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Ministry of Planning and Investment
Department for Management of Public Procurement
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VIET NAM

NATIONAL PUBLIC PROCUREMENT SYSTEM ASSESSMENT REPORT - BLI 2008

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Systems – ADB TA – 6317 (REG)**

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Glossary of Acronyms

API	Agency Performance Indicators
APP	Annual Procurement Plans
APPI	Agency Procurement Performance Indicators
BIS	Baseline Indicators System
BLI	Baseline Indicators
B&A Tool	Benchmarking and assessment tools
CPAR	Country Procurement Assessment Report
CPIs	Compliance and Performance Indicators
CSOs	Civil Society Organizations
DAC	Development Assistance Committee
DPI	Department of Planning and Investment
DMPP	Department for Management of Public Procurement
EVN	Electricity of Vietnam
GI	Guiding Implementation
GoV	The Government of Vietnam
HCS	Hanoi Core Statement
HLF	High-level Forum
IAUs	Internal Audit Units
JV	Joint Venture
MPI	Ministry of Planning and Investment
MOIT	Ministry of Industry and Trade
M&E	Monitoring and Evaluation
NGOs	Non-government Organizations
ODA	Official Development Assistance
OECD	Organisation for Economic and Co-operation Development
PD	Paris Declaration
PGAE	Partnership Group on Aid Effectiveness
PMB	Project Management Board
PMT	Performance Measurement Tool
PPC	Provincial People's Committee
RFP	Request for Proposal
SAV	State Audit of Vietnam
SBD	Standard Bidding Documents
SOEs	State-Owned Enterprises
TA	Technical Assistance
USD	United States Dollar
VND	Vietnam's Dong
WG	Working Group

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I. Introduction

1.1 Paris Declaration and Baseline Indicators on Procurement

The Paris Declaration (PD) on Aid Effectiveness is a major global effort to transform the way aid is delivered and managed. The signatory recipient countries (including Vietnam) and their development partners have committed to work together in improving aid effectiveness in the 12 targets including the increasing use of country systems. Procurement is one of the key areas in the Paris Declaration and presented through Indicator 5b “Use of country procurement systems” and Indicator 2b “Quality and performance of country procurement systems”. In 2006, Vietnam has conducted the PD baseline survey and has identified 2005 benchmarks for 9 quantitative PD indicators (including Indicator 5b), where about 33% of total ODA disbursed in 2005 for Vietnam was through GoV procurement systems. Since 2/2008, Vietnam is conducting the second PD survey aiming at tracking progress in implementing the PD and in preparation for the HLF-3 on Aid Effectiveness in Accra, Ghana in September 2008. Preliminary results of the 2008 PD survey shows that there is a significant increase in the proportion of the ODA amount delivered through GoV procurement systems – up to 55% in 2007. However, donors are still expecting further reforms in the GoV legal and regulatory framework on procurement and in actual procurement practices. All these show that the assessment on the quality and performance of the Vietnam procurement systems is an important exercise in order to map out its internal strengths and weaknesses, its external opportunities and threats, facilitate further dialogue between GoV and its development partners in developing appropriate and effective strategy to push the reforms forward toward full implementation.

Under the auspices of the joint World Bank / OECD-DAC Procurement Round Table initiative, developing countries and bilateral and multilateral donors worked together to develop a set of tools and standards that provide guidance for improvements in procurement systems and the results they produce. Following the “Johannesburg Declaration” in December 2004, under the coordination of the Working Party on Aid Effectiveness of the OECD-DAC, the Joint Venture for Procurement (JV) was created in 2005 with a mandate to coordinate the PD commitments relative to procurement: strengthen national procurement systems; support procurement capacity development; and support the increasing use of reliable country systems. JV has further advanced the development of the assessment methodology as tools for developing and their development partners assess the quality and performance of their national procurement systems. By July 17, 2006 OECD/DAC issued User’s Guide (Version 4) to facilitate a consistent approach to the application of the baseline indicators (BLI). This Users Guide covers the two types of indicators:

- The baseline indicators (BLIs) (referred to as BIS herein this report) present a “snapshot” comparison of the formal and functional features of the actual system against the international standards that the BLIs represent. They address four pillars: a) the existing legal framework that regulates procurement in the country; b) the institutional architecture of the system; c) the operation of the system and competitiveness of the national market; and d) the integrity of the procurement system. Each pillar has a number of indicators and sub-indicators to be assessed.
- The compliance/performance indicators (CPIs) deal with how the system actually operates through monitoring performance data to determine level of compliance with the formal system. They are more closely related to the application of the regulations and to the prevailing procurement practices in the country.

1.2 Pilot Assessment of Vietnam Procurement Systems 2006-2007

In the period from 10/2006 to 9/2007 together with other 22 recipient countries, Vietnam has assessed the quality and performance of the procurement systems within the pilot exercise initiated by the JV. That was the first ever assessment of the procurement system to be conducted in Vietnam and it came at a critical juncture in the country’s reform program, as a new omnibus law was recently passed by the National Assembly (effective April 1, 2006). With technical and financial support from WB, the Department for Management of Public Procurement (DMPP), MPI has conducted the assessment using the OECD-DAC “Methodology for the Assessment of National Procurement Systems, Version 4.0” (Methodology). The BLI assessment was conducted during 10-11/2006 through a combination of external assessment by an international consultant (based on desk reviewing Vietnam legal framework on procurement) and internal assessment by the Vietnam’s procurement experts (from DMPP and from several procurement entities). The assessment was based on the responses on BLI questionnaires for each of 56 indicators and through interviewing of GoV staff at various GoV agencies and then validated through technical group discussion and stakeholder workshop. As results through improved GoV-donors dialogue, the macro-structure of the Vietnam’s public procurement system with strengths and weaknesses were assessed using the Baseline Indicators (BLIs) while procurement system and practices at the agency level were explored through the pilot testing of the designed Agency Procurement Performance Indicators (APPI) at the EVN and Ha Tay province during 1-2/2007. Results from the BLI/APPI assessments in 2006-2007 were disseminated, consulted and discussed with the GoV agencies (procurement entities) and donors at 2 stakeholder validation workshop in February and September 2007. Furthermore, with ADB support, Vietnam has reviewed the assessment process and results for the purpose of sharing its own experiences and exchanging lessons learned in order to

contribute back for improving the Methodology at the Asia Regional Workshop (Jakarta, February 2007) and JV Workshop (Copenhagen, September 2007) [15].

Please refer to the full report “Vietnam: National Public Procurement System Assessment 2006” and the consolidated APPI report 2007 for details on the assessment process, findings, recommendations and lessons learned.[15].

1.3 The BLI 2008 Assessment - Objectives

The 3rd HLF on Aid Effectiveness scheduled in Ghana in September 2008 with main objectives to review progress in implementing the Paris Declaration, sharing country experiences and discuss on future initiatives to improve further the aid effectiveness. The OECD/DAC Working party on Aid Effectiveness has coordinated the monitoring surveys conducted in 2006 and 2008. Vietnam has conducted its surveys, which allowed to derive at the 2005 benchmarks, track progress in the last 2 years (up to end of 2007), identified obstacles and challenges in meeting the 2010 targets for 9 quantitative PD indicators (including Indicator 5b). However, for Indicator 2b “Quality and performance of the country procurement system” had not been officially assessed, and so, the baseline and the 2010 target had not been set for the purpose of tracking progress in improving the quality and performance of the country procurement system on course of the PD implementation.

In response to the OECD-DAC – JV request, Vietnam is now conducting the assessment of its public procurement system. This assessment is a part of the 2008 PD survey exercise conducted by the DMPP, MPI with financial support from ADB. The BLI 2008 assessment is to assess the status of the Vietnam procurement system as of 2007 based on the OECD BLI questionnaires survey over the country with 2 objectives:

1. Derive at the 2007 benchmark for the PD Indicator 2b – as a means to track progress in reforming country procurement system in line with the implementation of the PD and HCS on Aid Effectiveness in Vietnam;
2. Facilitate dialogue between GoV and donors on procurement system, identifying gaps, setting reform priorities and initiating actions to support the increasing use of reliable country procurement systems.

1.4 Team Members and Assessors

To lead the BLI 2008 assessment process, the DMPP has formed the Working Group (WG) composing of:

1. Mr. Dang Huy Dong – Director General DMPP

2. Mr. Ngo Ngoc Quy – Deputy Director General DMPP
3. Mrs. Nguyen Dieu Phuong – Officer and Coordinator of TA 6317 (REG)
4. Mr. Tran Hung – National Procurement Consultant

The BLI 2008 assessment exercise has been conducted at the national level, expanding to have more participation of the assessors from stakeholders, procurement entities following the update guidance from the OECD-DAC JV [9]. The WG has received support from DMPP staff and related GoV agencies and a number of donors (the Six Banks group, Sweden, Denmark and Finland). The list of GoV agencies (procurement entities – line ministries, DMPP staff, provinces / cities and state-owned enterprises) participated in the BLI 2008 assessment is presented in Annex C.

1.5 General Scope and Limitation

This Report seeks to provide a general overview of the Vietnam public procurement system as in 2007 based solely on the BLI assessment. The Report also has inherited the results and findings in the BLI 2006 report (most of its findings are still valid) and so it could be considered as an *update version* of the BLI 2006 assessment with new initiatives and progress made in 2007 in continuing efforts by GoV to push forward the procurement reform. Given the time limitation, the 2008 assessment exercise can not include the assessment on compliance and performance at the country level based on CPI and the assessment of agency-level practices using APPI (as piloted in the previous exercise). As such, this report focuses on the legal and organizational aspects, as well as the core components of Vietnam public procurement system as of the end of 2007, that are covered by the BLI Pillars and its set of Indicators and Sub-Indicators. In addition, the BLI 2008 assessment attracted good participation from stakeholders, who are mostly representatives of investment owners and procurement entities at sub-national level. While having good expertises and experiences in practical procurement activities, those assessors have certain limitation in updating and absorbing new procurement regulations making their assessment not without certain subjective biases.

In summary, this report presents a snapshot assessment for the 2007 state of the Vietnam public procurement system conducted within very short time and by limited number of assessors. It should be used as reference for the HLF-3 in Ghana in September 2008 and for tracking progress in GoV procurement reform since 2006. It not necessarily presents comprehensive picture of the current Vietnam public procurement system for the purpose of critical “standard” comparison with donors’ procurement regulations, for example. It is much more useful to use broadly defined constructive recommendations provided in the Report for GoV to take and for donors to support for possible next steps in strengthening Vietnam procurement

system. It worths noting that by the time of writing this report, the GoV is continuing its reform efforts and has experienced positive progresses in striving for comprehensive system of procurement legislation through issuance of revised Decree on guidance of public procurement implementation; issuance and revision of standard bidding documents, procurement handbook,... as well as execution of workshops, conferences, training courses on procurement so as to strengthen procurement capacity. For example, during the first and second quarters of 2008 as number of new regulatory documents issued such as new Decree 58/2008/NĐ-CP dated 05 May 2008 guiding the implementation of the Law on Procurement replacing the previous Decree 111/2006/NĐ-CP, or Standard Bid Evaluation Document (QĐ 419/2008/QĐ-BKH dated 07 April 2008). Finally, the DMPP is planning to conduct a comprehensive BLI assessment by the end of 2008, the results of which are expected to be more complete and will be used for improving the Law on Procurement and its implementation guiding documents.

II. The BLI 2008 Assessment Process

2.1 Approach and Methodology

The BLI 2008 assessment is based on four (4) key areas called “Pillars”, which are composed of twelve (12) Indicators that have been identified as the core components of a public procurement system. These twelve (12) Indicators are, in turn, compose of total 54 Sub-Indicators that are considered the desirable standards against which the existing elements of GoV public procurement system may be assessed (the User’s Guide for the OECD Methodology version 4.0 can be found at http://www.oecd.org/document/40/0,3343,en_2649_19101395_37130152_1_1_1_1,00.html). For this assessment, the DMPP has discussed and agreed to use the OECD methodology and latest JV guidance note [9] and also based on the experiences of the previous assessment in 2006/2007.

2.2 Planning and Preparing for BLI 2008 Assessment

To guide the BLI 2008 assessment process, the DMPP has developed, discussed and agreed on the BLI 2008 assessment workplan (please refer to the “BLI 2008 Assessment Workplan” [20] for details).

2.2.1 Designing the BLI 2008 questionnaire table

Based on the OECD/DAC Methodology, the consultant had assisted the WG to develop the BLI 2008 questionnaire table in English and Vietnamese. These BLI 2008 questionnaires had been customized taking into account international practices

and Vietnam's specific conditions and additional explanatory notes had been added to assist the potential assessors in filling in the assessment [20, Annex B].

2.2.2 Agreeing on rating and rating computation

The WG has prepared the sets of BLI 2008 questionnaires, discussed and agreed on responses consolidation method with rating for each components and overall score rating for the Vietnam procurement system as follows: All pillars, indicators and sub-indicators are considered as of equal importance and therefore, equal weighting is adopted. In order to assess and identify the gaps between the current Vietnam procurement system (in terms of procurement regulations and procedures) and the international best practices the following scoring, rating and rating computation is adopted:

- For each sub-indicator composing of several baselines, a score was assigned (between 0 and 3) depending on how the existing element of GoV public procurement system conformed to the relevant criteria and desirable standards specified in the BLI questionnaires (Annex A). A rating is computed as percentage of maximum score of 3 for each sub-indicator;
- For each indicator, the score equals the sum of all sub-indicators' scores while the rating is computed as average rating of all sub-indicators contained in that indicator;
- Similarly for each pillar, the score equals the sum of all indicators' scores while the rating is computed as average rating of all indicators contained in that pillar.

In order to consolidate assessments from many assessors, the average computation is adopted for each group of assessors and for all assessors. The total score in assessing the overall quality of the Vietnam procurement system (as 2007 benchmark of the PD indicator 2b) is computed as the sum of all scores of 4 pillars or sum of scores of all sub-indicators. The computed baseline value for the PD Indicator 2b is then ranked based on the OECD classification as A, B, C or D level of the quality of the country procurement system as follows:

Level	Total raw score	Percentage score (as % of max 162 points)
A	152 to 162	94 - 100 %
B	113 to 151	70 - 93 %
C	89 to 112	55 - 69 %
D	less than 89	less than 55 %

In addition, the rating scheme to determine the level of achievement for each of indicators used in the BLI 2006 assessment as shown in the table below was also adopted for mapping out the overall state of the Vietnam procurement system at of end of 2007, based on which the problem areas are identified as requiring prioritized improvements in short term, medium term or long term reform plans. This rating is based on weighted sum of sub-indicators' scores.

Level of Achievement:

0 – 19% of Indicator	20 – 69% of Indicator	70 – 89% of Indicator	90 – 100% of Indicator
NA	PA	SA	FA

Legend:

- NA – **Not Achieved** (Less than 20% of Baseline elements achieved)
- PA – **Partially Achieved** (At least 20% but less than 70% of Baseline elements achieved)
- SA – **Substantially Achieved** (At least 70% but less than 90% of Baseline elements achieved)
- FA – **Fully Achieved** (90% to 100% of Baseline elements achieved)

2.2.3 Data collection methods and target assessors

Results of the BLI 2006 assessment were derived from integration of external assessment by the international assessor and internal assessment by 13 procurement experts of the DMPP. Experiences show that although some differences exist, such assessment approach has brought a good conversion of different views so that essential issues of the Vietnam procurement system identified and validated based on both international best practices and the specific conditions of Vietnam. Based on the 2006/2007 assessment experiences and following updated guidance by JV, the WG has decided to conduct the assessment using the developed BLI questionnaire tables through a survey of procurement experts, including:

- DMPP Staff (MPI) – representative of the Vietnam regulatory body;
- Procurement experts from procuring entities (GoV line agencies); and
- Procurement experts from donor agencies.

The BLI questionnaire table (in Excel format) enclosing explanatory note in Vietnamese and Official letters by the MPI had been sent to all DMPP staff, ministerial-level agencies, provincial-level agencies (Departments of Planning & Investment) and state-owned enterprises. Implementing the Law of Procurement already for 2 years, these agencies at the same times gained a good knowledge on

procurement regulatory framework (Law on Procurement, Implementing Decree and related regulatory documents) through active nationwide dissemination and training conducted by DMPP. The DMPP is also regularly conducting oversight and inspection functions to re-enforce the procurement regulations at the sub-national levels and regular procurement reports are now collected annually from procurement entities nationwide, where the reviewing of procurement regulation is also included. In addition, a number of GoV agencies had familiarized with the rationale, contents and approach of the OECD Baseline Indicators (BLI) through the pilot assessment in 2006 and two stakeholders' workshops in February and September, 2007. All these show the good basis and rationale for nationwide expansion of the BLI assessment in 2008.

Similarly, the BLI questionnaire table enclosing with explanatory note in English and an Invitation Letter by the DMPP Director General had been sent to 22 donors (Full list of 22 donors is presented in the BLI 2008 Workplan" [20, Annex A]. The selection of donors is based on consideration of the scale of the ODA amount provided and percentage of their ODA delivered through the Vietnam procurement system (according to the results of the 2008 PD monitoring survey conducted in February – April, 2008 [19]).

The assessors are asked to study the BLI 2008 questionnaires table and provide their consideration and feedback in terms of tagging appropriate checkboxes for each sub-indicator and relevant qualitative comments supporting their choice.

2.3 Responses Consolidation and Report Preparation

The National Consultant then assisted the DMPP in gathering responses and consolidating their answers and computing scores for each Sub-Indicator, Indicator, Pillar and total score following the formula described in Section 2.2.2. The list of respondents / assessors for the BLI 2008 assessment is presented in Annex C.

2.3.1 Consolidation of answered forms

In total, the WG had received 56 full responses from: two DMPP experts, 35 procurement experts representing 31 Departments of Planning & Investment (of provinces and central-level cities), 11 line ministries and 8 state-owned enterprises (Annex C). These answered forms had been checked for their completeness and data integrity before consolidation.

For donors, out of 22 invited agencies, the WG had received only 12 feedbacks, of which:

- 3 donors provided incomplete answered forms (SIDA, DANIDA and Finland);
- 6 Banks (WB, ADB, JBIC, AFD, kfW, Keximbank) provided only short comments in forms of a joint letter;
- 3 donors (DFID, Belgium, EC) responded confirming non-participation due to lack of procurement experts or practiced experiences.

The checking of answered forms showed that they are incomplete with a number of Indicators left un-assessed citing the inadequate knowledge of the Vietnam procurement system by their in-house experts. After screening, the National Consultant had extracted donors' assessed indicators including qualitative comments and then integrated to the Vietnam's agencies assessment in order to compile the BLI 2008 assessment results, which is presented in Annex B.

2.3.2 Desk study and consolidation of qualitative comments

In parallel, the National Consultant had conducted the updated review of the Vietnam procurement system through studying newly issued procurement regulatory documents, reports on new procurement capacity development initiative and annual national procurement report for 2007 [21] compiled by the DMPP together with qualitative stakeholders' comments in answered forms coupled with interviewing DMPP staff and WG discussion. The qualitative assessment table used by the National Consultant is attached hereto as Annex B and it provides for the descriptive analysis of the scores and ratings as to where, how and why GoV fully, substantially, partially or fails to achieve the standards set by the Baselines for 4 Pillars and 12 Indicators. The qualitative assessments had been harmonized and resulted from exchanges, discussions among stakeholders and elaborations of international good practices and Vietnam's procurement context as well as considering of GoV new procurement reform initiatives, etc. This integration exercise aimed at defining the strengths and weaknesses of the Vietnam procurement system and recommended framework for overseeing the national procurement activities and monitoring the performance and procurement reform process.

2.4 Data Verification and Results Validation

According to the JV updated guidance [9], the validation exercise is critical to the BLI 2008 assessment, focusing on validity and credibility of results, stakeholder's commitment and engagement and mutual accountability. To disseminate the initial findings and to involve stakeholders in validating BLI 2008 assessment results, the DMPP had organized the National Workshop on 06 June

2008 with wide participation from line ministries, provinces and cities and state-owned enterprises (The list of workshop participants is presented in Annex D).

All comments at the workshop had been incorporated into the revised version of this report. Certain differences in assessments of various stakeholders with complementary information have provided additional insight and led to valuable findings. In addition, frequent interactions within the WG during the assessment process between consultants and DMPP staff have greatly contributed to the validation of the BLI 2008 assessment results. Annex E presents Vietnam’s detailed response to the questionnaire: “Assessment and Validation regarding the Application of the Methodology for Assessment of National Procurement Systems of the OECD-DAC JV for Procurement”.

III. BLI 2008 Assessment Results

3.1 Overall Assessment of the Vietnam’s Procurement System

The summarized BLI 2006 - 2008 Assessment Table in Annex A presents the macro structure and the existing situations of the Vietnam Public Procurement System including scores and ratings of Pillars, Indicators and Sub-Indicators whether they are partially, substantially or fully achieved as compared to the desirable standards.

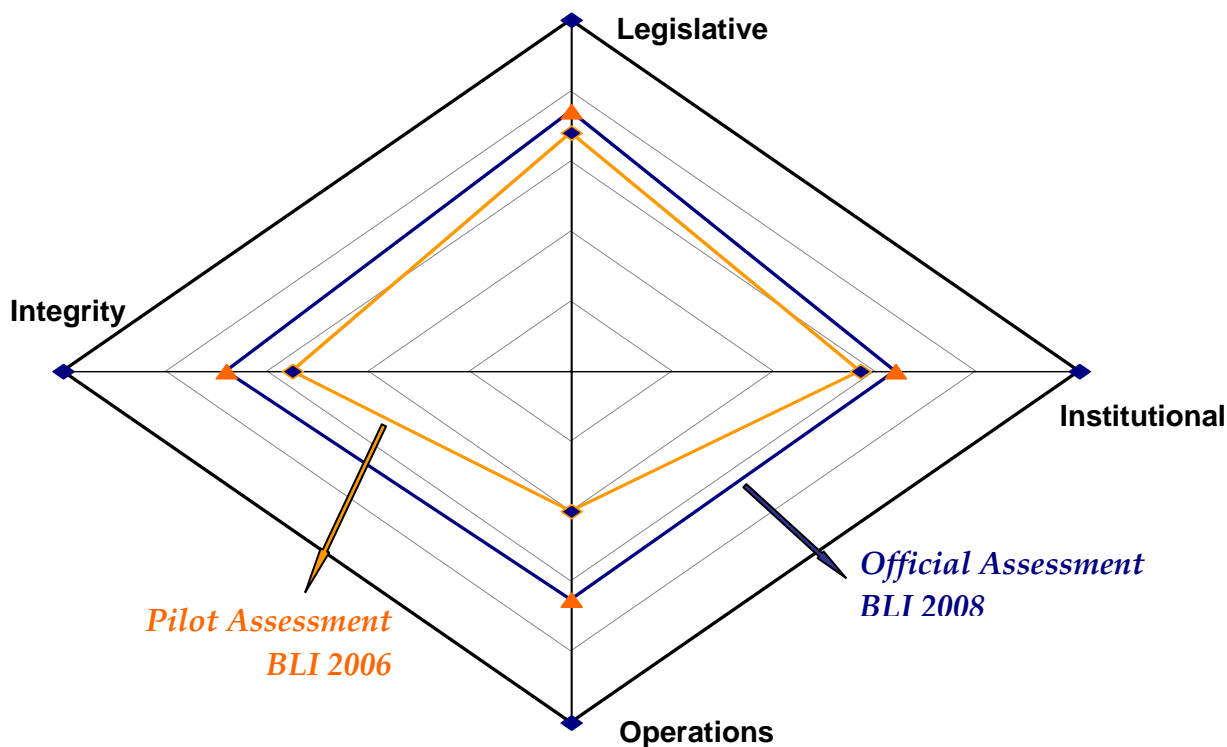


Figure 1 Quality and performance of the Vietnam procurement system by 4 Pillars based on the BLI assessments in 2006 and 2008

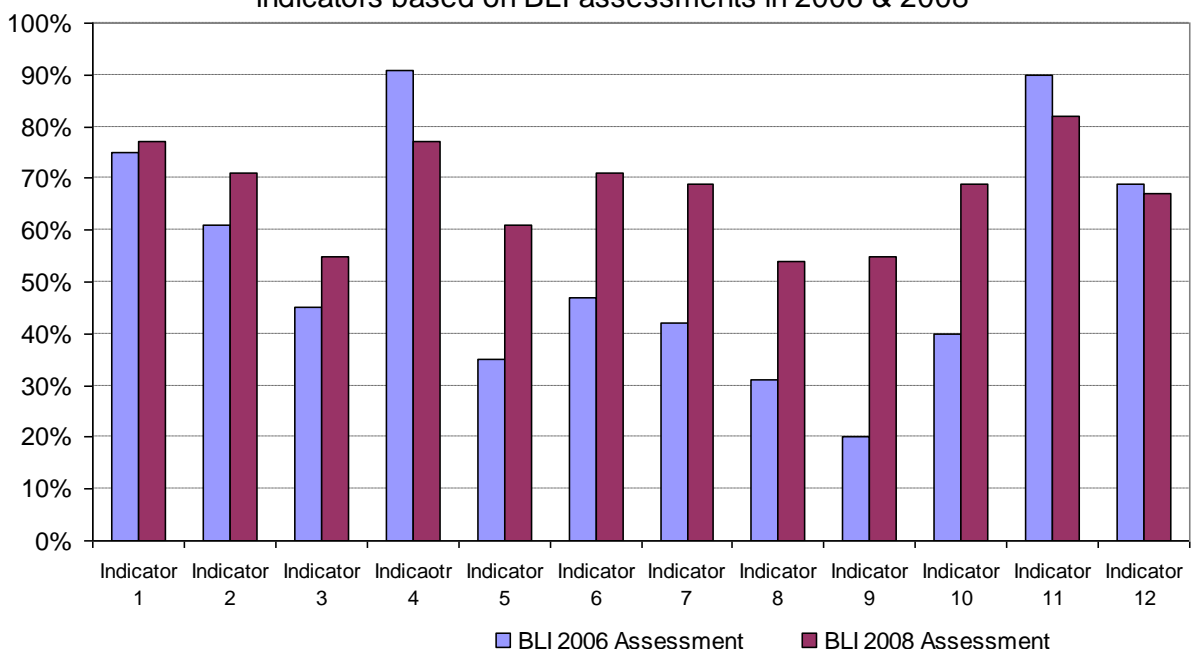
3.1.1 Assessment based on the Paris Declaration Indicator 2b

Overall, the reliability of the Vietnam Public Procurement System ranked C-level in 2007 according to JV’s classification described above (meaning that its overall level of achievement of 67% or raw total score of 109 out of maximum 162 points for a best practice procurement system) – ***PD Indicator 2b = C***. Specifically, Vietnam has substantially achieved in the legislative and regulatory procurement framework (level of achievement for Pillar I is 74%), and partially achieved in the remaining 3 areas (Pillar II of 64%, Pillar III – 65% and Pillar IV – 68%). Figure 1 shows that the Vietnam Procurement System has improvements in all major areas, of which the improvement in the area of “Procurement Operations and Market Performance” is most significant (Pillar III – from 40% in 2006 to 65% in 2007).

3.1.2 Assessment ratings for each of procurement areas

Looking in more details, the Vietnam Procurement System also has significant improvement in each of Indicators when compared the results of BLI assessments in 2006 and 2008 (Figure 2).

Figure 2 Improvements of the Vietnam procurement system by 12 indicators based on BLI assessments in 2006 & 2008



For reference purposes, the Annexes attached in this report provide detail information and results. **Annex A** provides the consolidated scorings and ratings by Indicators, Sub-Indicators and Pillars of the BLI assessments in 2006 and 2008. **Annex B** provides the consolidation of the BLI 2008 assessment results with qualitative comments consolidated from assessors responses, which indicates where,

how and why GoV fully, substantially, partially or fails to achieve the standards set by the Baselines. Note that the findings and results presented in Annex A and B were reviewed and verified by the WG with DMPP and the final ratings were validated at the National Workshop on 06 June 2008.

3.2 Qualitative Comments

Below are detailed findings and qualitative assessments by Pillars:

3.2.1 Pillar I – The Legislative and Regulatory Framework

GoV has significant strengths in the Legislative and Regulatory Framework (Pillar I is substantially achieved - about 74%) as an omnibus public procurement law, passed by its National Assembly, supported by an implementing decree issued at the appropriate level (2006), which provides for open bidding as the preferred mode of procurement. Other positive aspects of the legal framework are that international competitive bidding is provided for, and there are appropriate procedures for pre-qualification for highly specialized or technical projects. In December 2007, the special bulletin for procurement information managed by the MPI/DMPP had been upgraded to the national *Procurement Newspaper* which is now available in all localities nationwide and easy to access for non-government sectors. Complement to the procurement website, the *Procurement Newspaper* is the important source of legal documents, regulations in procurement, bidding opportunities and other procurement-related information. This is a significant improvement (compared to the previous BLI 2006 assessment) in enforcing the transparency regulated in the Law on Procurement.

After two years of implementing the Law on Procurement, there are recognizable improvements in many areas as the DMPP/MPI are focusing on developing further practical guiding documents. These developments are a step on the right direction by the GoV. However, there remain certain areas for improvement and there are still differences in procurement regulations between GoV and donors (according to 6 Development Banks comments [22]) requiring concerted efforts from both GoV and donor community in order to have further effects in practical procurement operations. The following areas to be strengthened further (Table 1):

Table 1 Shortcomings and recommendations for Pillar I

No.	Observations	Recommendations
1	High thresholds for Direct Appointment (roughly US\$62,500 for goods and works in investment development projects, and US\$31,250 for consulting services) and Shopping (roughly US\$125,000) vis-à-vis those normally set by donor institutions.	Review thresholds for Direct Appointment and Shopping in order to improve the effectiveness of institutionalization of preferred public bidding. Provide regulations for thresholds in updated guiding documents in accordance with price inflation.
2	No English version of the procurement website and newspaper in providing bidding opportunities and bidding results; procurement plan, black list, updated information of Law, regulations and other procurement documents.	To issue the English version in order to improve transparency and to increase procurement performance through opening to foreign bidders.
3	Generic Procurement Manual is not available and there is no specific requirement for a generic procurement manual to be used by all agencies.	Develop and issue a Generic Procurement Manual and provide appropriate training, guidance for procuring entities to use it.
4	A number of Standard Bidding Documents or contract forms have not issued or the issued ones are neither adequately detailed nor regulated.	Continue to develop and issue Standard Bidding Documents taking into account the comments from procuring entities, donor agencies, professional associations and public.
5	The “pass/fail” criteria regulated in Law on Procurement is not compulsory to implement, opening the door to abuse of discretion of procuring entities for goods and civil works.	Review discretion of using the Merit Point System and develop more specific guideline, e.g. specify “pass/fail” criteria as compulsory for goods and civil works.
6	There remain some gaps between articles in Law on Procurement, its Implementing Decree and procurement regulations by donors (see Annex B)	Strengthen dialogue and cooperate with the 6-banks group to develop standard bidding documents and contract forms, which harmonize procurement regulations and procedures between both parties.

3.2.2 Pillar II – Institutional Framework and Management Capacity

The most notable strengths of GoV in this Pillar are the existence of a normative/regulatory body – DMPP/MPI that is covered in the legislative framework, is sufficiently located at a high level, and is appropriately detached from direct procurement operations as well as a centralized information system. This information system does not currently contain all necessary data and does not perform all the functions of a fully operational and networked system, but is the appropriate nucleus for such. In particular, the system – which is being undertaken manually by the MPI/DMPP – collects annual procurement reports from line agencies, procurement entities nationwide, data / information on projects and bidding packages including procurement plan, pre-qualification announcement, invitations to bid, requests for proposals, bidding results and associated procurement regulations. However, it currently relies on submissions by agencies and is not yet supported by an information system (online or otherwise), which would allow to track price lists or appropriately link budget appropriations with expenditures, among others. Other strengths in this area are the utilization of a project procurement plan that is subject to appraisal and approval by higher authorities, and a system that seeks to establish check-and-balance in the procurement process through the process of prior reviews during the entire procurement procedure. The budget planning is currently implemented under and regulated by the Budget Law, starting with preparation of 5-year plan for each GoV agency and then preparation of annual plan with annual budget establishment. Thus, budget preparation and allocation is based on budget request from GoV agencies following the approved 5-year master plan. Only annual procurement plan is yet to be prepared.

The most significant improvements are that in 2007 the DMPP/MPI had intensive efforts in developing numerous guiding documents such as: Standard Bidding Document for Goods (Decision 251/2007/QĐ-BKH dated on 22/5/2007), Bidding Evaluation Document of Goods and Civil Works (Decision 1102/2007/QĐ-BKH dated on 18/9/2007), Pre-qualification Bidding Document for Civil Works (Decision 1591/2007/QĐ-BKH dated on 24/12/2007), Standard Bidding Document for Consulting Service (Decision 1583/2007/QĐ-BKH dated on 24/12/2007). The management capacity is also remarkably strengthened through numerous inspection and oversight missions on procurement performance by the DMPP nationwide (in 2007, over 70 inspections and oversight missions conducted at provinces and cities, line ministries and state-owned enterprises). In addition, the procurement capacity building programme has regularly organized training courses, workshops on procurement regulations and practical operations all over the country. All this is resulted in a remarkable increase in the rating for Indicator 5 “The country has institutional development capacity” from 35% in 2006 to 61% in 2008.

The GoV efforts in this Pillar are widely recognized. However according to stakeholders (donors and GoV agencies') comments, it is crucial to continue strengthen the following areas:

Table 2 Shortcomings and recommendations for Pillar II

No.	Observations	Recommendations
1	A number of agencies start the bidding process before budget identified.	Integration between the public financial management and the procurement system
2	Late payments may take thirty (30) to sixty (60) days.	Develop proper annual procurement plan. Associate with further reform in public financial management system.
3	It is not required to prepare annual procurement plan. The procurement plan is appraised and approved for whole project (could be multi-year) while implementing agencies have annual operation plan. No close link between budget allocation and expenditure and lack of annual procurement plan for goods, civil works and service can cause over-spending and then long payment period.	It is necessary to have more strict procurement regulations for implementing agencies (project owners / procurement entities) and better integration with public financial management system. Require to develop annual procurement plan for fostering the expenditure discipline.
4	Central procurement information system is currently manually organized and relies much on submissions by implementing agencies. Procurement-related documents are stored inconsistently, depending on discretion of record custodians.	Establish mechanism with specific guidelines on procurement records keeping, information flow and management. Improve regular procurement reporting from procuring entities, provinces/cities, line ministries and state owned enterprises. Establish national procurement information system.
5	Procurement capacity and performance of procurement staff at implementing agencies are limited. There is lack of information on training need assessments (including	Develop mechanism and guidelines for assessing the performance of procurement staff. Continue to strengthen procurement capacity, combined with

	for various target groups of auditors and private sector) for planning of appropriate capacity building activities.	development of a professional network of procurement experts.
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3.2.3 Pillar III – Procurement Operations and Market Performance

The BLI 2006 assessment results showed that Vietnam had successfully reformed its legislative and institutional frameworks on public procurement. As the next level during the last two years, Vietnam has been focusing its efforts on building its implementing capacity and pushing forward the procurement reforms cascading the successes in legislation down to actual procurement operations and implementation to the sub-national level – a task that is certainly not less daunting than drafting the Law. The BLI 2008 assessment findings show that Vietnam has significantly improved in actual “procurement operations and market performance”. The GoV has taking leverage upon its strength in Indicator 4 (The country has a functional normative/regulatory body - DMPP) to carry out appropriate measures so that to guide and encourage the compliance of its legal framework and effective application in the country’s actual procurement operation and practices. With recently issued guiding documents, standard bidding documents and contract forms (as described in Section 3.2.2) combined with regular training, guidance, inspection and oversight activities on procurement performance, the country’s procurement practices are steadily improved. It is widely recognized now that the public access to the procurement market became more easily and competition from private sector is increasing. However, it is crucial to make continuing efforts to maintain the progress made. Specifically, GoV may consider focusing on the following areas that need strengthening:

Table 3 Shortcomings and recommendations for Pillar III

No.	Observations	Recommendations
1	There is a serious shortage in procurement capacity, that most procurement staff is appointed on an <i>ad-hoc</i> basis to work for a project or a particular bidding package without systematic training on procurement.	<p>Institutionalize required basic knowledge and skills for procurement staff.</p> <p>Further implement comprehensive procurement capacity building programme and training of trainers on:</p> <ul style="list-style-type: none"> - Procurement procedures; - Preparation of procurement plan; - Preparation of cost estimates and budgeting; - Records management; - Criteria on procurement performance; and - Professional behaviors.
2	The Procurement Law has no provision that encourages partnership with the private sector so as to effectively galvanize its views and input these to further policy and operational reforms. GoV does not hold regular meetings with the business community.	<p>In parallel with implementing the Competition Law, GoV has to open for regular dialogue with the private sector, which would have a positive impact on the level of competition for public sector contracts.</p> <p>Phase out the GoV subsidy for state-owned enterprises.</p> <p>Expand procurement capacity building programme for private sector.</p>
3	There are regulations requiring making reports and preserving confidentiality of documents in public procurement. However, there are no specific provisions that clearly specify what the relevant procurement documents/records are, the responsible office where these shall be kept, the length of time that procurement records would have to be kept.	<p>Develop guidelines for systematic management of recorded information.</p> <p>Continue to improve and upgrade the MPI procurement website.</p>

4	<p>Major contracts are subject to a lengthy and cumbersome approval process. This may be the result of the appraisal and prior review mechanism. For example, although Article 31 of the Procurement Law provides for a maximum appraisal duration of twenty (20) days (30 days for the Prime Minister), this procedure occurs three (3) times during a bidding – procurement plan, bidding documents and bidder selection result – and so the period can actually run to a total of sixty (60) days in a single bidding activity (90 days for the Prime Minister) – in addition to the period to undertake the bidding itself.</p>	<p>Further delegate authority with clearly defined accountabilities for decision-making - specific guidelines and training is provided.</p> <p>Improve appraisal, prior review and approval mechanism combined with post evaluation.</p> <p>Combine with public administration reform activities.</p>
5	<p>Project and contract management capabilities of implementing agencies are inadequate; under-inspection of goods, and cost and time overruns in works contracts are common. This indicates a need to further strengthen contract administration capabilities.</p>	<p>Develop and issue model contract forms including adequate provisions on quality control procedures and requirements.</p> <p>Improve inspection and oversight activities on procurement performance nationwide.</p>
6	<p>There are few arbitration provisions in domestic contracts; local contract conditions are usually poor in respect of dispute resolution, and are not well developed to clearly reflect the rights and obligations of parties. Moreover, courts are still generally regarded as a mechanism of last resort, and a winning party may find it difficult to have its contract enforced through the courts. Local suppliers and contractors are usually in a weak position to make any major claim.</p>	<p>Develop guideline to include sufficient arbitration provisions into contracts.</p> <p>Establish conciliation procedures and administrative due process.</p> <p>Develop Arbitration Law and institutionalize alternative dispute resolution (ADR) in standard contract forms.</p>

7	Procurement staff has not provided sufficient guidance on comprehensive procurement procedures.	Develop and issue a Generic Procurement Manual.
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3.2.4 Pillar IV – Integrity and Transparency of the Public Procurement System

Much effort has recently been undertaken to improve transparency and anti-corruption measures in Vietnam. This appears to have positively affected both the investment climate, in general, and public procurement, in particular. Some notable strengths are the increased transparency in public procurement through the Procurement Law that requires all relevant procurement information to be posted in the procurement newspaper and in the procurement website managed by MPI/DMPP. The Procurement Law provides for clear provisions on ensuring competition, avoiding conflicts of interest, prohibited acts of procurement, and the penalties for violations. The State Auditing Law also has new provision that requires the State Auditing Agency to make information public. Currently, auditing activities have achieved remarkable improvements and independent auditing organizations have increasingly participated in public investment projects. The results of the second Paris Declaration monitoring survey in early 2008 showed that there is an increase in the ODA amount been audited from \$542 million in 2005 to \$1,252 million in 2007 (or an increase from 28% of total ODA disbursed in 2005 to 49% in 2007). The inspection and oversight activities on procurement performance are regularly carried out by the DMPP in order to detect and prevent violations in procurement. All these together with regular reporting requirements had contributed to improving transparency of the Vietnam procurement system.

In addition, the Law specifically provides that individuals whose acts in violation of the Procurement Law constitute crimes shall be dealt with in accordance with the Criminal legislation. These appear to form part of a comprehensive anti-corruption program of GoV to prevent, detect and penalize corruption in government. There exists a Code of Ethics in the form of the 1998 Ordinance on Civil Servants, which require them to respect the people, to be honest, to avoid bureaucracy and corruption, to use public resources with economy, and to avoid abuse of their position. Local media have constantly been reporting on the efforts of the President to fight corruption, thus showing a high level of sincerity and concern on the part of government. Partly a strength, but also a weakness, is the creation of the *Consulting Council on Complaint Settlement* under the Procurement Law. The weakness is that its procedures have the danger of creating a conflict between administrative and judicial procedures in procurement process. However, it is also a strong point of the public procurement regime, because it provides for the rudiments for an effective review or appeals mechanism. In order to strengthen integrity and

transparency of the Vietnam procurement system, the following areas may have to be strengthened by GoV:

Table 4 Shortcomings and recommendations for Pillar IV

No.	Observations	Recommendations
1	<p>Audit recommendations are usually more reactive than proactive, and may tend to address specific transactions rather than broader systemic issues on operations and practices by agencies.</p>	<p>The procurement capacity building programme to train auditors on procurement procedures and practices.</p>
2	<p>Audits are carried out not regularly and usually conducted only when there is a major complaint against a procuring entity.</p> <p>Audits are not complemented by any institutionalized internal audit and control mechanism through the establishment of Internal Audit Units with clearly defined functions and procedures.</p>	<p>Conduct procurement auditing regularly and develop cooperation between SAV and DMPP.</p> <p>DMPP/MPI to strengthen oversight and inspection activities for procurement nationwide and develop a national M&E system for procurement performance and outcomes.</p> <p>Re-establish Internal Audit Units, Control Units within implementing agencies and large-scale procuring entities.</p>
3	<p>The potential impact of the Consulting Council appears to be watered down by two things: (i) it merely acts on a consultative capacity; and (ii) an aggrieved party can always negate the entire proceedings by going to court if it is not satisfied with the outcome.</p> <p>Moreover, this discretion may create a conflict between administrative and judicial processes, because the appeal process is not clearly established.</p>	<p>Give a stronger role to the <i>Consulting Council on Complaint Settlement</i> by providing it with the authority to render final and enforceable decisions. This could lead to an effective mechanism for conflict and complaint settlement.</p>

4	There is limited participation or collaboration of NGOs, CSOs in procurement policy consultation and in ensuring the transparency of the procurement process.	Institutionalize a participative or collaborative process with NGOs and CSOs on procurement, Wide dissemination of procurement information on procurement newspaper and the procurement website.
5	Procurement-related information and regular procurement reporting from implementing agencies are inadequate or inaccurate.	Further develop reporting mechanism and establish national procurement information system.

IV. Conclusions and Lessons Learned

4.1 Conclusions

The assessment of the Vietnam procurement system using the OECD-DAC Baseline Indicators has been conducted within short time (April – May in 2008) and had received active participation from numerous GoV agencies nationwide.(see Annex C). Overall, the Vietnam procurement system currently has a score of **109 points** on the OECD-DAC BLI rating scale and ranked **C-level** according to the classification by the OECD-DAC Joint Venture for Procurement.

Therefore, in the framework of the Paris Declaration on Aid Effectiveness the “quality and performance of the Vietnam procurement system” or the **2007-benchmark for Indicator 2b is C-level**. It means that the 2010 target for Vietnam to achieve within the next 3 years is to improve the ranking to the B-level. This is a considerable challenge, requiring concerted efforts from both GoV and donor community. Recommendations to overcome shortcomings in each of Pillars are presented above and details can be found as consolidated qualitative comments in Annex B or in the Vietnam BIS Report 2006 [15].

4.2 Lessons Learned

The Vietnam’s experiences showed that the BLI 2008 assessment provided a general overview of the national public procurement system with its strengths and weaknesses. Through the assessments conducted in 2006 and 2008, the improvements and remaining shortcomings have been identified for specific procurement areas. The wide participation of the procuring entities and GoV implementing agencies nationwide in the assessment process has significant importance not only in deriving at more credible and objective assessment results

but also in raising the national awareness in the GoV reform platform. Through studying and responding to the BLI questionnaire and in participating in the stakeholders validation workshop, the implementing agencies (managing procurement activities at national and sub-national levels) can assess the strengths and weaknesses of their own procurement systems and practices as well as identified the need for procurement capacity building. The active dialogue between GoV and donors during the BLI 2008 assessment process (e.g., joint letter with comments from 6-banks group to DMPP, answered BLI questionnaire from SIDA, DANIDA and Finland) has provided complementary information for internal assessment and serve as basis for continuing dialogue on desirable international standards and Vietnam's procurement practices. As such, the GoV / donors dialogue is to be further strengthened focusing on specific approach and prioritized areas for improvements. The validation of the BLI 2008 assessment findings through stakeholders workshop is very much necessary in order to improve the credibility of the results, disseminate information raising stakeholders' awareness and fostering dialogue. All comments and recommendations received at the validation workshop on the BLI 2008 assessment had been incorporated into this report.

Due to time limitation, the WG had focused on deriving at the quantitative figure for the PD Indicator 2b. The BLI 2008 assessment not included the collection of procurement statistical data for assessing the procurement compliance and performance (using OECD-DAC CPI or APPI as in the previous assessment 2006/2007) and therefore, the findings in this report is limited to a national level assessment of the current macro-structure and state of Vietnam's public procurement system. Moreover, the participation in the BLI 2008 assessment is mostly represented by investment owners and procurement entities at sub-national level, which may inherently have biased assessment concerning the legal framework. While having good expertises and experiences in practical procurement activities, they have certain limitation in updating and time-lag in absorbing new procurement regulations. Despite those limitations, the findings and recommendations presented in this report are still broadly valide and should be used as a starting point for dialogue between GoV and donors on strengths of the Vietnam procurement system, differences remained as compared with donors' regulations and prioritized areas to be improved so that donors are increasingly using Vietnam procurement system for their ODA funds. The DMPP/MPI should use the results of this BLI 2008 assessment in developing action plans for procurement capacity building programme. In long-term, The DMPP should further localize the set of BLI (making them more relevant to the Vietnam procurement practice), improve the assessment methodology and integrate the BLI assessment into its oversight functions toward a national procurement M&E system for tracking the progress in procurement reform, monitoring the compliance and procurement performance at national and sub-national levels. This system would provide timely well-informed direction for GoV to push forward the procurement reform.

Relevant Documents and References

The BLI 2008 assessment is based on following documents:

1. The Law on Procurement – Law No. 61/2005/QH11, passed by the National Assembly, Legislature XI, 8th Session, effective April 1, 2006 (the “Procurement Law”);
2. The Decree Implementing the Procurement Law – Decree No. 111/2006/ND-CP, dated September 29, 2006 (the “Procurement Decree”);
3. The Decree Implementing the Procurement Law – Decree No. 58/2008/NĐ-CP, dated May 08, 2008 (the “Procurement Decree” replacing the Decree 111);
4. The Law on Investment – Law No. 59-2005-QH11, passed by the National Assembly, Legislature X, 10th Session, effective July 1, 2006 (the “Investment Law”);
5. Existing Bidding Documents;
6. The CPAR for Vietnam, dated October 2002, and its Update, dated August 2004;
7. OECD-DAC Methodology for Assessment of National Procurement Systems. (User’s Guide Version 4.0, dated 17/7/2006);
8. OECD-DAC Joint Venture on Procurement, 2007. Guidance Note: Monitoring and Reporting Mechanism;
9. OECD-DAC Joint Venture on Procurement, 2008. Guidance Note for the 2008 Survey for Monitoring the Paris Declaration;
10. OECD-DAC Joint Venture on Procurement, 2007. Proposed Framework – Performance Indicators for the Pilot Exercise;
11. Trepte P., 2007. Mongolia – TA-6317 (REG) Assistance in Implementing and Reporting on the Pilot Exercise of the OECD-DAC Joint Venture for Procurement. Inception Report;
12. DMPP/MPI, 2007. Proposed Action Plan for the Implementation of the Pilot Exercise of the OECD-DAC Joint Venture for Procurement;
13. WB/DPP IDF055667, 2007. Support to strengthening implementation, monitoring and evaluation of public procurement. Consultants’ reports;
14. WB/DPP, 2007. Workshop on “M&E System for Public Procurement” January 23, 2007 - Materials and reports;
15. Jose Luis Syquia and Tran Hung (Consultants’ Report), 2007. Integrated BLI (BIS) 2006 Assessment Report;
16. OECD, 2008. Compendium of Country Examples and Lessons Learned from Applying the Methodology for Assessment of National Procurement Systems (Volume I – Sharing Experiences);
17. OECD-DAC Working Party on Aid Effectiveness – Joint Venture on Procurement, 2008. The Arusha Declaration on Procurement;

18. Tanzania Public Procurement Regulatory Authority, 2008. Assessment of Tanzania's Procurement Systems. *Tanzania Procurement Journal*, Vol.1 No.05;
19. PGAE, 2008. Vietnam Country Report – Results of the second 2008 Survey for Monitoring the Paris Declaration and Hanoi Core Statement on Aid Effectiveness;
20. Tran Hung, 2008. Proposed Plan for the BLI 2008 Assessment (Consultant's Report);
21. DMPP/MPI 2007. Consolidated Report on Implementing the Law on Procurement in 2007: Nationwide Progress and Recommendations;
22. Six Banks. Major Differences between Good Public Procurement Practice and the Vietnam Law on Procurement / Decree 111/ND-CP/2006.

Annexes

Annex A: Consolidated scoring and rating of the BLI assessment 2006 and 2008

Annex B: BLI 2008 Result Table with Consolidated Assessors' Qualitative Comments

Annex C: List of BLI 2008 Participated Assessors and Agencies

Annex D: List of Participants at the National Validation Workshop 06 June 2008

Annex E: Filled Questionnaire: "Assessment and Validation regarding the Application of the Methodology for Assessment of National Procurement Systems" of the OECD-DAC JV for Procurement