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# Philippines

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# COUNTRY PROCUREMENT ASSESSMENT REPORT

# UPDATE



**THE WORLD BANK**  
Country Operations and Services Unit  
East Asia and Pacific Region

February 2004



*Philippines*

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**COUNTRY  
PROCUREMENT  
ASSESSMENT  
REPORT**

**UPDATE**



**THE WORLD BANK**  
Country Operations and Services Unit  
East Asia and Pacific Region  
February 2004

Regional Vice President : **Jemal-ud din Kassum, EAP**  
Country Director : **Robert Vance Pulley, EACPF**  
Sector Director : **Marisa Fernandez-Palacios, EAPCO**  
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## Acknowledgements

The CPAR Update report was prepared in December 2003. The Team comprised Cecilia Vales (Coordinator); Rene Sd. Manuel (Procurement Specialist for Public Works); Dominic Aumentado (Procurement Specialist for Education); Noel Sta. Ines (Procurement Specialist for Health); Harbaksh Sethi (Consultant) and Evelyn Quirante (Secretarial Support). The Team worked with representatives from the Asian Development Bank, Mr. Jimmy Wu, Portfolio Manager and Cesar Valbuena, Procurement Specialist, and the Japan Bank for International Cooperation, Izuru Kimura, Representative and Mayumi Endoh, Representative.

The Team collaborated closely with the Government's Technical Working Group for Procurement Reform led by Laura Pascua (Undersecretary, Department of Budget and Management); Jose Luis Syquia (Acting Executive Director, Government Procurement Policy Board, Technical Services Office); Teodoro Encarnacion (Presidential Assistant on Procurement Concerns); Juan Miguel Luz (Undersecretary, Department of Education); Jose Lazo (Chief, Procurement Division, Department of Health); Arcadio Cuenco (Assistant Commissioner, Commission on Audit); Austere Panadero (Assistant Secretary, Department of Interior and Local Government); Elmer Dorado (OIC, Social Infrastructure Division, National Economic and Development Authority); and Cipriano Ravanos (President, Procurement Watch, Inc.).

The Update Report was submitted to the Government Procurement Policy Board and was approved in its meeting of December 11, 2003. The Board was chaired by Secretary Emilia Boncodin of the Department of Budget and Management and alternately chaired by Director General Romulo Neri of the National Economic and Development Authority.

This Report is a follow-up of the original CPAR, which was part of the Public Expenditures, Procurement and Financial Management Review. The original CPAR was prepared in June 2002 and published in March 2003, by a Team led by Christian A. Rey (Task Team Leader).

Publication review and advice were received from Leonora Gonzales (External Relations Officer) who also acted as Communications Adviser.

Christopher Hoban  
Manager, Portfolio and Operations  
Manila, Philippines

## Acronyms and Abbreviations

ADB	- Asian Development Bank	GPPB	- Government Procurement Policy Board
AIM	- Asian Institute of Management	GPRA	- Government Procurement Reform Act
AO	- Administrative Order	ICB	- International Competitive Bidding
BAC	- Bids and Awards Committee	INT	- Department of Institutional Integrity
BSP	- Bangko Sentral ng Pilipinas	IRRs	- Implementing Rules and Regulations
BOT	- Build-Operate-and-Transfer	JBIC	- Japan Bank for International Cooperation
CIAP	- Construction Industry Authority of the Philippines	LC	- Letter of Credit
CDF	- Countryside Development Fund	LCE	- Local Chief Executive
CIDA	- Canadian International Development Agency	LGU	- Local Government Unit
COA	- Commission on Audit	LOI	- Letter of Instructions
CPAR	- Country Procurement Assessment Report	NBI	- National Bureau of Investigation
CPPR	- Country Portfolio Performance Review	NCB	- National Competitive Bidding
CSC	- Civil Service Commission	NGA	- National Government Agencies
DBM	- Department of Budget and Management	NGO	- Non-Government Organization
DepEd	- Department of Education	NEDA	- National Economic and Development Authority
DILG	- Department of the Interior and Local Government	OSG	- Office of the Solicitor General
DOJ	- Department of Justice	PCAB	- Philippine Constructors Accreditation Board
DOH	- Department of Health	PEAC	- Pre-qualification, Evaluation and Awards Committee
DPWH	- Department of Public Works and Highways	PD	- Presidential Decree
DTI	- Department of Trade and Industry	PPB	- Procurement Policy Board
EO	- Executive Order	PSB	- Philippines Shippers' Bureau
EPS	- Electronic Procurement System	PS	- Procurement Service
GAAM	- Government Accounting and Audit Manual	PWI	- Procurement Watch, Inc.
GEF	- Global Environment Facility	TIP	- Transparency International Philippines
G-EPS	- Government Electronic Procurement System	TTL	- Task Team Leader
GFI	- Government-Financing Institution	TWG	- Technical Working Group
GOCC	- Government-Owned and/or Controlled Corporation	WB	- World Bank
GOP	- Government of the Philippines	WBOM	- World Bank Office Manila
GPIS	- Government Procurement Information System	WG	- Working Group



# Foreword

The first Country Procurement Assessment Report (CPAR) was completed in June 2002 and published in March 2003. This CPAR has served as an analytical tool to help assess the public procurement system in the Philippines and in the process helped to generate a dialogue with the Government to improve procurement practices, and to help civil society and the private sector understand better the current processes and procedures in place. The June 2002 CPAR has been a key instrument in helping the government, its key development partners and other stakeholders to focus on procurement practices and key reform measures. Thus the November 2003 CPAR Update was a joint effort of the Government and the World Bank, with close collaboration from the Asian Development Bank and the Japan Bank for International Cooperation. It was officially accepted by the Government on December 11, 2003 and the publication was cleared on February 5, 2004. It is but fitting, therefore, to properly acknowledge the key contributors to the success of the CPAR Update process in a dedicated acknowledgement section of this Report.

The CPAR Update Mission reviewed the status of the reforms, and found that over 50% of the recommendations from the first CPAR have been completed, and another 26% are in progress. The key accomplishments include the passage and promulgation of the Government Procurement Reform Act (Republic Act No. 9184) and its implementing rules and regulations (IRR), the establishment and immediate functioning of a powerful Government Procurement Policy Board (GPPB) and its Technical Services Office, mandatory implementation of electronic procurement systems, a well-defined complaint mechanism and blacklisting procedures, provision for civil society monitoring, reasonable procurement audit provisions, numerous dissemination and training activities, and near-completion of harmonized bid documents and manuals.

It is worth particularly noting that the new procurement policy had institutionalized the participation of civil society organizations in all bids and awards committees thus enhancing the integrity of the bidding process. Moreover,

the GPPB has already taken concrete steps towards building the capacity of civil society organizations on the new procurement rules and regulations.

In support of this initiative, the 2003 CPAR mission activities included discussions with the Council of Engineering Consultants of the Philippines and the Philippine Constructors Association to ensure that their concerns are included in the pursuance of the reform agenda.

There is still much to be done however. This Update identifies several emerging priorities including the perception of high cost of some works and goods, and the eligibility of Philippine firms to compete for internationally financed contracts. Significant progress has been made in implementing an electronic procurement system, but further development now needs to be pursued. Finally the new rules and procedures need to be widely disseminated and training given to local governments, the private sector and civil society. Therefore, the primary focus of the CPAR Update is to identify new activities to achieve these objectives including establishing partnerships and funding requirements for partnerships with international organizations, and to achieve better governance and better value for money.

Finally, we wish to commend the executive and legislative branches of government for pursuing a key governance measure that will reduce corruption in the long term. Much now will depend on how these key institutional and policy reforms will be implemented, monitored and enforced on a sustainable basis, towards achieving good governance.

Robert Vance Pulley  
Country Director, Philippines  
World Bank Office Manila  
February 2004



## Overview

Following the completion of the Country Procurement Assessment Report in June 2002, which was published in March 2003, there has been a great deal of progress in pushing procurement reform in the Philippines. This CPAR Update was undertaken in November-December 2003 to take stock of achievements so far, and to review the priorities for further action in procurement reform.

Discussions were held between the World Bank and the Government in November 2003 to review the status of actions identified in the first CPAR which were recommended and taken, and to discuss recommendations for future actions to carry forward the reform process. The Japan Bank for International Cooperation (JBIC) and the Asian Development Bank (ADB) also joined key meetings. The Bank Mission Team met with other key stakeholders such as the Council of Engineering Consultants of the Philippines, the Philippine Contractors Association, Procurement Watch, Incorporated and the Philippine Center for Investigative Journalism. The list of participants to the Mission and persons met by the Mission Team is presented in Appendix 1. In a wrap-up meeting held on December 11, 2003, the key findings and recommendations were discussed with the Government Procurement Policy Board (GPPB) chaired by Secretary Boncodin.

## Big Progress in Procurement Reform

Laudable achievements have been made in the Government's agenda for procurement reform in the past year, as follows:

- Passage and promulgation of the Government Procurement Reform Act (GPRA) on January 10, 2003 (Republic Act No. 9184). The Law consolidates the more than sixty laws pertaining to public pro-

urement and institutionalizes transparency measures including the use of electronic procurement and the participation of Civil Society Organizations. The Law covers all national agencies, government owned and controlled corporations, all government entities and instrumentalities.

- The inclusion of all Local Government Units in the coverage of the Government Procurement Reform Act.
- The issuance of Implementing Rules and Regulations (IRRs) for the Law on October 8, 2003.
- The creation of the Government Procurement Policy Board vested with sole authority to oversee procurement reform and protect the national interest in all matters affecting public procurement. A Technical Support Office was created by the Implementing Rules and Regulations to undertake the day-to-day operations of the GPPB in the performance of its duties and responsibilities in policy making, monitoring compliance, and training and advocacy.
- Mandatory use of the Government Electronic Procurement System (G-EPS) for the procurement of common supplies and to promote transparency and efficiency through the establishment of a central government procurement web site to be the primary source of information on all government procurement transactions. Initially, this has involved the posting of bid invitations and awards in the procurement web site.
- The monitoring and enforcement of procurement rules as well as ensuring efficiency and effectiveness for each step of the procurement process through procurement audit.
- The provision of penal sanctions against violators of the Law, and its rules and regulations.
- The development of a procurement manual and standard bidding documents and forms (harmo-

nized with those of the major international financing institutions: World Bank, ADB and JBIC) to facilitate compliance with the new law.

## Review of the June 2002 CPAR Agenda

The CPAR was a comprehensive document that covered the entire public procurement system of the country plus an in-depth study of three sectors: Public Works, Education and Health. It contained fifty recommendations and agreed actions. Responsible government agencies reported on the status of completion of each agreed action. These agreed actions were classified into (a) national and local governments, and (b) the three sectors. The detailed status are presented in Appendix 2. Most of the recommendations have either been completed (58%) or are on-going (26%). The data in Table 1 provides an overview.

Some activities that are still to be completed relate to:

- Professionalization of the procurement function;
- Corporatization of procurement services;
- Study on securities and bank guarantee;
- Streamline and reducing delay in registration and licensing procedures;
- Establishment of record keeping systems at the LGU level; and
- Eligibility of textbooks with foreign authors (Science, Math and English).

Table 1: **Status of Recommendations in the March 2003 CPAR**

	Completed	On-Going	Open	TOTAL
National/Local Levels	15	7	5	27
Sectoral Levels	14	5	4	23
	29	12	9	50

## Emerging Issues/Priorities

Several new issues emerged which were not included in the June 2002 CPAR. These arose from ongoing discussions with government, and issues that arose from the completed activities. For example:

- Some key priorities identified by Government include the apparent high cost of some works and goods procured by Government and the eligibility of Philippine firms to compete for internationally financed contracts;
- It was also noted that government has made considerable progress in electronic procurement systems and further development now needs to be pursued; and,
- With the passage of the new Law, issuance of the Implementing Rules and Regulations and completion of harmonized bid documents, a major challenge is to disseminate the new rules and procedures, and provide training at all levels including local government units, the private sector and in civil society.

The focus of the CPAR Update therefore is on new activities to achieve these objectives. Discussions were held on how to implement funding requirements and to explore possible opportunities for partnerships with international organizations. There was a strong sense of commitment among the various organizations to work together to follow-up on the strong momentum for procurement reform—to achieve better governance and better value for money for public spending in the Philippines. Some of these partnerships are reflected in the joint responsibilities shown in the matrix in Appendix 3. Important priorities that were identified are:

- Disseminate information on Government Procurement Reform Act/Implementing Rules and Regu-

lations to all stakeholders including local governments, the private sector and civil society;

- Implement E-Procurement as a transactional tool;
- Preparation of a report on capacity, quality and size of contracts for works;
- Training on harmonized bidding documents at all levels including national agencies, local governments, the private sector and civil society;
- Introduce a system of value engineering analysis on a pilot basis to check that designs and cost estimates ensure best value for money;
- Pilot “design and build” procurement schemes in at least one contract; and
- Capacity Building of Civil Society Organizations (CSOs).

## Discussions with the Private Sector

The discussions with the Philippines Contractors Association and the Council of Engineering Consultants of Philippines (CECOPHIL) indicated some positive elements in the introduction of the GPRA and IRRs. The discussions disclosed some serious concerns relating to:

- Qualification criteria for short listing of consultants and contractors, especially under contracts funded by International Financing Institutions;
- Transparency of the pre-qualification/eligibility and evaluation processes;
- Lack of interest of contractors to participate in provincial procurement as a result of provincial preference provisions;
- Capacity building of Civil Society Organizations with extended participation as observers in the Bids and Awards Committees;
- Adjustment of prices of contracts with long completion periods;

- No clear mechanism in submitting a legitimate protest; and
- Hiring only of international firms as coordinating consultants.

These are legitimate concerns, which need to be addressed in the on-going efforts of the government to ensure an efficient, transparent and open competitive process, however, it appears that almost all of these issues had been addressed in the Law and in the Implementing Rules and Regulations. Further, some of them are likewise considered in the procurement manuals and harmonized bidding documents. What appears to be lacking is the dissemination of information and training of the private sector and civil society. These activities are included in the emerging issues/priorities presented in Appendix 3.

## Meeting with GPPB and Next Steps

In a meeting held on December 11, 2003, the GPPB and the Bank agreed on the following next steps:

- Appointment of the new Executive Director of TSO-GPPB soonest. The new TSO Executive Director is on board.
- Issuance of harmonized bid documents with necessary forms.
- Responsible Agencies will implement agreed actions on dates specified. Progress will be monitored jointly by the TSO-GPPB and the World Bank.
- International partners will make the promised assistance available. A request for ASEM 2 funds is being processed internally by the World Bank. GPPB will discuss with other donors possible assistance.
- Finalize World Bank Procurement Side Letter. The TSO-GPPB, DOF and NEDA representatives will start discussing the draft Side Letter, included as Appendix 4.

The March 2003 CPAR can be found in Appendix 5.



## Appendix 1 - List of CPAR Update Mission Participants and Persons Met

### *Government/GPPB*

Emilia Boncodin, Secretary, DBM  
Romulo Neri, Director-General, NEDA  
Laura Pascua, Undersecretary, DBM  
Austere Panadero, Assistant Secretary, DILG  
Teodoro Encarnacion, Presidential Assistant on Procurement Concerns  
Arcadio Cuenco, Assistant Commissioner, COA  
Estanislao Granados, Assistant Secretary, DBM  
Jose Luis Syquia, Acting Executive Director, GPPB – TSO  
Reynaldo Bicol, GPPB  
Pia Zobel Ruiz, GPPB  
Alexander Padilla, GPPB  
Genmaries Entredicho, GPPB  
Jun Molano, GPPB  
Dennis Nacario, GPPB  
Mila Manalastas, GPPB

### *Asian Development Bank*

Cesar Valbuena, Procurement Specialist  
Jimmy Wu, Country Portfolio Manager, Philippines

### *JBIC*

Izuru Kimura, Representative  
Mayumi Endoh, Representative, JBIC  
Yasushi Tanaka, Senior Representative, JBIC  
Catherine Vidar, Project Officer, JBIC

### *World Bank*

Christopher Hoban, Manager, Portfolio and Operations  
Cecilia Vales, Sr. Procurement Specialist  
Rene Manuel, Procurement Specialist  
Noel Sta. Ines, Procurement Specialist  
Dominic Aumentado, Procurement Specialist  
Chris Pablo, Operations Officer  
Harbaksh Sethi, Procurement Consultant  
Jeff Taylor, Consultant, WB  
Evelyn Quirante, Program Assistant

### *Guest Participants*

Juan Miguel Luz, Undersecretary, DepEd  
Kenneth Ronquillo, OIC, HHRDB, DOH  
Joel Lazo, Chief, Proc. & Logistics, DOH  
Elinore Lavilla, Supervising Auditor, COA  
Katherine dela Cruz, OIC, CIAP  
Lilian Salonga, OIC-Research & Info Div., CIAP  
Emerson Benitez, Chief, BAC-DPWH  
Jose Bautista, DILG

***Procurement Watch, Inc.***

Jacinto Gavino, Chairman  
Ramon Ereneta, President  
Cipriano Ravanes, Executive Director

***Council of Engineering Consultants of the Philippines***

Eric Ruiz, President  
Virgilio Madrazao, Treasurer  
Isaad David, Director  
Danilo Luzentales, Director  
Rolando Roque, Past President  
Lani Pimentel, Administrative Officer

***Philippine Constructors Association, Inc.***

Emilio Tumbocon, President

***Philippine Center for Investigative Journalism***

Ms. Yvonne Chua

## Appendix 2 - Summary of Achievements and Status of Key Recommendations of March 2003 CPAR

■	<b>completed</b>
■	<b>ongoing</b>
□	

Key Area	Activity and Agreed Action	Responsible Agency	Timetable	Status as of October 31, 2003	Funding
<b>PUBLIC PROCUREMENT BY NATIONAL AGENCIES, Government-Owned-and-Controlled Corporation and other Instrumentalities</b>					
Strengthen Legal and Policy Framework	1. Passage and promulgation of an Omnibus Law on Procurement.	Department of Budget and Management	December 2002	Done. The Law was issued on February 10, 2003.	USAID
	2. Prepare implementing rules and regulations after enactment of the Law and preparation of Philippines Bidding Documents and Forms.	Government Procurement Policy Board		Done. The Implementing Rules and Regulations-A was issued September 23, 2003 and became effective October 8, 2003.	USAID/ ADB
	3. Update Government Accounting Audit Manual to include the new Procurement Law.	Commission on Audit	December 2003	Done. Government Procurement Reform Act circularized as part of Audit Rules.	
	4. Develop a training program for auditors on the Law, its Implementing Rules and Regulations and Procurement Bidding Documents and Forms.	Commission on Audit	December 2003	On-going. Training program on Law/ Implementing Rules and Regulations developed; training of auditors (6 regions) completed.	
Strengthen Organization and Staffing	5. Establish the Government Procurement Policy Board.	Department of Budget and Management	June 2003	Done. The Board was convened on February 4, 2003 as mandated by law.	WB-IDI
	6. Conduct a study on the scope of work of the Government Procurement Policy Board.	Department of Budget and Management/ Government Procurement Policy Board -Technical Services Office		Done. The Government Procurement Policy Board established by the Law which defines its functions.	

Key Area	Activity and Agreed Action	Responsible Agency	Timetable	Status as of October 31, 2003	Funding
<b>PUBLIC PROCUREMENT BY NATIONAL AGENCIES, Government-Owned-and-Controlled Corporation and other Instrumentalities</b>					
Strengthen Organization and staffing	7. Establish a national training program for the new public procurement system. In-depth training needs to be conducted.	Government Procurement Policy Board	June 2004	On-going. Regional trainings on the Law and the Implementing Rules and Regulations being conducted by the Government Procurement Policy Board. First round of training of national agencies completed; training for LGUs started.	WB-IDF (ASEM 2 Grant); Government to pursue funding from ADB in December CPRMU
	8. Professionalize the procurement function: <input type="checkbox"/> Prepare a Study <input type="checkbox"/> Implementation (NGA)	Government Procurement Policy Board/Civil Service Commission  PRC	December 2003	The Terms of Reference submitted by Government Procurement Policy Board-Department of Budget and Management; completion by September 2004.	WB IDF; ASEM 2 Grant will cover 5 pilot agencies
	9. Study to corporatize Procurement Service as independent entity.	Department of Budget and Management-Procurement Service	June 2003	Procurement Service is implementing the Government-Electronic Procurement System and reengineering its systems and procedures. The Terms of Reference for the corporatization being drafted; completion of study by December 2004.	CIDA/WB IDF
Improve Procurement Practices and Processes	10. Enforce the regulation on transparency through procurement audit.	Commission on Audit	December 2004	On-going. Training on the Law and the Implementing Rules and Regulations. Training on Procurement Bidding Documents and the Procurement Manual will be required for auditors.	Government to pursue funding from ADB in December CPRMU
	11. Enforce processing lead time through application of sanctions and monitoring through procurement audit (Administrative Order 129).	Commission on Audit	June 2004	Done. Section 38 of the Law mandates leadtime for key steps. Commission Audit Procedure.	IFIs will conduct briefing with Commission on Audit auditors leadtimes for Foreign-Assisted Projects Procurement

Key Area	Activity and Agreed Action	Responsible Agency	Timetable	Status as of October 31, 2003	Funding
<b>PUBLIC PROCUREMENT BY NATIONAL AGENCIES, Government-Owned-and-Controlled Corporation and other Instrumentalities</b>					
	12. The Implementing Rules and Regulations of the law should prohibit negotiation of price and contract amount (goods and works) after bid opening (IRR).	Department of Budget and Management—Procurement Services	June 2003	Done. The Law does not allow for negotiation of price and contract amount.	
	13. Develop a framework and guidelines for Congressional insertions and Constituency Development Fund.  <input type="checkbox"/> Terms of Reference prepared and submitted by Department of Interior and Local Government	Department of Interior and Local Government/Department of Budget and Management/ League of Cities	December 2002	Done. Study and framework submitted by consultants. Needs follow-up activities to explore possibility of enhancing audit by the Commission on Audit and monitoring by the Procurement Watch, Inc./Government-watch/ Philippine Center for Investigative Journalism/other NGOs.	ASEM Grant
	14. Price monitoring to be included as an important function of Oversight Board (IRR).	Government Procurement Policy Board-Technical Services Office/Procurement Service	June 2003	PS regularly monitors commonly-used supplies. For others to be completed by June 2004.	
	15. The Civil Service Commission or the Office of the Solicitor General to provide support to members of the Bid and Awards Committee/Procurement Evaluation and Awards Committee subjected to harassment.	Department of Budget and Management	June 2003	Done. The Law provides for legal assistance and indemnification of Bids and Awards Committee members.	
	16. Develop on demand satisfactory securities to be issued by non-banking institutions. Improve penalties in lieu of bid security for small contracts.	World Bank	December 2003	To be completed by June 2004 (together with No. 17).	
	17. Replace surety bond with Bank guarantee/Letters of Credit/other forms.	Government Procurement Policy Board	June 2003	Done. The Implementing Rules and Regulations specify options.	
Enhance Transparency	18. Push for 60% implementation by all agencies of Government Electronic Procurement Services Rule.	Department of Budget and Management/Procurement Services	December 2003	On-going. As of October 31, 2003, 100% for Government-owned Controlled Corporations and 61% of national agencies were registered. To be completed in accordance with the Implementing Rules and Regulations. The Government Procurement Policy Board to monitor and report on compliance quarterly.	

Key Area	Activity and Agreed Action	Responsible Agency	Timetable	Status as of October 31, 2003	Funding
<b>PUBLIC PROCUREMENT BY NATIONAL AGENCIES, Government-Owned-and-Controlled Corporation and other Instrumentalities</b>					
	19. Encourage guidelines and training of civil society's participation in procurement at all levels.	Procurement Watch, Inc./ Transparency International Phils.	December 2002	On-going. Procurement Watch, Inc., invited to observe procurement processes in one (1) government agency. High demand requires additional staff and training with workshops (funds). To be completed by December 2004.	Initial funding by ASEM
	20. Develop guidelines and training of National Government Organizations and Civil Society.	Procurement Watch, Inc./ Transparency International Phils.	December 2002	On-going. One (1) workshop conducted to develop code of ethics and a network for reporting. To be completed by June 2004.	IDF
<b>LOCAL GOVERNMENT UNIT PROCUREMENT</b>					
Public Procurement	21. Ensure that Local Government Units' procurement is adequately covered in proposed Procurement Bill.		December 2002	Done.	
	22. Local Government Units' concerns/ views to be represented in the formulation of the Implementing Rules and Regulations once the Bill is enacted.	Department of Interior and Local Government/League of Cities	December 2002	Done.	
	23. Local Chief Executives should not chair the Bidding and Awards Committees.	Department of Budget and Management	December 2002	Done. The Law prohibits approving authority to be chair of the Bids and Awards Committee.	
	24. Make the implementation of Annual Procurement Plan by the Local Government Units mandatory.	Department of Budget and Management Circular	June 2003	Done. Section 7 of the Law requires Annual Procurement Plan linked to Budget.	
	25. Professionalize the procurement function and build Local Government Units-level procurement capacity.  <input type="checkbox"/> Develop a Study <input type="checkbox"/> Implementation	Government Procurement Policy Board/Department of Interior and Local Government	December 2003	Study to become phase 2 of the Professionalization Study in Activity No. 8; to be completed in March 2005.	IDF

Key Area	Activity and Agreed Action	Responsible Agency	Timetable	Status as of October 31, 2003	Funding
<b>LOCAL GOVERNMENT UNIT PROCUREMENT</b>					
	<p data-bbox="401 391 835 496">26. Rationalize method of procurement and expedite payment to contractors and suppliers (to be dealt with in the Implementing Rules and Regulations).</p> <p data-bbox="443 537 779 602"><input type="checkbox"/> Update the Government Accounting and Audit Manual</p> <p data-bbox="443 667 779 732"><input type="checkbox"/> Develop and implement training program on procurement audit</p>	<p data-bbox="863 391 1146 602">Department of Budget and Management/Government Procurement Policy Board</p> <p data-bbox="863 537 1083 570">Commission on Audit</p> <p data-bbox="863 667 1083 699">Commission on Audit</p>	<p data-bbox="1224 391 1402 464">60 days from approval of New Procurement Law</p> <p data-bbox="1224 537 1377 570">December 2003</p> <p data-bbox="1224 667 1325 699">June 2003</p>	<p data-bbox="1451 391 1776 513">Done. Rules on alternative methods of procurement provided in Section 48 of Implementing Rules and Regulations.</p> <p data-bbox="1451 537 1766 643">Government Procurement Reform Act and Implementing Rules and Regulations circularized as Audit Rules.</p> <p data-bbox="1451 667 1734 724">On-going; to be completed by December 2004.</p>	
	<p data-bbox="401 773 793 821">27. Develop a good record keeping system for:</p> <p data-bbox="443 846 768 878"><input type="checkbox"/> Provincial/cities (pilot phase)</p> <p data-bbox="443 894 814 927"><input type="checkbox"/> Municipalities (full implementation)</p>	<p data-bbox="863 773 1146 902">Government Procurement Policy Board/Department of Public Works and Highways/ Department of Interior and Local Government</p>	<p data-bbox="1224 846 1377 878">December 2004</p> <p data-bbox="1224 894 1377 927">December 2004</p>	<p data-bbox="1451 846 1787 878">To be completed by December 2004.</p> <p data-bbox="1451 894 1787 927">To be completed by December 2004.</p>	

PUBLIC WORKS SECTOR

Key Area	Activity and Agreed Action	Responsible Agency	Timetable	Status as of October 31, 2003	Funding
Policies and Procedures	28. Foreign contractors should be allowed to bid without PCAB license but will need to present the license prior to award.	DPWH/CIAP	June 2003	The Contractors Licensing Law prohibits this. However, the process is being streamlined. Further elaboration required to facilitate participation of bidders.	
Legal Framework	29. Review the law on arbitration so as to align it with international practice.	CIAP/DPWH	June 2003	Enhancement of existing Law based on UNCITRAL model is being considered. This requires in-depth study. Needs technical assistance for the study.	
Improve Procurement Practices and Processes	30. Study on registration and licensing of contractors; design and implement an action plan to streamline processes for registration and licensing of contractors.	GPPB/DPWH/CIAP-PDCB	June 2003	To be completed. Needs assistance to streamline.	
Evaluation of Bid Awards	31. Adopt the standard pass or fail criteria for all procurement except pre-qualification of ADB-funded projects which will also be scheduled to adopt pass or fail criteria in 2002.	DPWH/ADB	June 2003	Done.	
- do -	32. Standard estimated cost per classroom, for budgetary purposes, should not be a limitation to the resulting bid price.	DPWH	June 2003	Done.	
Delivery, Inspection, Payment	33. Provide/strengthen quality assurance mechanism for design and supervision.	DPWH	June 2004	Needs assistance.	
Enhance Transparency	34. Use of computerized registry by all projects following progress of computerization.	DPWH	December 2004	On-going. Pilot test on two WB-funded projects under implementation.	

## EDUCATION SECTOR

Key Area	Activity and Agreed Action	Responsible Agency	Timetable	Status as of October 31, 2003	Funding
Legal Framework and Policy	35. Revise Section 1-A, Rule IV of IRR of RA 8047 and General Policy No. 5 of the National Book Policy to relax its requirements on importation of raw materials for textbooks.	DepED	December 2003	Done.	
- do -	36. Amendment of the law to allow textbooks of foreign authors to compete locally for Science, Math and English textbooks.	DepED	December 2004	Because of the new curriculum, this activity needs to be pursued.	
- do -	37. Streamline the policy on textbook content evaluation.	DepED		Done. Further improvements with the new textbook policy (English, Math and Science).	
Organization	38. Training and empowerment of the bid committee members (professionalization).	DOH/SEMP2/All Agencies	December 2003	Done. BAC members to AIM procurement training.	
Planning and Monitoring	39. Develop an effective procurement planning and inventory monitoring system at the Regional, Division, District and School Levels.	DepED	June 2003	On-going with implementation of system at all levels (except school) to be completed in December 2003. Procurement process at "school" level is "open".	
Capacity Building	40. Strengthen DepEd's procurement capacity.	DepED	June 2003	Consultant hired through DBM; completion December 2003. Establishment of Procurement Service Unit.	

## HEALTH SECTOR

Key Area	Activity and Agreed Action	Responsible Agency	Timetable	Status as of October 31, 2003	Funding
Organization	41. Review and implement Department of Health reforms in terms of decentralization of procurement.	Department of Health	December 2003	On-going.	
Advertisement	42. Develop a mechanism to ensure wider participation and competition	Department of Health/Social Expenditure and Management Project 2	December 2003	Done. Registration instead of accreditation and wider notification.	
Capacity Building	43. Strengthen Bureau of Food and Drug's capacity to shorten the registration process.	Department of Health	June 2003	Done. Instead of up to 6 months, now 2-3 weeks.	
- do -	44. Training and empowerment of the bid committee members (professionalization).	Department of Health/Social Expenditure and Management Project 2/All Agencies	December 2003	Done. Staff sent to AIM training.	
Procedures and Practices	45. Streamline the procedure for contract review by Legal Services Division.	Department of Health/Social Expenditure and Management Project 2	December 2003	Done. One week instead of one month.	
- do -	46. Streamline the cash allocation process and approval process to avoid delay.	Department of Health/Social Expenditure Management Project 2	December 2003	Done.	
Monitoring	47. Develop a mechanism to monitor and evaluate the performance of the suppliers, constructors/consultants.	Department of Health/Social Expenditure Management Project 2	June 2003	Done for suppliers; for constructors/consultants still under preparation.	
Organization and Staffing	48. Review the staffing of Procurement and Logistics Service.	Department of Health/Social Expenditure Management Project 2	December 2002	Done August 2002.	
Systems and Procedures	49. Establish a National Drug Price Monitoring System.	Department of Health/Social Expenditure Management Project 2	June 2003	Done November 2002.	
- do -	50. Conduct a study on price of pharmaceuticals.	Department of Health/Social Expenditure Management Project 2	December 2003	Done August 2003.	

## Appendix 3 - Emerging Issues/Priorities

Key Area	Activity and Agreed Action	Responsible Agency	Timetable	Proposed Funding
Strengthen Organizational Capacity	1. Prepare implementation plan for Monitoring and Evaluation capability of the Government Procurement Policy Board-Technical Services Office with respect to enforcement of the Government Procurement Reform Act/Implementing Rules and Regulations.	Government Procurement Policy Board	June 2004	World Bank-Institutional Development Fund.
	2. Disseminate information on Government Procurement Reform Act/Implementing Rules and Regulations to Local Government Units through a Joint Circular.	Government Procurement Policy Board/Department of Interior and Local Government	March 2004	World Bank-Institutional Development Fund; Government to pursue additional funding from ADB.
	3. Implement E-Procurement as a transactional tool.	Government Procurement Policy Board/Procurement Service	December 2004	Government to pursue funding with ADB.
	4. Training Government E-Procurement Services staff and Commission on Audit auditors in the area of system security.	Commission on Audit/Procurement Service	December 2004	
Improve Procurement Practices and Processes	5. Prepare a report on capacity, quality and size of contracts for works under Foreign Assisted Projects, including the mix of national and foreign funding.	International Financing Institutions	March 2004	
	6. Training on Harmonized Bidding Documents at all levels including national agencies, local government, private sector and civil society.	Government Procurement Policy Board	December 2004	World Bank-Institutional Development Fund and ASEM 2.
	7. Prepare a report on bid prices/variation orders relative to Engineer's Estimates in projects with and without fixed budget ceilings.	Government Procurement Policy Board/Department of Public Works and Highways/Commission on Audit	September 2004	Government will request Japan Bank for International Cooperation funding.
	8. Pilot testing of the Procurement Manual in at least five (5) agencies/Local Government Units.	Government Procurement Policy Board/All Agencies/Local Government Units	September 2004	ASEM 2 grant.

Key Area	Activity and Agreed Action	Responsible Agency	Timetable	Proposed Funding
	9. Downloading of bidding documents from the Procurement Services or agency website.	Government Procurement Policy Board/Department of Health or Department of Public Works and Highways	December 2004	
	10. Improvement of skills in estimating prices and analyzing bid variances.	Government Procurement Policy Board/Department of Public Works and Highways	September 2004	
	11. Include procurement method for small works in the Implementing Rules and Regulations or procurement manual.	Government Procurement Policy Board	June 2004	
	12. Introduce a system of value engineering analysis on a pilot basis, to check that designs and cost estimates ensure best value for money. Begin with three selected projects and invite foreign experts to share international experience.	Government Procurement Policy Board/Department of Public Works and Highways	June 2004	World Bank will provide funding for trainer.
	13. Pilot "design and build" procurement schemes in at least one contract.	Government Procurement Policy Board/Department of Public Works and Highways	June 2004	
	14. Capacity building of Civil Society Organizations as Government's partners and Bid and Awards Committee observers.	Government Procurement Policy Board	June 2005	ASEM 2 Grant.
Enhance Transparency	15. Define the qualification criteria to match bidding requirements in the procurement manual.	Government Procurement Policy Board/Department of Public Works and Highways	June 2004	
	16. Collect and disseminate data on actual bid prices of common procurement items, e.g. classrooms, roads, medical supplies, water supply, and books procured by different agencies and Local Government Units.	Government Procurement Policy Board/Commission on Audit/Procurement Watch, Incorporated	June 2004	

## Appendix 4 - Procurement Side Letter Draft - December, 2003

### National Competitive Bidding Procedures

With respect to goods and works to be procured in accordance with the procedures referred to in paragraph 1 of Part C of Annex 1 to Schedule 4, the National Competitive Bidding (NCB) procedures of the Borrower shall apply, except that, unless otherwise agreed by the World Bank (the Bank) in writing, the following procedures shall apply:

#### Participation in Bidding

1. Foreign suppliers and contractors from eligible countries shall be allowed to participate, if interested, without first being required to associate with, or enter into joint ventures with, local firms. However, joint ventures will be encouraged.
2. For foreign suppliers and contractors, prior registration (such as with the Bureau of Food and Drugs for the registration for drugs, agency accreditation, etc.), licensing (such as licensing by the Philippine Contractors Accreditation Board, etc.), and/or other government authorizations (such as a Mayor's permit, etc.), shall not be a requirement for purposes of participating in bidding competitions. Such registration, licensing and/or other government authorizations may, however, be required from the selected bidder as a condition of signing of the contract, and the Borrower shall not be stopped from asserting such requirement where this is mandated under national law.
3. Except for major or complex works, as defined in this Loan Agreement, where prequalification is required, prequalification of contractors shall only undertaken upon prior Bank approval.
4. Eligibility screening may be carried out prior to bidding with prior Bank approval.
5. If any bidder is to be denied access to the bidding process for reasons unrelated to its financial and technical qualifications to perform the contract, prior Bank approval shall be sought.

#### Bid Documents

6. Suppliers and contractors shall not be required to purchase only local goods or supplies, or to hire local labor, except for unskilled labor.
7. To obtain the best market prices available, open competitive bidding shall be maximized. For this purpose, requirements shall not include restrictive importation permits from private associations or protective preferences for Philippine Flag vessels.
8. Two-envelope system procedures shall not be used unless prior Bank approval has been obtained.

#### Advertisement

9. National Competitive Bidding (NCB) opportunities shall be advertised in national newspapers of general circulation, with sufficient time for bidders to prepare offers, which shall not be less than 30 days, unless a different time is specifically agreed upon by the Bank. Posting shall also be done in the Government

Electronic Procurement System (GEPS) or the Procuring Entity's website.

### Bid Submission and Opening

10. Bid opening shall be open to those who wish to attend, and the deadline for submission of bids shall be the same as that for bid opening. For goods, all bids received on time shall be opened and read publicly. For works, in addition to the bid, the following documents are read publicly: (a) bid security; (b) authority of signing official; (c) list of key personnel, (d) list of major equipment; and (e) credit line commitment.
11. Within 72 hours from bid opening, but prior to bid evaluation, a copy of the certified minutes of bid opening shall be furnished to the Bank, which shall contain the following: (a) names of the bidders provided with bid documents; (b) original amount (unevaluated) of the bid of each bidder, as read; (c) date, time and place of bid opening; (d) summary of bid proceedings; and (e) names of the bidders' representatives and other persons present.

### Evaluation

12. A ceiling may be applied to bid prices, with the prior Bank approval in advance of bidding. The Approved Budget Estimate used as ceiling shall be close to the Engineer's Estimate.
13. The Bank's domestic preferences shall not be applied in the evaluation of bids, and other preferences in effect in the Philippines shall also not be used, except with prior Bank approval.
14. Price negotiation shall not be allowed. However, in the case of a budget limitation, an adjustment in the quantities of goods or the scope of work may be agreed upon, subject to the prior Bank approval.
15. Privileges granted to Provincial bidders to match the lowest bid submitted by a contractor with the principal office address outside the province in which the project is located, shall not be allowed.
16. Explicit bid evaluation criteria shall be set forth in the bid documents based on monetarily quantifiable elements.
17. Experience qualification of bidders shall be equal to two (2) projects that are at least 75% of the estimated project cost.

### Contract Implementation

20. Modifications exceeding 15% of the contract amount and material changes in the conditions during implementation require prior Bank approval.
21. Arbitral award should be final and binding.

# Overview

**1.1** Recognizing that sound public procurement is an essential part of good governance, the Government of the Philippines (GOP) and the World Bank (WB) have agreed to conduct and produce a country procurement assessment report (CPAR). This will summarize the findings and agreed action plans to address issues during the Bank's fiscal year 2002. The CPAR has been recognized by the GOP as an important tool to pursue its objective of reforming the public procurement system. Key findings and recommendations of the CPAR have been included in the Bank's proposed Country Assistance Strategy 2003 to 2005 for the Philippines.

**1.2** A first joint assessment was conducted in 1994, followed by another in 1997. Because many differences between procurement policies of the Bank and of the Government were noted, the 1997 CPAR included the "side letter" which is currently being used

*The need for serious procurement reform is urgent. From fiscal year 1997 to 2001, annual outlays for procurement of goods, works and services by national agencies averaged more than Php113 Billion (Table 2). This excludes procurement by LGUs and Government Owned and/or Controlled Corporations (GOCCs) placed at around Php50 Billion a year and for Build Operate Transfer Transfer (BOT) projects with private sector participation, estimated at about Php372 Billion in 2001.*

for all Bank loans to the Philippines. Even if the findings of the 1997 review (Table 1) were discussed in detail with GOP officials, the exercise was essentially conducted by the Bank with no GOP ownership.

*The Bank relies on the Representations and assurances in the "side letter" for entering into a Loan Agreement with the Philippines, and these representations and assurances form an integral part of the Loan Agreement.<sup>1</sup>*

**1.3** The current CPAR started in October 2001 and was conducted by the World Bank Office Manila (WBOM) working closely with the GOP designated team. The joint working group has assumed both co-responsibility and co-leadership of the project with the participation of the Asian Development

Bank (ADB). Since October, the working group or CPAR team has met weekly to analyze, discuss and endorse the consultants' main findings. Mainly, the work has focused on: (i) Public Procurement Regime; (ii) Public Procurement in Practice; (iii) Procurement in Externally Financed Projects; and (iv) Initiatives in Enhancing Transparency. It was agreed that the health, education and public works sectors would be the focus of the CPAR. The performance of the Local Government Units (LGUs) was also assessed. Finally, the team assessed risks arising from the Bank's involvement.

## The Need for Procurement Reform

**1.4** From the overall CPAR perspective, the need for serious procurement reform is urgent. From fiscal year 1997 to 2001, annual outlays for procurement of goods, works and services by national agencies averaged more than Php113 billion. Public Sector Infrastructure Outlays for 2000 and 2001 indicate that an average of Php 15 billion of the total bud-

<sup>1</sup>The "side letter" was first used in 1997 to specify the loan procurement conditions between the GOP and the Bank.

Table 1: **Status of Recommendations - CPAR 1997**

The 1997 CPAR raised important issues and recommendations recognized by the Bank and the GOP as warranting attention. A situation assessment for each of these issues revealed that, with the exception of the price negotiation practice of the Procurement Service, all concerns were being addressed. Here is the status summary.

Areas of Concern	Status as of February 15, 2002
0.3 (a) Cumbersome internal procurement processes.	The situation persists and continues to be recognized at high government levels. Executive Order (EO) 40 attempts to clarify some issues to simplify the processes.
0.3 (b) Vacillation of project implementers faced with conflicting Bank and local rules and possible legal consequences.	This should no longer be an issue for the central government but is still a problem at the LGU level.
0.3 (c) Lack of familiarity of LGUs with Bank procurement guidelines and rationale.	Somewhat improved with training but much remains to be done.
0.5 (a) Through seminars, workshops and appraisal missions, the Bank should emphasize the waivers . mandating the use of Bank procedures for National Competitive Bidding (NCB) procurement.	This is continuously being done.
Recommendations	
0.5 (b) Maritime shipping restrictions. Task Team Leaders (TTLs) should discuss at appraisal.	This is continuously being done.
0.5 (c) Discourage pre-qualification, encourage post-qualification.	This is now the new norm in the GOP.
0.5 (d) Update the 'side letter.'	Done.
0.6 (a) Use procurement agents in LGU projects.	This is being done.
0.6 (b) Use of Department of Budget and Management's (DBM) Procurement Service (PS) as the procurement agent in Bank-financed projects—only when the PS agrees that advertisements and invitations will state that there will be no price negotiation.	This was tried in several projects. Unable to verify if advertisements and invitations indeed stipulated no-negotiation.
0.6 (b) Use of DBM's PS Bank should try to convince DBM to stop the practice of negotiating prices with the winning bidder.	Unsuccessful. There is a 30% increase in the number of agencies using the PS, from 1,200 to 2,186. The practice is true of modes other than public bidding.
0.6 (c) Procurement Code.	Ongoing.
0.6 (c) Update the procurement rules of Commission on Audit's (COA) Government Accounting and Audit Manual (GAAM).	In progress.

Table 2: *Philippines - Magnitude of National Government Procurement Outlays*

Expense Class	1997	1998	1999	2000	2001
Supplies and Materials	15.750	15.587	17.012	20.295	16.879
Library Books and Materials	0.034	0.158	0.094	0.225	0.071
Other Services	15.096	17.232	15.430	18.676	19.322
Gasoline, Oil and Lubricants	1.883	1.766	2.099	2.593	2.622
Land and Land Improvements Outlay	43.621	68.337	50.406	63.497	59.985
Buildings and Structures Outlay	17.533	12.579	10.175	11.431	6.570
Furniture, Fixtures, Equipment & Books Outlay	11.275	6.307	9.23	5.723	3.642
Information Technology (IT) Equipment Outlay	0.010	0.226	0.799	0.716	0.932
TOTAL	105.202	122.192	105.245	123.156	110.023

Source: Tables B.1 and B.14, Budget of Expenditures and Source of Financing, Fys 1999, 2000, 2001, 2002 and 2003

get involved procurement by national agencies, LGUs and government owned and controlled corporations (Table 2). This excludes procurement by LGUs and Government Owned and/or Controlled Corporations (GOCCs) placed at around Php 50 Billion a year and for Build-Operate-Transfer (BOT) projects with private sector participation, estimated at about Php372 Billion in 2001<sup>2</sup>.

**1.5** The potential for procurement reform, and the budgetary savings realizable from more transparent and accountable procurement, is high. The experience of textbook and drugs procurement under World Bank-financed projects demonstrated that adoption of more transparent procurement processes and International Competitive Bidding (ICB) practices reduced unit prices of textbooks by about 40 percent—this translated into a savings of about Php1.2 billion for the Department of Education. In the case of DOH, unit prices of TB Drugs were cut by 33 to 94 percent, similarly

translating into a substantial savings. However, the possibility of reforms being blocked by vested interests is a major concern.

## Key Findings of the CPAR

**1.6** From the overall findings of the CPAR, the public procurement system in the Philippines is dysfunctional. It is characterized by multiple laws, rules and regulations which while adhering to the principles of competition and transparency, are inefficient and prone to abuse. It also contributes to lowering public funds' value for money. The following are the key reasons why the system, despite considerable efforts in the past, does not function well.

- Proliferation of outdated and fragmented laws and the multiplicity of uncoordinated executive issuances. At times they are inconsistent with one another. They constitute a source of confusion, vacillation in decision mak-

*From the overall findings of the CPAR, the public procurement system in the Philippines is dysfunctional. It is characterized by multiple laws, rules and regulations, which do however adhere to the principles of competition and transparency, but it is inefficient, and prone to abuse<sup>3</sup>. It also contributes to lowering public funds' value for money.*

<sup>2</sup>Presentation by Dr. Edgardo Jose L. Campos Jr., in the PWI Press Briefing, October 5, 2001.

<sup>3</sup>Addressed by the omnibus procurement law signed by President Arroyo on January 10, 2003.

ing, slow procurement action, difficulty in enforcement and vulnerability to corruption.

- Absence of a single agency with a mandate for: (a) formulating procurement policy, rules and procedures, (b) ensuring that these issuances are disseminated to and understood by implementing agencies, (c) monitoring and evaluating compliance, (d) providing tools to attain efficiency, accountability and economy, and (e) increasing capacity building opportunities, increasing capacity building opportunities and a higher level of professionalism in the procurement function.
- Inadequate dissemination and updating of procurement rules and regulations. The lack of parallel training programs for consistent and efficient implementation.
- Serious weakness in the capacity of members of Bids and Awards Committees (BACs) as well as those of Technical Working Groups (TWGs).
- Treatment of Annual Procurement Plans as mere compliance with budgetary requirements. They are not viewed as tools for efficient implementation, monitoring and evaluation.
- Allowing the practice of negotiation with the lowest calculated or evaluated bidder to meet budgetary ceiling requirements.
- Serious delays in registration and licensing of contractors and suppliers.
- Political interference in the bidding process when funding comes from congressional insertions and countryside development funds (CDF) of politicians.
- Procrastination by bidding committee members due to risk averseness when evaluating complicated or controversial procurements. This often results in re-bidding as an exit strategy.
- Serious weaknesses in monitoring and enforcing procurement rules and regulations.
- Insufficient advertisement for small and medium-sized contracts at the LGU level.

- Surety law does not provide security for contracts callable on demand. Bank guarantees and irrevocable letters of credit are prohibitive in cost and difficult to obtain from commercial banks.
- Allowing unsolicited proposals does not promote transparency in the privatization process.
- Inadequate mechanism for encouraging legitimate complaints and lack of efficient administrative procedures for handling them.

**1.7** The above key issues mean that despite the GOP's efforts to streamline the process (as mentioned below), waste continues in the use of public resources. More so, the ongoing decentralization of government functions to LGUs poses an even greater risk.

**1.8** The opportunities for procurement reform are enhanced under the new Administration of President Gloria Macapagal-Arroyo. Her State of the Nation Address last July 2001 underscored the urgent need for good governance. Last October, when Congress failed to pass an omnibus procurement law, she showed resolution by streamlining procurement via an EO 40. It consolidated various rules and regulations on procure-

*President Gloria Macapagal-Arroyo underscored the urgent need for good governance, and streamlined procurement through an Executive Order, which consolidated rules and regulations. The President has set as a top priority the passage of the omnibus law on procurement, and the CPAR has helped to identify specific reform measures for strengthening the legal and policy framework, strengthening organization and staffing, improving practices and processes, and enhancing transparency.*

ment. And now that the new Congress is in session, she has submitted as top priority the need to pass the omnibus law on procurement.

**1.9** The 2002 CPAR exercise is therefore timely. Backed by the GOP's strong ownership of the exercise, the CPAR working group identified the following specific reform measures.

### ***Strengthening the Legal and Policy Framework***

- By the end of the year, Congress would have passed the new procurement law covering all entities of government, including LGUs, with provisions for sanctions against violators<sup>4</sup>.
- Sixty days after the approval of the new Procurement Law, DBM would have prepared the omnibus law's implementing rules and regulations.
- By end of 2003, the COA would have updated the Government Accounting and Audit Manual (GAAM) in particular the portion related to procurement rules and procedures.
- By June 2003, the Construction Industry Authority of the Philippines (CIAP) would have issued a directive allowing foreign contractor to bid without a Philippine License. (They will be required to secure one prior to award.)
- By middle of next year, DBM would issue a directive replacing surety bonds as a form of security with Bank guarantees, letters of credit or other forms.
- By middle of 2003, under of the leadership of the National Economic Development Authority (NEDA), the Build-Operate-and-Transfer (BOT) law and its "unsolicited proposal" rule would have been reviewed. A course of action would have been recommended to ensure fairness and transparency in the privatization process.
- By June 2003, the Construction Industry Authority of the Philippines (CIAP) and the Department of Public Works and Highways (DPWH) would have reviewed the law on arbitration aiming to align it with international practice.

<sup>4</sup>Passed by Congress in December 2002.

<sup>5</sup>The GPPB was established in January 2003.

### ***Strengthening Organization and Staffing***

- By June 2003, DBM and NEDA would have established the Government Procurement Policy Board (GPPB) as the procurement oversight entity. It would be empowered to: (a) regulate procurement processes, (b) formulate policy, rules and regulations, (c) monitor and evaluate compliance by implementing agencies, (d) promote the use of state-of-the-art tools to attain efficiency, economy and accountability in the procurement process, and (e) maintain capacity building by improving the professionalism of the procurement function within the civil service<sup>5</sup>.
- By June 2003, DBM will have finished the study for spinning off its Procurement Service (PS) into a separate corporate entity. It will provide efficient service to agencies for the delivery of commonly used supplies. It will not compete with the private sector in the process.
- By the end of 2003, the Civil Service Commission (CSC) in collaboration with DBM and all concerned agencies, would have finished the study on how to professionalize the procurement function in the civil service, to make the function independent of political influences.
- By June 2004, the DBM and the CSC would have developed a sustainable procurement training program with the cooperation of reputable institutes of learning. Attendance will be a requirement for current and future members of bidding committees, TWGs and other staff involved in procurement.

### ***Improving Practices and Processes***

- By the end of 2004, to enforce the regulation on transparency, compliance to mandated processing lead times and the procurement plan, COA would have included review of procurement as an audit step. An appropriate training program for auditors on procurement audit would have been developed.

- By middle of 2003, CIAP, in coordination with NEDA and DPWH, would have finished the study on registration and licensing of contractors, together with an action plan for implementation.
- By June 2003, as ensured by DBM, the Implementing Rules and Regulations (IRR) of the new Procurement Law would prohibit negotiation of price and contract amounts for goods and projects after bid opening.
- By the end of 2002, the Department of the Interior and Local Government (DILG) and DBM would have developed a framework and guidelines for Congressional insertions and the Countryside Development Fund (CDF) to prevent the improper use of these funds<sup>6</sup>.
- By June 2003, price monitoring will be included as an important function of the Government Procurement Policy Board (GPPB) as assured by DBM.
- By June 2003, the CSC would have finished the study on how to provide support to members of bidding committees and TWGs to prevent harassment.
- By December 2003, the Bangko Sentral ng Pilipinas (BSP) together with the WB would have reviewed the operations of domestic letters of credit. This aims to reduce transaction costs and thus promote the use of the instrument to expedite the payment process.
- By June 2003, the Department of Trade and Industry (DTI), together with the Philippine Shippers' Bureau (PSB) would have completed the study on the financial impact of the Flag Vessel Law. By December 2003, they would have revised the policy of waivers for non-Philippine flag vessels for the shipment of goods from Korea and Japan.

### **Enhancing Transparency**

- By June 2003, DBM and the PS would have pushed

for 60% implementation by all agencies of the government electronic procurement system.

- By December 2004, the computerized registry would have been used by all projects, as assured by the DPWH.
- By June 2003, Procurement Watch International (PWI) would have developed guidelines and training manuals for civil society organizations for monitoring public procurement.
- PWI and Transparency International Philippines (TIP) have on-going programs to encourage and monitor civil society's participation in procurement at all levels.
- The IRR of the new Procurement Law will incorporate a complaint mechanism aimed at encouraging legitimate complaints and an efficient procedures for handling them.

## **Sectoral Case Studies**

**1.10** The case studies conducted on four sectors, namely, Health, Education, Public Works and LGUs have likewise produced a number of reform measures specific to each sector (Table 3). Members of the working group representing each sector will monitor the implementation progress. Regular reports to the working group will be made.

## **Need for Overall Governance Reforms**

**1.11** The above-mentioned measures will help make the Philippines' public procurement system economic, efficient, transparent and more predictable. Yet, they will not be enough to completely deter corrupt and collusive practices. The most efficiently designed system will be prey to abuse if it is not managed by a Government with firm political will. Reforms will therefore be needed in other areas such as public financial management, accounting and internal

<sup>6</sup>The framework and guidelines for Congressional insertions developed in December 2002.

Table 3: **Sectoral Reform Measures**

Streamline the policy on textbook content evaluation	DepEd	Done
Training, empowerment, and professionalism of the bid committee members	DOH	June 30, 2002
Streamline the procedure for contract review by the Legal Services Division	DOH	June 30, 2002
Review the staffing of the Procurement and Logistics Service	DOH	June 30, 2002
Conduct a study on the price of pharmaceuticals	DOH	Sept. 30, 2002
Revise Section 1-A, Rule IV of the IRR of Republic Act 8047 and General Policy No. 5 of the National Book Policy to relax its requirements on the importation of raw materials for textbooks	DepEd	Dec. 31, 2002
Standard estimated cost per classroom, for budgetary purposes, should not be a limitation to the resulting bid price	DepEd	Dec. 31, 2002
Develop an effective procurement planning and inventory monitoring system at the Regional, Division, District and School Levels	DepEd	Dec. 31, 2002
Strengthen the Department of Education's (DepEd) procurement capacity	DepEd	Dec. 31, 2002
Establish a National Drug Price Monitoring System	DOH	Dec. 31, 2002
Strengthen the Bureau of Food and Drugs' capacity to shorten the registration process	DOH	June 30, 2003
Develop a mechanism to monitor and evaluate the performance of the suppliers, constructors, and consultants	DOH/ DepEd	June 30, 2003
Review and implement Department of Health (DOH) reforms in terms of decentralizing procurement	DOH	Dec. 21, 2003
Develop a mechanism to ensure wider participation and competition	DPWH	Dec. 31, 2003
Streamline the cash allocation and approval process to avoid delay	DOH/ DepEd	Dec. 31, 2003
Provide/strengthen quality assurance mechanisms for design and supervision	DPWH	June 30, 2004
Amend the law to allow textbooks of foreign authors to compete for use as Science, Math and English textbooks in the Philippines	DepEd	Dec. 31, 2004

control, auditing, judicial systems and the civil service. All these are currently the focus of the Government's efforts to fight corruption.

## Ingredients for Successful Reform Implementation

### **CPAR Working Group**

**1.12** The Government's firm commitment must be sustained. It is thus essential to continue the CPAR

Working Group (WG), possibly transforming it to a "Procurement Technical Support Group (TSG)" until the GPPB oversight organization becomes fully operational. This is necessary to ensure that the dialogue for reform implementation continues, and that the monitoring of agreed actions is carried out. The Bank must be able to provide funding and staff support for the continuous operation of the Group. In addition, the members of the Group must be exposed to the experiences of other countries that underwent procurement

reform. They can adopt the lessons learned from those experiences. Participation in procurement reform workshops and related training exercises are essential.

### **Donor Community Assistance**

**1.13** The CPAR identified the technical assistance for the agreed reform measures taking into consideration the stated deadlines. In this instance, the donor community must be tapped to provide the needed resources to carry out the reform measures. A meeting with the donor community should be organized by the CPAR WB (or the GPPB Technical Support Group, if already in existence) for this purpose.

**1.14** It is worth noting the recent donor interventions on procurement such as: (a) Study on Modernization of Procurement; and (b) the Report on Streamlining Procurement for Project Implementation Efficiency conducted by NEDA through the funding of ADB.

**1.15** Technical assistance through the Institutional Development Fund grant of the World Bank has been accepted internally in the Bank. It will support the following reform measures:

- Passage of the Omnibus Procurement Law
- Preparation of the IRRs
- Establishment and operation of the procurement oversight board
- Development of the national training program
- Professionalization of the procurement function in the civil service
- Corporatization of the PS

### **Success Monitoring Indicators**

**1.16** Finally, the CPAR Working Group shall establish appropriate monitoring indicators to measure the progress, success or failure of the Action Plan, as well

*Firm political will is needed to make the Philippines' public procurement system economic, efficient, transparent and more predictable. Complementary reforms will also be needed in public financial management, accounting and internal control, auditing, judicial systems and the civil service.*

as to identify solutions in case of difficulties. These indicators shall cover the following topics: (a) interest of international competitors measured by the number of international bidders in a particular competition group or thresholds; (b) proficiency of procurement staff to be trained annually; (c) number of rebidding being called; and (d) processing times for the

procurement processes.

### **Strengthening Procurement and Project Management in Bank-Financed Projects**

**1.17** The current portfolio of Bank-financed projects in the Philippines has 25 operations with a net commitment of US\$1.4 billion and an undisbursed balance of US\$0.9 billion. The size of the portfolio, in terms of number of operations, will likely remain stable in the next three years. Total disbursement in Fiscal Year 2001 was US\$125 million under investment projects, for a ratio of 11.9 percent. This is below the regional standard of 18 percent. The generic implementation issues facing the Philippine portfolio are weak project and procurement management, slow replenishment of funds, limited monitoring capability and uneven capacity of Local Government Units (LGUs) to undertake procurement..

**1.18** Since the 1997 Country Portfolio Performance Review (CPPR), the Government and the Bank recognized that procurement was the major portfolio issue. Measures were instituted to improve procurement, such as (a) strict enforcement of lead times; (b) close monitoring of procurement activities by implementing agencies with supervision from oversight agencies; and (c) focused training of procurement staff. These measures were seriously implemented, so improvements followed in the ensuing year. However,

since 1999, the portfolio based on disbursement performance was weakening again.

**1.19** The identified measures to address the weakening portfolio performance are:

- Joint portfolio reviews with the ADB and the Japan Bank for International Cooperation (JBIC)
- Regular project review and visits by the World Bank Office Manila (WBOM) portfolio team
- Close monitoring of the status of implementation and procurement plans in every supervision mission
- Conduct of ex-post reviews on a regular basis, preferably jointly with the statement of expenditures reviews
- As agreed in the October 2001 meeting with the Association of Project Directors (Club of 29), the monitoring of performance through the Procurement Benchmark and Disbursement Target system (PBDT)<sup>7</sup>

*Since the 1997 Country Portfolio Performance Review (CPPR), the Government and the Bank recognized that weaknesses in procurement were a major portfolio issue. Measures were instituted to improve procurement, such as (a) strict enforcement of lead times; (b) close monitoring of procurement activities by implementing agencies with supervision from oversight agencies; and (c) focused training of procurement staff. These measures were seriously implemented, so improvements followed in the ensuing year. However, since 1999, the portfolio based on disbursement performance was weakening again.*

**1.20** As regards investigating allegations of fraud and corruption, the Bank will rely on its Integrity and Investigation Unit (INTIU) and apply sanctions where called for. INTIU visited the Philippines twice last year.

### **Risk Assessment**

**1.21** The CPAR assessed the procurement risk as *average* (Attachment 1). The Philippines' Public Procurement System, through its various

laws, rules and regulations, adheres to the principles of competition, fairness and transparency. However, there are serious weakness in the implementation of the system which led to: (a) cumbersome procurement processes and unnecessary delays; (b) inadequate capacity of implementing agencies; (c) ineffective oversight; (d) high incidence of re-bidding; and (e) lack of accountability.

**1.22** In terms of translating the risk on Bank-financed projects to actual implementation, the CPAR proposes the following thresholds:

<b>Amount of Threshold per Contract for Procurement Methods and Prior Reviews</b>			
<b>Item</b>	<b>Category</b>	<b>Infrastructure Sector (per contract)</b>	<b>Other Sectors (per contract)</b>
ICB	Works	Over \$2,000,000	Over \$500,000
	Goods	Over \$500,000	Over \$200,000
NCB	Works	Over \$200,000 to \$2,000,000	Over \$50,000 to \$500,000
	Goods	Over \$100,000 to \$500,000	\$20,000 to \$200,000
Prior Review	Works	More than \$2,000,000	More than \$500,000
	Goods	More than \$500,000	More than \$200,000
	Consultant Services-Firm	More than \$100,000	More than \$100,000
	Consultant Services - Individual	More than \$50,000	More than \$50,000
National Consultant Shortlisting		Not more than \$200,000	Not more than \$200,000

<sup>7</sup>The PBDT System was replaced by the Procurement/Selection Planning and Monitoring System (PSPMS) in December 2002.



# The Public Procurement Regime

## Legal Framework

**2.1** The Philippines is a democratic and republican state which, under the 1986 Constitution, adopts the centralized presidential form. The powers of government are exercised by three independent and co-equal branches, namely: the *Executive Branch* which enforces the laws headed by an elected President for a term of six years; the *Legislative Branch* which promulgates the laws and is vested in a bicameral Congress consisting of the Senate and a House of Representatives; and the *Judicial Branch* which settles disputes involving rights of contending parties under the law, and is vested in the Supreme Court, an appellate court, and various other special and lower courts.

*Public Procurement is governed by a separate body of laws and regulations, consisting of more than 40 legislative enactments, Executive Orders (EOs) and administrative orders (AOs) presidential decrees (PDs) and issuances from government agencies.<sup>1</sup>*

**2.2** The Philippine legal system is basically civil law, with a written Constitution and a body of legislated statutes as the principal sources of law. Common law influence, however, is traceable in some commercial and procedural laws derived from American legal institutions. Also, the Shari’ah legal system is actually recognized and enforced in the Philippine Autonomous Region in Muslim Mindanao.

**2.3** Public Procurement is governed by a separate body of laws and regulations, consisting of more than 40 legislature enactments, Executive Orders (EOs) and administrative orders (AOs), presidential decrees (PDs) and issuances from government agencies. The primary responsibility for the implementation and execution of procurement laws and regulations rests with the heads of agencies or offices and the evaluation and award processes are handled by ad hoc Bids and Awards Committees (BACs) in each agency or office. Generally, pro-

urement is viewed from the identification of the item to be procured up to completion of the works or delivery of goods.

### Main Concerns

**2.4** Public sector procurement is characterized by outdated and fragmented laws and a proliferation of uncoordinated executive issuances. They prescribe a variety of procurement procedures and requirements which at times are not consistent with one another.

Hence, there is an urgent need to review and revise the procurement laws and EOs. New legislative measures will embody the best procurement reform ideas suitable to Philippine conditions.

**2.5** The multiplicity of EOs, Implementing Rules and Regulations (IRRs) and other agency issuances result in overlapping and uncoordinated directives. They create ambiguity and uncertainty in some procurement procedures (Table 4). It is therefore important to review the propriety and acceptability of the proposed rules against standard international practice. As of May 2002, there are three versions of the proposed law pending in the Senate and one consolidated version in the House of Representatives.

**2.6** Furthermore, most EOs and IRRs are promulgated to fill gaps left by the absence of a comprehen-

Table 4: **Partial Inventory Count of Procurement Issuances**

Implementing Rules and Regulations	7
Executive Orders	14
Memorandum Circulars	3
Other Administrative Issuances	17
Partial Total	41

<sup>1</sup>Republic Act No. 9184, Government Procurement Reform Act, consolidated all laws into one by January 2003.

sive procurement law. They are normally limited to providing implementing details of an existing law, not to substitute it. They do not cite the laws authorizing their promulgation, although administrative issuances normally require a legal or statutory basis for their validity. And they do not indicate in their repealing clauses the specific provisions of previous EOs and IRRs, which are amended, modified, or repealed. This makes the enforceability of some previously imposed provisions uncertain.

**2.7** The Commission on Audit (COA) at times disseminates procurement laws and executive issuances for compliance by field auditors. However, as the executive issuances are changed, they are not always accompanied by corresponding changes in the COA rules. Controversies arise about which rule to follow.

**2.8** Some martial law era policies and practices need to be re-examined. The role of DBM as procurer of commonly-used supplies for the entire bureaucracy under Letter Of Instructions (LOI) 755 (1978) and regularized in EO 359 (1989) needs to be subjected to the scrutiny of the regular legislative process. The practice of allowing downward price negotiation after public bidding and/or after contract award should be probed.

### **Main Recommendations**

**2.9** The main issue is the proliferation of EOs, AOs, and IRRs, which do not supersede each other or do not repeal the existing/previous rules. The preparation of Executive Order (EO) 40 was a tremendous ef-

fort to consolidate all the documents, but it does not have the power of law. Therefore, the CPAR team recommends that an omnibus law on public procurement be passed by Congress and promulgated and executed. It will consolidate, organize and/or cancel the existing documents, and give a real legal basis to public procurement. The IRRs have to be prepared accordingly.

**2.10** Aside from the recommendation for the passage of the new procurement law, it is important to emphasize the propriety and acceptability of the rules,

*Republic Act No. 9184  
or the Government Procurement Reform Act  
was signed into law by President Gloria  
Macapagal-Arroyo on January 10, 2003.  
The Act is designed to “fight graft and corruption,  
improve operational efficiency, bolster  
transparency in bidding procedures and  
encourage competition,” said the President  
in signing the new law<sup>2</sup>.*

taking into consideration international practice, that are included in the different versions of the draft Procurement Bill pending in both houses of Congress. As major weaknesses had been identified in the draft legislation, it is therefore incumbent upon the Bank, through this CPAR, to communicate to the Government the

recommended improvements prior to the approval of the bill by Congress.

## **Organizational Framework**

### **Organizational Set-Up**

**2.11** The overall procurement function is vested to: (a) the head of each national agency or instrumentality; (b) the governing board for government owned or controlled corporations (GOCC); and (c) the elected head of each LGU. Normally, the size and capacity of the procurement organization would depend on the volume of procurement work that each agency must accom-

<sup>2</sup>The CPAR was completed in June 2002 and contained many joint recommendations by the GOP and the Bank which were included in the new law.

plish. Regulations, such as PD 1594, EO 262, and the recently issued EO 40, mandate the creation in each agency of bid and selection committees. Some of their members work on an ad hoc basis. These are: (a) the Bid and Award Committee (BAC) for procurement of works and goods and (b) the Pre-qualification Evaluation and Awards Committee (PEAC) for the selection of consultant services. These committees are assisted by secretariats to handle the administrative function in the bidding process. EO 40 mandates the creation of a permanent Procurement Secretariat with fixed responsibility. This is in the interest of efficiency. The Technical Working Group (TWG) assists the committees in the technical evaluation of bids. Further, EO 40 provides that the contract approving authority must not be involved in the bid evaluation process.

### ***Function and Ad Hoc Staffing***

**2.12** The BAC and PEAC determine the eligibility of prospective bidders or consultants, receive and open bids or proposals, conduct the evaluation of bids or offers, undertake pre-qualification and post-qualification proceedings, and recommend the award of contracts. The scope of the BAC and PEAC activities spans the pre-procurement conference up to the recommendation of the award. It is chaired by at least a third-ranking official of the agency with at least four voting members, namely: the agency's Legal Officer as Secretary, a technical member, and representatives from Finance and from the end-user. Representatives from non-governmental organizations (NGOs) and the COA are required as observers.

**2.13** Large agencies like the DepEd have a pool of officers from which the Secretary can designate members of the Committee for each specific procurement package. Others, like the DPWH and DOH, designate membership for one year from among its senior and middle managers. Although EO 40 instructed a permanent set-up, the BAC and PEAC Secretariat, in most agencies, are still ad-hoc and their members are designated together with the Committees. The same is true for the TWG. The ad hoc staffing provides a built-in check to the system, due to the rotation of member-

ships. However, for organizational control to be effective, the set-up requires a cadre of officials and managers that are qualified to perform procurement functions. In most agencies, proficient procurement staff are lacking. Consequently, non-procurement proficient staff are often designated, and this sometimes derails the process of decision making. Worse, the proficient staff hesitate and sometimes refuse to be designated as members of the committees. After all, the function is an added burden to their original jobs, and they are given no incentives. In the Department of Health (DOH), some members of the Committee have experienced harassment from losing bidders. It is often perceived that those who want to become members of these procurement units have personal hidden agenda.

### ***Professionalize the Procurement Function***

**2.14** The 1997 CPAR had strongly recommended capacity building for implementing agencies to carry out their procurement work. In support of this recommendation, the Bank utilized resources from the Strategic Compact to conduct a series of training workshops for procurement staff in all sectors. In 1998, the Bank established a self-sustaining training program with the Asian Institute of Management (AIM), which was selected competitively among institutes of higher learning. The curriculum covers procurement management within the larger context of project management. Five courses have been delivered and the training is being offered in two regional courses per year. AIM is now considering the possibility of establishing a graduate degree program with a specialization in procurement management at the masters level. Other lending institutions, such as ADB, JBIC and other bilateral donors, conduct their own training for staff implementing their projects.

**2.15** As mentioned, honest and proficient staff would not want to remain in procurement for a long time. Sometimes procurement can be a hazardous job. Training alone is insufficient for a civil servant to pursue a career in procurement. It is therefore necessary that the position and title on procurement be institutionalized within the civil service, not only at the na-

*The CPAR team's recommendation is to professionalize the procurement function and establish a national training program to strengthen the capacity of civil servants involved in procurement at the national and LGU levels.*

tional agency level but also at the LGU level. Moreover, the qualification requirement for such career positions should be integrated into the educational stream, whether at the college or graduate level. The CPAR recommends that a study be conducted along the objectives mentioned. Discussions with the Civil Service Commission (CSC) revealed support for such a study.

**2.16** The need to build capacity in procurement was recognized a long time ago but the determination to build sustainable capacity is wanting. Due to fiscal constraints, the budget for training amounts to Nine Hundred Pesos (Php900.00) per training course per employee. This is unrealistic as the regular procurement management training course offered by AIM costs US\$2,000.00. Except for the classes of AIM, there is no regular procurement training course that caters to the needs of agencies. The technical assistance component in foreign-assisted projects is tapped by agencies to provide the funding for institutional strengthening, including procurement training. In the absence of such funding, however it will be important to formulate a strategy for sustainable capacity building in procurement, along the lines of professionalizing the function and establishing a national training program.

### **Main Recommendations**

**2.17** The main issue is the absence of a real profession of procurement specialists in the civil service and the ad hoc nomination of the BAC members. Hence, there is a strong need to ensure that these persons are procurement certified and independent of political

influences. *The CPAR team's recommendation is to professionalize the procurement function and establish a national training program to strengthen the capacity of civil servants involved in procurement at the national and LGU levels.*

## **Oversight and Regulatory Framework**

**2.18** There is no single central public agency exclusively tasked with regulating and overseeing procurement. However, certain agencies and ad hoc bodies exist with varying oversight responsibilities.

- **Procurement Policy Board (PPB)**<sup>4</sup>. This comprises the Secretaries of DBM (as chair), Department of Finance (DOF), Department of Trade and Industry (DTI), DOH, the Department of National Defense, Department of Public Works and Highways (DPWH) and Department of Education (DepEd), and a representative from the Institute of Certified Public Accountants. The body promulgates rules for the operations of the Procurement Service (PS) and other agencies, and conducts evaluations of the centralized system for the procurement of goods.
- **Committee on Infrastructure of National Economic Development Authority (NEDA)**.<sup>4</sup> This body monitors, among others, the processing time used in the bidding process by government agencies in works and services contracts. It also promulgates rules and regulations to amend the existing ones for procurement of works and consulting services.
- **Disciplinary Committee**. This is an inter-agency committee created pursuant to AO 129. This is under the Office of the President, and it imposes sanctions for government officials' non-observance of established deadlines for bidding and awarding of works and consulting services contracts. This committee last convened in 1998.
- **Philippine Licensing Board for Contractors**. This Government agency issues, suspends and revokes contractors' licenses.

<sup>4</sup>PPB and NEDA Infracom handling procurement were dissolved by the creation of GPPB under RA 9184.

- **Construction Industry Arbitration Commission.** This body rules on disputes arising from, or connected with, contracts entered into by parties involved in construction, including those involving the government.
- **Department of Budget and Management-Procurement Service (DBM-PS).** This operates a government-wide procurement system from which all National Government Agencies (NGAs), state colleges, and government corporations are required to procure their commonly-used supplies, materials, and equipment needs. The PS also monitors their prices.
- **Systems and Procedures Bureau of the DBM.** This body develops standards and specifications for commonly-used supplies, materials and equipment, in coordination with DTI and DOST. It designs an integrated supply management system for government and conducts studies to improve the purchasing system.

*The CPAR team recommends that an Oversight Entity<sup>5</sup> be established by law to: (i) oversee the procurement function; (ii) ensure quality and regulate the status and training of the procurement staff; (iii) maintain a public procurement website to disseminate agency procurement requirements and activities; and (iv) monitor prices via an electronic billboard which publishes up-to-date market prices of commonly-used commodities.*

ducted to define the detailed functions to be covered. In addition, to expedite the operation of the single oversight entity, the CPAR recommends that the CPAR Working Group, under the DBM, acts in the interim as facilitator and support group to the current Procurement Policy Board (PPB). In the meantime, the CPAR WG should define the role, organization and staffing of the oversight entity so that it could be involved in the preparation of the IRRs.

**2.20** The CPAR team recognizes the importance and professionalism of the Procurement Service. To ensure independence and accountability, the CPAR recommends a study to propose the needed steps towards the conversion of the PS into an independent and corporatized entity.

## Government Procurement Processes and

### Practices

**2.21** In general, laws and administrative issuances mandate the transparency of procurement proceedings. Competitive public bidding requires the public advertisement of requests for bid quotations through general newspapers, through the posting of notices in conspicuous public places, and lately through government websites. Thus, invitations to bid are required to be advertised publicly at least twice within two weeks with at least seven days between publications in two newspapers of general circulation. The Official Gazette is published weekly and is available to anyone. Public bid opening is undertaken by the BAC, which includes membership from the private sector and the COA. It is required to follow the prescribed procedure for evaluating bids. Biddings are conducted via the two-envelope

### **Main Recommendations**

**2.19** Given the number of entities involved in the oversight of procurement, the CPAR team recommends that an Oversight Entity be established by law to: (i) oversee the procurement function; (ii) ensure quality and regulate the status and training of the procurement staff; (iii) maintain a public procurement website to disseminate agency procurement requirements and activities; and (iv) monitor prices via an electronic billboard which publishes up-to-date market prices of commonly-used commodities. It was agreed that a study on the scope of work of the oversight committee will be con-

<sup>5</sup>Single oversight entity established under RA9184.

lope system, where one contains the eligibility/technical requirements, and the other has the bidding documents. The bid opening is public, and may be attended by bidders or their representatives.

### **Main Concerns**

- **Transparency.** Even with all the legal documents in place, it is recognized that the transparency of public procurement is not sufficient. There are still too many influences jeopardizing the procurement process. A high rate of re-bidding and price negotiations before award often result in this situation. Re-bidding is becoming a natural tool when the result of the bidding is not in line with expectations, or the lowest bidder is not qualified. The strategy for the first case is evident. For the second, political pressures from the disqualified bidder intimidate BAC members. Re-bidding sometimes becomes an exit strategy.
- **Complaint Mechanism.** The IRRs of EO 40 prescribed an appeal procedure that mandates that “bidders who are not in favor of the BAC’s decision may appeal to the Head of Agency within seven days from the issuance of such decision.” The complainant has to file a non-refundable fee of Php50,000 for contracts amounting to Php10 million and Php100,000 for larger contracts. The rationale for the fee is to discourage irresponsible protests from going beyond the agency head. The procedure could have the effect of discouraging legitimate protests.
- **Lead Time.** Lengthy processes characterize public procurement, and bids get to be extended on a regular basis. AO 129 stipulates a maximum time per activity and this should be enforced by the heads of agencies and the BACs. It should be monitored through procurement audits.
- **Procurement Plans.** Procurement plans are developed for budget purposes but their implementation is not monitored due to insufficient procurement staff. Further, there is no specific link between budget formulation, planning of activities and procurement execution. Persons in charge of

procurement in the different departments should monitor the procurement process in accordance with the stated leadtime.

- **Registration and Licensing of Contractors.** It is a practice to require foreign contractors to be registered and licensed in the Philippines prior to the bidding. The contractor has to embark on a long process and establish offices in the country before getting the license.
- **Negotiation of Contract Price.** The review highlighted price negotiation as one of the key entry points for possible corruption. The bidding documents do not allow the reduction of quantities along pre-agreed percentages. Hence, some parties negotiate with the lowest bidder to stay within the approved budget. The CPAR group recommends the introduction in the new law (or in the IRRs) a proviso to allow departments to reduce quantities of the lowest calculated responsive bidder. That will let the departments reduce the contract amount when needed.
- **Congressional Initiative and Countryside Development Fund (CDF).** This provision may allow more funds to be channeled at the district level for investments to support the population. However, the actual procurement practice is not transparent as some sponsoring congressman are purported to pre-determine the winning contractors. This jeopardizes the credibility of the process and compromises the integrity of BAC members.
- **Price Monitoring.** Some entities such as the PS, COA, DOH and DTI are maintaining a price list of commonly used supplies. Price monitoring should be part of a normal and efficient procurement function in each department and office. However, there is a need for an oversight entity to supervise, monitor and process the prices from all departments. In essence, this will result in the monitoring of public procurement expenses of the Government.
- **Support to BACs.** Members of these committees, who are nominated on an ad hoc basis, do not have

the necessary training required of professional staff. They do not receive the needed support in case of external harassment.

- **Bonds, Bank Guarantees, Letter of Credits (LCs).** It is common to use surety bonds as bid and performance security. Unfortunately, these surety bonds are not really callable on demand and are very difficult to garnish. The practice demonstrates that a surety bond is not an irrevocable guarantee. Most foreign-assisted projects require bank guarantees or an irrevocable letter of credit as the form of bid and performance securities. However, on the other hand, bank guarantees and irrevocable LCs are not easily accessible to bidders, suppliers and contractors since Banks in the country are asking for the full amount of guaranty to protect themselves. In this instance, it would be practical to study and develop alternative means to make the system flexible but ensure that the objectives in imposing bid and performance securities are attained.
- **Goods from Korea and Japan.** PD 1466 requires that imported goods should be transported by Philippine vessels. Since Philippine vessels go only to Japan and Korea, suppliers from these two countries are at a disadvantage compared to the other countries of the region, which can choose any vessel available. One can transport goods on another vessel only if the fare on Philippine vessels is more than 10% higher than the rest. A waiver must be secured from the Philippine Shippers' Bureau (PSB) before a non-Philippine vessel can be used. The CPAR WG finds this rule monopolistic, expensive and contrary to the rules of open competition.
- **Monopolistic Practices.** In general, one of the common procurement trends in the Philippines is the tendency to protect the local market from outside competition. That is, competitors are dissuaded by cumbersome administrative processes: licensing of foreign contractors, mandatory transport on Philippine vessels, restricted access to foreign textbooks, difficult access to the cheapest drugs from foreign countries, etc.

- **Pre-Shipment Inspection.** The Government no longer engages in automatic pre-shipment inspection. Public and private sector inspectors are left to their own arrangements. The result is that, in many cases, the pre-shipment inspection is neglected or inspection is done only upon arrival in Philippine ports. This increases the burden or risk of the importer. When inspection is done at the destination port, it increases the cost of remedy because goods have to be shipped back to the manufacturer for repair or replacement.
- **International Arbitration.** According to the Construction Industry Association of the Philippines (CIAP) and the Philippine Constructors Accreditation Board (PCAB), the Settlement of Disputes provision, which culminates in an international court, is not binding. The local party to the contract, if he/she so desires, may insist on having the final step of the process heard in a Philippine Court.

#### ***Main Recommendations***

- Enforce the regulation on transparency through procurement audits.
- Develop a complaint mechanism, which will encourage legitimate complaints from bidders and promote transparency in the process.
- Conduct a study on the registration and licensing of contractors. Design and implement an Action Plan to streamline these processes.
- Enforce processing lead-time through the application of sanctions and monitor the process through procurement audits.
- Strictly implement the procurement plan and develop and implement a training program for COA auditors on procurement audit.
- Prohibit the negotiation of price and contract amounts after bids are opened and favor reduction in quantities or introduce alternate solutions in the bidding documents.
- Develop a framework and guidelines for Congressional insertions and the CDF. Prepare terms of reference for a study.

- Include price monitoring as an important function of the Oversight Board.
- The CSC or the Office of Solicitor General should provide support to members of BACs/PEACs subjected to harassment.
- Discourage all forms of securities that cannot be garnished immediately. On bid security, the Bank could help in designing “on demand” satisfactory securities, which could be issued by non-banking

institutions. An alternative is, in lieu of bid security for small value contracts, establishing penalties in the new law and its IRRs, such as suspensions for bidders who do not sign the contract. For performance securities, the Bank could help in designing one which could be issued by non-banking institutions.

- Provide the same waiver for goods from Korea and Japan as other countries in the region following the Philippine Flag Vessel Law.

# Decentralized Procurement Practices at the LGU Level

## Overview

**3.1** The need for procurement reform at the sub-national or Local Government Unit (LGU) level cannot be overemphasized. At the core of development is the realization of the objectives of the Local Government Code, decentralizing, inter alia, the powers for the LGUs to handle various social, environmental, and infrastructure development formerly vested to the national agencies. Thus, LGUs' projected procurement outlays at Php51Billion in 2002 increased by 89% from the previous level in 2001. Moreover, the WB's portfolio is shifting its focus towards the LGUs, with the number of projects directly or indirectly involving the LGUs comprising more than 50 percent. As a consequence, a substantial part of public procurement will be managed at the sub-national level. The CPAR therefore has given the appropriate focus on LGU procurement.

*The need for procurement reform at the sub-national or LGU level cannot be overemphasized. At the core of development is the realization of the objectives of the Local Government Code, decentralizing, inter alia, the powers for the LGUs to handle various social, environmental, and infrastructure development formerly vested to the national agencies.*

mittee responsible for bid evaluation. He/she approves the contract. The influence of the LCE in the bidding is so far reaching that effectively whoever he/she prefers can win the contract if the LCE decides to operate in such a way.

### **3.4 Limited Capacity.**

Past experiences, in particular for Bank-financed projects, have shown that capacity in most LGUs for procurement management is very limited. This is due to the absence of professional staff tasked to perform procurement functions. Normally, this is done by the Treasurer or the Secretary

(or worse, clerical staff) in the municipality or province. In some cases where there are procurement staff, they are not well versed in procurement.

### **3.5 Non-Implementation of Approved Procurement Plans.**

Procurement plans are prepared by the LGUs to comply with budgetary requirements. However, once approved, most LGUs do not make use of the plan as an implementation tool. Sometimes, LGUs do not follow the plan and procure different items.

### **3.6 National Plans not Conforming to LGU Investment Plans.**

In some instances, the LGU's investment plans are not considered in the planning exercises of some national agencies. Hence, the concerned LGUs are unaware of the projects being implemented by the national agencies. Worse, some projects duplicate what the LGUs have planned for the same year. This is often true in projects funded by the CDF and the

## Key Findings

### **Main Concerns**

**3.2 Fragmented Regulation.** Procurement rules are fragmented and there is no specific regulation for the procurement of public works.

**3.3 Lack of Check and Balance.** The Local Chief Executive (LCE), such as the Mayor or Governor, is involved as Chairman of the bidding com-

Congressional insertions in the national budget.

**3.7 Delays in Processing Payments to Contractors and Suppliers.** As provided in the COA rules, public bidding must be conducted for contracts estimated to cost at least Php150,000.00. This amount was estimated more than 10 years ago and is no longer realistic. The consequence is that at the same time, money and effort is consumed for both large and small procurement deals. Also, there are too many steps in the payment process in most LGUs, so payment is delayed beyond the 30-day normal span.

**3.8 Lack of Systematic Record Keeping.** Most LGUs do not have well-ordered procurement filing systems. One cause of this is the absence of staff members who focus on procurement. No one is accountable to ensure that the files are complete and organized.

#### ***Main Recommendations***

**3.9** By December 2002, LGU procurement will be adequately covered in the proposed Procurement Bill and its IRRs, as assured by the DILG and the League of Cities and Municipalities.<sup>1</sup>

**3.10** By December 2002, the rule that the LCE shall not chair the BAC will be incorporated in the said law and its IRRs, as assured by the same bodies.<sup>1</sup>

**3.11** By June 2003, the DBM will issue a circular that will mandate strict implementation of the Annual Procurement Plan.

**3.12** By June 2003, the DILG will issue a circular enjoining all agencies to consult LGUs during the preparation of national plans for LGUs.

**3.13** By December 2003, the CSC and DILG will finish the study on professionalizing the procurement function and will start the implementation of the research. Also, the LGUs will be included in the national training program for procurement.

**3.14** By December 2002, the DBM and the GPPB will insure that the rationalization of procurement methods for LGUs are incorporated in the IRR of the procurement law. Also, by June 2003, COA will have finished updating the GAAM.

**3.15** DPWH or the PPB ensures that all provinces and cities will have effective procurement record keeping systems by December 2003. DILG ensures that all municipalities will also have the same system by December 2004.

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<sup>1</sup>The GPRA covered LGU procurement where Local Chief Executives are prohibited from chairing the Bids and Awards Committee.

# Procurement in Externally Financed Projects

## Weak Procurement Management

**4.1** Since the 1997 CPPR, the Government and the Bank recognized that procurement was a major portfolio issue. Both agreed on measures to improve project procurement such as: (a) strict enforcement of milestones and lead times in procurement; (b) close monitoring of procurement activities by the implementing agencies with supervision from oversight agencies; and (c) focused training of project staff. These measures gradually resulted in an increase in disbursement for the years 1997 and 1998. However, since 1999 the portfolio based on disbursement performance weakened again. In FY02 (July 2001-June 2002), however gross disbursement of projects that the World Bank supports

*It is necessary to take strong measures to improve portfolio and procurement performance. The consequences of slow procurement are: (i) delays in project implementation; (ii) increased costs in commitment fees; and (iii) delays in delivering project benefits to the poor.*

showed marked improvement again and the same pace of improvement is expected for FY03 (Table 5).

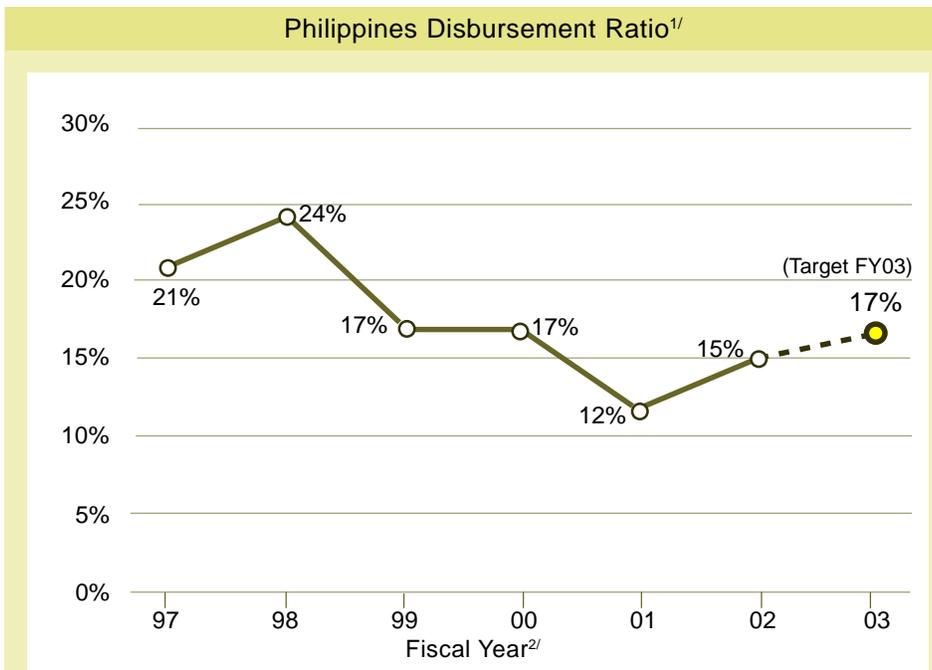
**4.2** It is revealing that projects with able management, such as the Social Fund (SZOPAD) and Agrarian Reform Communities Development Project were not affected by the performance downturn. On the other

hand, projects with poor performance were mostly those implemented by LGUs with very limited capacity for project management. It is therefore necessary to take strong measures to improve portfolio and procurement performance. The consequences of slow procurement are: (i) delays in project implementation; (ii) increased costs in commitment fees; and (iii) delays in delivering project benefits to the poor.

### NGAs

**4.3** Procurement procedures in projects financed by international institutions follow the procedures agreed upon in the loan or grant

Table 5: **Disbursement Ratio**



<sup>1/</sup> Actual disbursement over funds available at the beginning of the year.  
<sup>2/</sup> Bank's fiscal year—July 1 to June 30.

agreement. In the case of the WB and the ADB, the loan agreements identify the method to be used for the procurement of different components of the project. The guidelines issued by the lending institutions are followed. To control the process, the lending institutions provide no objection or clearances to bid documents or requests for proposals, evaluations and recommendations for award.

**4.4** Procurement remains slow, resulting in a poor disbursement performance ratio of merely 17% in FY 2000 and 12% in FY 2001. These were attributed to factors such as: limited capacity of implementing agencies, poor procurement planning, poor technical specifications, or interference from higher officials. In general, the implementation of projects is slow due to the “de facto” absence of procurement planning. Disbursements could be expedited by grouping the purchases, which follow the same rules of procurement. Another key issue is the frequency of re-bidding. This is due to the insufficient precision of the documents distributed the first time to the bidders.

#### ***LGUs***

**4.5** For want of projects, LGUs tend to jump at the first opportunity to access foreign-assisted projects, notably those of the WB and the ADB. There is a need to fully explain the nature of these projects, the policies, the processes involved and all aspects of the loan, especially financial feasibility. LGUs have to be educated on the intricacies of the project. LGUs that have experienced WB’s procedures are generally comfortable with its prescribed system—clear, comprehensive and consistent. However, some LCEs feel indisposed to some WB-assisted projects as the stringent rules prevent them from making unilateral decisions.

#### ***NGOs***

**4.6** NGOs are involved in many WB-financed projects at different levels: the majority are involved as consultant firms in implementing one or several contracts within a project. Overall project management and particularly procurement and financial management, is considered a weak area for NGOs. Based on this expe-

rience, therefore, the CPAR WG is recommending for future projects that: (i) the capacity of NGOs be assessed carefully (particularly the past-experience in managing projects, the financial management systems and past audits and the procurement capacity and capability); and (ii) conflict of interest within NGOs networks (between national boards and members or leaders of regional NGOs who are part of the network) be looked into. The implementation manual of the project shall clarify responsibilities and impose rules avoiding conflicts of interests in consultancies and decisions of recruitment of host NGOs.

#### ***Main Recommendations***

**4.7** During project pre-appraisal, the Procurement member of the Project Task Team must conduct procurement capacity assessment of implementing agencies to determine actions to be taken to attain good project and procurement management, particularly those involving the LGUs and the NGOs.

**4.8** The implementing agency should present doable procurement plans and provide the structure for monitoring, reporting and updating the plans.

**4.9** Prior to project appraisal, there should be an agreement as to the procurement organization that will manage the project and Terms of References for the key staff in that organization, including the training program for them.

**4.10** The implementing agencies must ensure that the technical specifications are complete and biddable to prevent re-bidding. The Operations or Implementation Manual should indicate clearly the responsibilities and accountabilities for preparing and finalizing the technical specifications for major procurements.

**4.11** Budgetary allocations, the usage of which are controlled by politicians, can be used as counterpart funds for procurement financed by the Bank when the procurement process strictly follows the Loan Agreement.

# Measures for Enhancing Transparency

## Government Anti-Corruption Institutions

**5.1** As early as 1930 the Revised Penal Code already punished a wide spectrum of crimes committed by public officers, including bribery, corruption, dereliction of duty, fraud against the public treasury, misappropriation of public funds, infidelity in the custody of documents and usurpation of powers. Subsequently, various other anti-corruption laws were passed, notably the Anti-Graft and Corrupt Practices Act; the Code of Conduct and Ethical Standards for Public Officials and Employees; the Ombudsman Act of 1989; the Witness Protection Program Law; the Plunder Law; and the latest, the Anti-Money Laundering Law. To enforce the foregoing laws there are a host of government anti-graft bodies:

- **Office of the Ombudsman** - a constitutional office mandated by law to act on complaints filed against government officers or employees, and enforce their administrative, civil and criminal liability.
- **Sandiganbayan** - a special anti-graft court created by the Constitution with exclusive jurisdiction over violations of the Anti-Graft and Corrupt Practices Act (RA 3019). It also has jurisdiction over offenses of public officials and employees connected with their office.
- **Civil Service Commission (CSC)** - a constitutional office that serves as the central personnel agency of the government. It is mandated to adopt measures to promote efficiency, integrity, and public accountability in the civil service.
- **Commission on Audit (COA)** - a quasi-judicial constitutional office mandated to audit the revenues and expenditures of Government, and to promulgate audit rules.
- **Department of Justice (DOJ)** - conducts preliminary investigations on criminal complaints against public officials if they rank lower than Salary Grade

27, and if the offense was committed in connection with his/her office.

- **National Bureau of Investigation (NBI)** - an office under the DOJ, conducts fact-finding investigations of graft cases and entrapment operations, including those against public officials and employees.
- **Presidential Anti-Graft Commission (PAGC)** - created through EO 12 (Series of 2001) to investigate administrative complaints against presidential appointees in the executive department charged with graft and corruption.

## Notable Anti-Corruption Programs of Government

- **Government Electronic Procurement System (GEPS)** - was established under EO 40 to enhance transparency, accountability, equity, efficiency and economy in government procurement. It serves as the single and centralized portal for the procurement of goods, supplies, materials and related services, civil works and consulting services. Further, EO 40 mandates that all government agencies and entities should post their advertisement in the centralized portal or EPS website. Likewise, the winning bid should also be posted. (Table 6).
- **Inter-Agency Coordinating Council** - a voluntary alliance of government agencies mandated by the Constitution and laws to promote and maintain accountability, integrity and efficiency in public service. It is composed of the Office of the Ombudsman, CSC, COA, DOJ, NBI and the Presidential Commission Against Graft and Corruption (now known as the National Anti-Corruption Commission). The objective of the Council is to foster closer cooperation, share information, and pool re-

Table 6

## The Philippines Government Electronic Procurement System

1. On November 22, 2000 the Procurement Service of the DBM, with help from CIDA, launched an internet-based pilot electronic procurement system (EPS) composed of a Public Tender Board, Electronic Catalog, and Supplier Registry. The system improved access to government opportunities, saved cost, and enhanced the efficiency and transparency of government procurement.

2. The DBM oversees government expenditures through the release of budgetary allotments for different government agencies and departments, while its Procurement Service (PS) handles the purchase of goods and services for over 1,800 client agencies and monitors prices of goods and services. Transparency in government procurement is a systemic problem in the Philippines, and added to this are inefficiency, poor service delivery and low sales volumes resulting from manual and paper-driven procurement processes. A 1999 study conducted by the PS with CIDA assistance showed that a pilot EPS could improve transparency, efficiency and value for money in government procurement.

3. The system went live on December 1, 2000, and is now being marketed by the DBM to other agencies. The EPS advertises bids electronically. Bids are received in hard copy and evaluated by hand. The evaluation and award results are then posted electronically.

4. The EPS is supported by several EOs and AOs. EO 40 of October 2001 and Republic Act No. 8792, dated June 14, 2000, recognize and encourage the use of electronic commerce in general and of electronic procurement in particular. Section 27 of the E-Commerce Law (R.A. 8792) also mandates that by mid-2002, Agencies/GOCC/GFIs shall "transact government business and/or perform governmental functions using electronic data messages or electronic documents...", leaving room for the selective application of electronic procurement, depending upon the degree of sophistication of the existing systems, as well as their applicability to specific types of procurement and specific procurement processes. The implementing rules and regulations of EO 262 state that "bid requirements should be placed in two consecutive issues of two newspapers of general circulation and posted in the EPS and the website of the concerned agency." The previous practice was to advertise the bids in three major newspapers—advertising on the EPS has saved the government

money in advertising costs. The total cost of the EPS pilot program has been estimated at about US\$400,000, shared equally between DBM and CIDA. Within six months after going live, the EPS had 86 agencies and 62 suppliers registered, and 71 bid notices posted on the EPS. (As of October 10, 2002, there are 1,797 agencies, 2,377 suppliers registered and 9,214 bid notices posted). Eventually all government procurement notices are envisaged to be posted on the EPS. Suppliers are able to access government bid opportunities 24 hours a day 7 days a week.

5. While the system has great potential for improving the transparency and efficiency of procurement, the GOP had noted the implementation challenges early and is taking steps to address them. For example, even with high interest and support for the EPS, its initial implementation was relatively slow. The reasons were numerous—agencies did not have the same resources or capacity for supporting the EPS, only about 25 percent of agencies trained in the EPS were ready for internet access, only about 8 percent of Filipinos were using the internet in 1999, there was resistance to change from employees who thought the EPS would lead to a loss of jobs, and this was also a time of larger political uncertainty and turbulence in the Philippines (the pilot testing ran into the presidential impeachment trial, the EDSA II people power revolution, and the assumption of office by a new government). Second, a key lesson learnt has been that the technology being used must consider the users' level of knowledge and skill, access to the necessary infrastructure/equipment and services, and needs and expectations. Third, leadership has to come from the highest levels of the government, and be sustained. Fourth, the agencies using the EPS must have intimate knowledge of their target market and know how to segment it—each segment will require a different marketing strategy and will have different service level expectations. Customers will start using a new system continuously only if it adds and continues to add value through its content and quality of information, and if the system and its support services meet or exceed their service level expectations. Third, in order that technical and logistical support can be provided on a timely basis, implementation and maintenance of the electronic procurement service is being bid out to the private sector.

*Source: DBM Case Study on the EPS*

sources for the more effective prevention, investigation, and prosecution of venalities in government.

- **National Anti-Corruption Plan** - an ambitious anti-corruption program proposed by the Development Academy of the Philippines; the Government's executive training center. Its vision is a clean government and a corruption-intolerant society. To attain this, the plan seeks to streamline government transactions; enforce anti-corruption policies and laws; promote integrity in the civil service; mobilize citizens against corruption and detect and prosecute corrupt officials and employees.
- **Government Purchases Information System** - a COA-initiated electronic price monitoring in formation system to assist government agencies in identifying suppliers offering the best market price of commonly bought goods. With the use of computers, the system collects prices of goods purchased by member agencies that undertook actual public biddings. It then transmits these data to the Government Procurement Information System (GPIS) Center.

## World Bank

**5.2** The Bank is active in looking into procurement performance and transparency in the Philippines. As part of its fiduciary responsibility, the Bank has embarked on a systematic expost-review exercise to have all of the 25 ongoing projects reviewed at least once during the fiscal year. An external audit of procurement in Bank-financed projects is scheduled for FY03. At the central level, the Department of Institutional Integrity (INT) was created with a mandate to investigate any allegations of fraud and corruption reported to the

Bank. A hotline (10511-1-800-831-043) with multi-lingual capabilities is available to the public all over the world. Hotline users can choose to remain anonymous. Cases that require further investigation are sent to the appropriate unit for investigation.

## Civil Society

**5.3** The Philippines has been prominent in involving civil society in the public procurement process to enhance accountability and transparency. This has happened at both national and local levels.

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**5.4** Procurement Watch, Incorporated (PWI) is a non-profit, non-partisan, civil society organization (CSO) created by a group of concerned individuals from government, academe, the legal profession and the private sector, brought together by the

challenge of reducing graft and corruption in government procurement through research, partnerships, training, and advocacy. Established on February 15, 2001 with support from the ASEM Trust Fund managed by the World Bank, PWI promotes transparency and accountability and assists in streamlining procedures in government procurement of goods, supplies, materials, services and infrastructure projects.

**5.5** Active procurement monitoring, public fora, roundtable discussions, workshops, technical assistance to government, research, publications and media releases comprise some of PWI's activities. By exposing inefficiencies in public procurement policies and procedures, and presenting alternatives based on well-grounded research, PWI believes it can push for reforms that enhance competitive public bidding and lessen the possibility of corruption.



# Attachment 1 - Project Risk Assessment

Project Risk Assessment (As of March 2002)

Project Name	Land Implementing Agency	Risk Assessment	Amount of Prior Review Threshold			
			Works	Goods	Firm	Individual
<b>Human Development (HD)</b>						
Women's Health & Safe Motherhood	DOH	Low	\$200,000	\$200,000	\$100,000	\$50,000
Third Elementary Education	DepEd	Average	\$5million	\$1million	\$100,000	\$50,000
Early Child Development	DSWD/DepEd/DOH	High	\$1million	\$50,000	\$200,000	\$50,000
Social Expenditure Management	DepEd/DSWD/DBM	Average	\$200,000	\$200,000	\$100,000	\$50,000
<b>Rural Development(RD)</b>						
Rural Finance II	Land Bank	Low	\$5million	\$5million	N/A	N/A
Rural Finance III	Land Bank	Low	\$5million	\$5million	N/A	N/A
Agrarian Reform Communities Development	DAR	Low	\$5million	\$1million	\$100,000	\$50,000
Water Resources Development	NIA	Average	\$5million	\$1million	\$100,000	\$50,000
Community Based Resources Management	DOF-MDFO	High	\$50,000	\$50,000	\$200,000	\$50,000
SZOPAD Social Fund	Szopad Social Fund Office	Average	\$75,000 And first contract estimated to cost less than \$50,000	\$50,000	\$100,000	\$50,000
Mindanao Rural Development	DA	Average	\$100,000	\$100,000	\$100,000	\$50,000
Land Administration & Management	DENR	Average	\$100,000	\$50,000	\$100,000	\$50,000
<b>Infrastructure (Infra)</b>						
LGU Urban Water & Sanitation-APL1	DBP/DILG	Average/High	\$300,000	N/A	\$100,000	\$50,000
LGU Urban Water & Sanitation APL-2	DBP/DILG	Average/High	\$300,000	N/A	\$100,000	\$50,000
Water Districts Development	Land Bank	Average	First 3 contracts & all contracts \$500,000 or more, first contract for each LGU	\$1million & first contract for each LGU	\$100,000	\$50,000
Subic Bay Freeport II	SBMA	Average	\$500,000	\$500,000	\$100,000	\$50,000
Manila Second Sewerage	MWSS	Average	\$5million	\$1million	\$200,000	\$100,000
LGU Finance & Development (LOGOFIND)	DOF/MDFO	High	\$300,000	\$100,000	\$100,000	\$50,000
National Road Improvement & Management	DPWH	Low	All ICB, all LTPBMC contracts and first 3 of PMP contracts	All ICB	\$200,000	\$50,000
Metro Manila Urban Transport	DPWH/MMDA	Average	All contracts	\$200,000	\$100,000	\$50,000
<b>Energy</b>						
Transmission Grid Reinforcement	NPC	Low	\$5million	\$1million	\$100,000	\$50,000
<b>Global Environment Trust Fund/Montreal Protocol Grants</b>						
Conservation of Priority Protected Areas (GEF)	DENR/NIPA	High	\$100,000	\$100,000	\$100,000	\$100,000
Mindanao Rural Development (GEF)	DENR	Average		\$50,000	\$100,000	\$50,000
Ozone Depletion Substance (Montreal Protocol)	Land Bank	Average	\$2million	\$2million	\$100,000	\$50,000
MMURTRIP (GEF)	City of Marikina	Average	All contracts	All contracts	\$100,000	\$50,000