage of contracts completed within the original planned completion period Percentage of payments delayed 	<ul style="list-style-type: none"> Several civil works contracts delayed Payments for civil works are often made on time. However, this is largely dependent on budget availability.
Complaint handling	<ul style="list-style-type: none"> Number of complaints received (including anonymous ones) and the number of complaints actually considered and handled 	No complaints received. Anonymous complaints not officially accepted.
Frequency and quality of procurement performance inspection and audit	<ul style="list-style-type: none"> Number of inspections and audits (that include procurement performance review) conducted per year Number of inspection and audit reports that include detailed procurement performance assessment against agreed indicators and procurement problems or noncompliance 	<ul style="list-style-type: none"> Inspections conducted annually. Audits conducted every two years and at least one time for each IO. Past inspection and audit reports provided little information on procurement compliance
FINANCIAL MANAGEMENT		
Budget allocated by the MOET versus budget proposed by the IOs	Annual variance between annual budget proposed by the IOs and budget allocated by the MOET (%)	n.a.
Effectiveness of IA function in the MOET and LTTUs	Coverage, quality, and management response to quarterly IA reports, frequency, and distribution of audit reports	Nil. No IA function exists.

Indicator	Measure	Baseline/Description
Quality and timeliness of annual financial statements for the Program	Completeness and timeliness of annual reports	LTTU financial statements are produced on time but do not yet follow generally accepted accounting principles.
Quality and timeliness of audit report	Scope, nature, and adherence to auditing standards acceptable to the Bank; audit opinion on consolidated financial statements; report received by the Bank within the period agreed in the legal agreement.	Lack of audit opinion
Follow-up on audit recommendations	Evidence of timely and adequate follow-up by Program management on audit recommendations	Seriously followed up by the MOET and the LTTUs

G. Fiduciary Elements of the Implementation Support Plan

Main Focus of Implementation Support

120. The Program Implementation Support Plan is listed in Table 3:

Table 3. Program Implementation Support

Time	Focus	Skills Needed	Resource Estimate
First 12 months	Development of roles, work plan, and incentives for core teachers; development of PAs between the LTTUs and the MOET; establishment of arrangements for independent verification; development of capacity building plan for the MOET and lead LTTUs; and strengthening of M&E system	Legal, governance, financial management, technical (teacher education), procurement, social and environmental safeguard specialists	2 Implementation Support Mission plus 2 Technical Missions: 2 x 12 people x 2 weeks = 48 weeks, in addition to 2 x 5 people x 1 week = 10 weeks. Total: 58 person weeks over 12 months
12–48 months	Reviewing implementation progress, cross-checking linkages between the MOET/DOET/lead LTTUs planning and results, providing support in case of disputes relating to verification (LTTUs or the MOET/IVA)	Legal, governance, financial management, technical (teacher education), procurement, social and environmental safeguard specialists, M&E	2 implementation support mission plus midterm review: 2 x 4 years x 8 people x 2 weeks = 128 weeks; 2 x 12 people x 2 weeks = 24 weeks Total: 152 person weeks
Other	Independent audit/assessment of verification of results	Independent technical expertise	2 people for 5 weeks. Total: 10 person weeks

Note: M&E = Monitoring and evaluation.

121. The skills mix of the task team required for fiduciary implementation support is shown in Table 4:

Table 4. Task Team Skills Required

Skills	Staff Weeks	Trips
Governance	10	n.a.
Fiduciary	30	3

Proposed Financial Management Action Plan

122. It is recommended that the following actions be agreed with the Government before the credit negotiations and subsequently, be implemented during the Program execution:

- (a) *Proposed Program actions.* The Government will build and implement an effective IA function for the Program within two years from the signing of the FA.
- (b) *Other requirements.* The MOET and the MOF should issue guidance on the performance-based budgeting/allocation before negotiation within six months from the signing of the Financing Agreement.

Proposed Procurement Action Plan

123. In accordance with the results of the assessment presented above, it is recommended that the following PAP be agreed with the Government before the credit negotiations and subsequently be implemented during the Program:

- a. All proposals for detailed designs, construction supervision, and bids for civil works, whether below or above cost estimates, shall be evaluated; and proposals and bids shall not be rejected only on the basis of minor, non-substantive deviations.
- b. At least 60 percent of contracts for consultancies and 85 percent of contracts for works and goods will be competitively bid annually; no contract having cost estimates above the thresholds for using DC/SSS method set forth in the law and regulation will be awarded on DC/SSS basis.
- c. Firms on the local, national, or the Bank debarment list⁸ will not be allowed to participate.

124. To facilitate the effective monitoring of Program procurement, the reporting system and practices should improve. It is therefore proposed that Program implementation reports prepared by the LTTUs should include the following information on procurement performance:

- a. Copies of updated PPs
- b. Procurement transactions completed in the reporting period which list the following information, among others:
 - i. Contract title and code
 - ii. Approved cost estimate
 - iii. Procurement method followed

⁸ The national debarment list can be found at <http://muasamcong.mpi.gov.vn/>; the Bank debarment list at <http://www.worldbank.org/debarr>; and the temporary suspension list at <https://clientconnection.worldbank.org>.

- iv. Advertisement date
 - v. Participating bidders' names and their bid prices as read out and recorded
 - vi. Names of bidders rejected and reasons for rejection
 - vii. Name of successful bidder and bid price offered
 - viii. Date of contract award approval
 - ix. Contract signing date
 - x. Final contract amount
 - xi. Contractual completion date
 - xii. Actual completion date
- c. Procurement inspections/audits conducted during the reporting period (copies of reports attached)
 - d. Dates, venues, numbers of participants who attended procurement training, and capacity-building activities conducted during the reporting period (lists of participants attached)
 - e. Emerging procurement and contractual issues that require attention and actions

125. The OM should provide for development of the best practice guidelines by the MOET for procurement activities including the following:

- a. Preparation of medium-term PPs showing all packages to be procured by the LTTUs (whether or not funded by the Program) during at least an annual budget cycle
- b. Use of market prices as a basis for cost estimate (including for consultant fees)
- c. Ensuring adequate length of advertising with tender documents available from the first day of advertising. If not directly forbidden by law, bidders should be permitted to examine tender documents at the LTTU office before deciding to purchase. Clear procedures for disseminating information/clarifications to bidders should be introduced, perhaps including a pre-bidding meeting or site inspection for larger subprograms
- d. Establishment of clear, objective, and appropriate bid evaluation criteria which should be included in the instructions to bidders
- e. Introduction of sole-sourcing procedures, particularly for recruitment of consultants designed to ensure that the qualifications of the best available

candidates are compared and evaluated and that there is an auditable record of the decision making process

126.Capacity support should be provided to support the LTTUs to comply with procurement rules and procedures. Further details on this support are included in the Technical Assessment.

Governance and Application of the Anticorruption Guidelines

127.It is recommended that the following actions be agreed with the Government, reflected in the OM, and subsequently, be implemented during the Program:

- (a) *Implementing agencies* systematically disclose information on the Program activities to the public, including financial information throughout the implementation of the Program
- (b) *Agreement on information sharing and reporting on fraud and corruption allegations.* Based on this assessment and the team’s field visits, there does not appear to be a unified national system for collecting and reporting on how the authorities handle allegations of fraud and corruption. Therefore, to ensure that the client will be able to comply with its reporting obligations under the Anticorruption Guidelines, the client has committed to provide this information from the eight participating agencies and the Ministry of Education and Training. The inspectorate under the MOET should be tasked to aggregate and inform the Bank of the number of fraud and corruption allegations, as well as how they are handled (investigated, mitigated and/or sanctioned) according to an agreed simple template (see Table 5). The information should be collected from each LTTU, as well as from the concerned GIs under the MOET, and should be reported to the Bank team at least annually.

Table 5. Proposed Template for Reporting Complaints

[NAME OF REPORTING ENTITY]	
Item	[Summary Title of Complaint]
Reference No.	[Reference number assigned to complaint]
Location	[City/Area]
Date Received	[Date]
Complainant	[Name of Complainant or Blank, if anonymous]
Anonymous	[Y/N]
Alleged Perpetrator	[Name(s)]
Description of Allegation	[Summary of specific allegations made]
Stage of Handling of Allegation	[Initial Review, Investigation, Prosecution, and so on]
Description of Progress in Investigation	[Summary of progress made]
Outcome of Investigation	[Provide final investigative report where available]

- (c) *Clarify debarments under the Program.* In the light of the readily available debarment lists at the provincial and national levels, the Bank should seek an agreement with the client to (i) share the respective debarment list and basic information including the name of the debarred entity, date and duration of debarment, and reason for debarment (the Bank should make it readily available to the MOET to share it with the participating LTTUs) and (ii) supervision and audit should be carried out during implementation to establish actual performance on enforcing the debarment lists.
- (d) *Client to ensure that Program participants are obligated to cooperate with Bank investigations.* The World Bank has also received evidence of a written communication from a competent central government authority (i.e. MOET) to the relevant Program entities (such as universities, education management units etc.), which sets out the obligations of those authorized to cooperate with any investigations under the Program, including any investigations that may be necessary by the World Bank.