

Anti-corruption policies in Asia and the Pacific: Thematic review on provisions and practices to curb corruption in public procurement Self-assessment report Vietnam

Identifying reform needs, assessing progress and evaluating the effectiveness of anti-corruption policies and practices are central principles enshrined in the ADB/OECD Initiative and its Action Plan. In this context, the present self-assessment report from Vietnam was prepared as background to the Initiative's thematic review exercise on measures to curb corruption in public procurement in the Asia-Pacific region.

This thematic review on public procurement was initiated in reaction to the findings of the Initiative's 2003-2004 in-depth analysis of the legal and institutional anti-corruption frameworks of the Action Plan's then 21 endorsing countries against the standards of this Plan ("Anti-Corruption Policies in Asia and the Pacific – the legal and institutional frameworks", November 2004). In this study, public procurement was identified as one of the areas requiring particular attention in the Asia and Pacific region and where consequently the Initiative's Steering Group had a vital interest to promote reform.

With this aim, the group agreed to pursue analytical work on corruption in public procurement through a thorough review of relevant existing policies, practices and rules so as to assist participating governments in better understanding the corruption risks inherent in their countries' institutional settings and procurement practices. This thematic review further seeks to assess how countries translate into practice their commitment made under the Action Plan to curb corruption in public procurement. Eventually, the review's findings will provide governments with an analytical framework to design policies and procedures that ensure greater transparency and integrity in public procurement and to identify priorities for reform in this respect.

In line with the Action Plan's principle of self-assessment, the review is conducted on the basis of information provided by participating countries in reply to a questionnaire specifically prepared for this purpose by the ADB/OECD Initiative. The present document represents the replies submitted by Vietnam in this framework.

Further information on the exercise, on other participating countries and on the analysis' outcome is available at the Initiative's website at <http://www1.oecd.org/daf/asiacom/stocktaking.htm#trpp>.



A. General framework

Legal and organizational framework:

1. Please list and briefly describe laws and regulations related to government procurement, including those that give exemption to the standard government procurement rules. Where available, please attach a copy or indicate an internet-site for download of these regulations, if possible in English language. Ensure to include secondary legislation, rules and procedures. Also, please indicate relevant international or regional agreements¹ that your country is committed under, including its level of involvement (e.g. signature, ratification, implementation).

Current legal norm documents on procurement are listed hereinafter. Several major documents (in Vietnamese) are available at <http://www.mpi.gov.vn/dauthau>.

N ^o	Document	Date of Promulgation	Promulgated by
Standard procedure			
1	Decree N ^o 88/1999/ND-CP on promulgating Regulation on Procurement	01/09/1999	Government
2	Decree N ^o 14/2000/ND-CP on amendment of and addition to some articles of Regulation on Procurement attached to Decree N ^o 88/1999/ND-CP dated 01/09/1999	05/05/2000	Government
3	Decree N ^o 66/2003/ND-CP on amendment of and addition to some articles of Regulation on Procurement attached to Decree N ^o 88/1999/ND-CP dated 01/09/1999 and Decree N ^o 14/2000/ND-CP dated 05/05/2000	12/06/2003	Government
4	Circular N ^o 66/2003/TT-BKH on instruction for implementing regulation on procurement	26/05/2000	Ministry of Planning & Investment
5	Circular N ^o 01/2004/TT-BKH on instruction for implementing Decree N ^o 66/2003/ND-CP dated 12/6/2003	02/02/2004	Ministry of Planning & Investment
6	Circular N ^o 08/2003/TT-BXD on instruction for the contents and management of Contracts on bidding of engineering procuring construction (EPC)	09/07/2004	Ministry of Construction
7	Circular N ^o 121/2000/TT-BTC on instruction for procurement of furniture, equipment and instrument in state agencies, armed forces, organizations and state-owed enterprises using national budget.	29/02/2000	Ministry of Finance
8	Circular N ^o 94/2001/TT-BTC on additional instruction to Circular N ^o 121/2000/TT-BTC dated 29/02/2000 on instruction for procurement of furniture, equipment and instrument in state agencies, armed forces, organizations and state-owed enterprises using national budget.	22/11/2001	Ministry of Finance
9	Circular N ^o 17/2001/TT-BTC on instruction for management and usage of fee for review bidding results	21/03/2001	Ministry of Finance

¹ e.g. APEC Non-Binding Principles on Government Procurement; WTO Agreement on Government Procurement; etc.

10	Decision N ^o 1037/2000/QD-BLDTBXH on payment for Vietnamese experts and employees working for selected foreign bidders in Vietnam	09/10/2000	Ministry of Labours, War Invalids and Social Affairs
Particular Regulations			
11	Decree N ^o 34/2001/ND-CP on promulgating regulation on procurement for projects of oil and gas exploration and exploitation	06/07/2001	Government
12	Law on Construction (Chapter of Bidder selection and Construction Contract)	26/11/2003	National Assembly
13	Circular N ^o 05/2004/TT-BXD on granting permit for foreign bidders to operate construction activities in Vietnam	15/09/2004	Ministry of Construction

Relevant international and regional agreements that Vietnam participated in:

United Nations: UN Convention against corruption signed by Vietnam S.R. Government on 10/12/2003 and being submitted for National Assembly's approval.

WTO: Vietnam is expected to be a member of WTO in late 2005, which means Vietnam will join Government Procurement Agreement-GPA.

APEC: Vietnam regularly participates in APEC's Procurement Forum with a view to exchange information and performing Reports on procurement system based on APEC's Non-Binding Principles namely Transparency, Value for money, Open and Effective Competition, Fair Dealing, Accountability and Due Process, and Non-Discrimination.

2. Please explain the repartition of tasks and responsibilities in the procurement process among centralized, decentralized and specialized authorities (in particular: design of policies and standards; capacity building; definition of needs and terms of individual tenders; execution of different procurement stages from advertising to contract awarding; dispute resolution; control of the fulfillment of the terms and conditions by the contractor).

As specified in Article 49 Decree N^o 88/1999/ND-CP, Ministry of Planning and Investment shall be the linking agency to help the government perform procurement management. Each Ministry and province shall perform state management on procurement within its scope and responsibilities.

Responsibilities of Ministry of Plan and Investment in procurement are defined in Decree N^o 61/2003/ND-CP as follows:

- a) Submit the procurement plans and bidding results of Government- or Prime Minister-controlled projects to the Government and Prime Minister; monitor performance of procurement projects approved by the Government.
- b) Instruct, inspect, control, supervise and summarize performance of regulation on procurement; manage procurement information system.

Specific bidding work is performed in each project. Depending on project classification, the two key roles in procurement are defined: competent person and project manager. Competent person shall decide fundamental issues in procurement namely bidding plan, bidding documents, bidding results of all the bidding packages of the project. Project Director shall be responsible for performing specific steps such as issuing bidding notification, evaluating bids, announcing bidding results when the competent person has approved, negotiated and signed contract, etc.

Settlement of disputes: as specified in Item 5 Article 50, Decree N^o 88/1999/ND-CP, settling claim and disputes on procurement is a part of state management of procurement, which is within the responsibilities of state managing agencies of each level.

Inspection and control of bidding procedure and contract performance: as specified in Items 25 and 26 Article 1 Decree N^o 66/2003/ND-CP, inspection and control of bidding procedure are parts of state management of procurement, which is within the responsibilities of state managing agencies of each level.

3. Is procurement of goods governed by the same procedures as procurement of services?

Current regulation on procurement (attached to Decrees N^o 88/1999/ND-CP, 14/2000/ND-CP and 66/2003/ND-CP) differentiates bidder selection procedures including bidding for recruitment of consultant (Chapter II), bidding for procurement of goods (Chapter III), bidding for construction (Chapter IV). Accordingly, beside common features such as setting procurement plan, prepare bidding documents, bidding notification, receiving and evaluating bids, announcing bidding results and signing contract, each procedure also has its own characteristics:

- Bidding for recruitment of consultant: generally, two-envelope bidding (one is technical proposal and the other is price) method is applied. In the process of evaluation, technical proposal (including such criteria as capacity, qualifications, experience of each consultants and management ability, solution and methodology for bidding packages, etc.) shall be the first priority. If the technical proposal is graded 70/100 points at least, the price proposal then shall be considered. When both technical and financial criteria are totally evaluated, the bidders' rank result shall be defined basing on both technical and financial points providing that the financial points accounts for 30% of the total points at most. Contract negotiation with the best bidder is carried out as soon as the bidder rank result is approved by the competent person. Only when having successfully negotiated with the best bidder shall the procuring entity submit to the competent person for approval, announce bidder selection result and complete contract with the selected bidder according to bidding result approval (Article 20 Decree N^o 88/1999/ND-CP). Bid security is not required in Bidding for recruitment of consultant.
- Bidding for procurement of goods: Bid evaluation in procurement of goods bases on evaluation the criteria specified in bidding documents (evaluation criteria shall not include trademark or specific origin of the goods). The technical evaluation criteria shall cover scope of providing quantity, quality, technology criteria, manufacture criteria, technical specifications, guarantee period, and environment requirement (Count b Item 1 Section I Chapter II Part III Circular N^o 04/2000/TT-BKH). Accordingly, it is possible to apply point evaluation method or "Y/N" method (Items 12, 13 Article 1 Decree N^o 66/2003/ND-CP).
- Bidding for Construction: procurement cycle for construction is similar to that for goods except some following differences. Bidding documents shall include technical planning documents enclosed with bill of quantities and technical guidelines. Technical planning documents shall follow defined standards. Bill of quantities detached from the technical planning shall be efficient, accurate to serve as legal basis for bidders to offer bid price. Requirement for quality of construct materials shall also be specified in bidding documents to serve as basis for calculating, setting unit price for bidding and analysing unit price for some major items as requested in bidding documents. It is illegal to mention trademark or specific origin of the materials in bidding documents (Item 14 Article 1 Decree N^o 66/2003/ND-CP). The evaluation of bids for construction is similar to that for procurement of goods. In financial and commercial evaluation to define evaluated price, however, procuring entity shall be entitled to request the bidders to explain unreasonable unit price and if the explanation documents is not sufficiently clear, it shall be considered deviation to be included in that bidder's evaluated price (Item 16 Article 1 Decree 66/2003/ND-CP).

4. Does the procurement law establish a Public Procurement Office (PPO)? Is the PPO appropriately staffed against its mandate? In this context, please state the total number of staff involved in public procurement country-wide. Are the procurement entities/PPO provided with adequate financial resources for the execution of their tasks?

As specified in Item 2 Article 49 Decree 88/1999/ND-CP, Ministry of Planning and Investment (MPI) is the main agency of the Government to manage procurement activities. On MPI assignment, Department of Procurement Management is assigned to help the Minister to perform state management on procurement (Decision N^o 602/QD-BKH) dated 19/08/2003 by Minister of Planning and Investment on functions, tasks and organizational structure of Department of Procurement Management). Total staff of Department of Procurement Management is 23 officers (including agents of *Procurement Info Report*) and uses national budget, which granted to MPI.

5. Please name the sectors, areas or conditions subject to particular procurement rules (if applicable, e.g. military; local governments; state owned enterprises; urgency).

As listed in the current legal norm documents on procurement (question 1) hereinbefore, the regulation on procurement attached to Decrees NO 88/1999/ND-CP and 66/2003/ND-CP is standard regulation applied for bidding packages in projects using national budget. Besides, the Government also permits oil and gas sector to perform bidding for projects of oil and gas exploration and exploitation according to Decree NO 34/2001/ND-CP.

Procurement policies and practices:

6. Do model tender documents exist (e.g. handbooks, model forms, model contracts, etc)? If yes, is their use mandatory, and do they contain a specific anti-corruption clause?

At present, MPI is preparing to issue the first procurement form – Form of Bidding documents for Procurement of goods. After issued, this form will be requested to use in procuring entity. In near future, MPI will also research on and issue other bidding forms namely Form of Bidding documents for Construction, Form of Bidding documents for Recruitment of consultant, etc.

7. Please provide the latest available economy-wide annual total numbers and values of purchases, with breakdown a) by sector and b) by type of procurement. In this context, please describe the procurement types foreseen by law (e.g. sealed tender, direct purchase; limited tendering) and the policy of your Government towards these types.

According to the statistics of the Ministry of Planning and Investment, the quantity and total expenses of annual purchases of the economy, basing on sectors and modes in 2003 are as follows:

No	Sectors & Types	Total of contracts (pack)	Total prices (bil.dong)	Total winning prices (bil.dong)	Margin (bil.dong)
I	Sectors				
1	Consultancy	3,556	2,176.6	1,951.3	225.3
2	Goods	8,365	19,759.6	17,120.0	2,639.6
3	Construction	18,268	47,666.9	45,584.2	2,082.7
	Sum I	30,189	69,603.1	64,655.5	4,947.6
II	Contractor selection modes				
1	Broad	4,008	21,805.4	19,269.0	2,536.4
2	Limited	5,163	22,487.8	21,274.7	1,123.1

3	Appointive and self implementation	15,311	19,270.7	18,728.8	541.9
4	Others	5,707	6,039.2	5,383.0	656.2
	Sum II	30,189	69,603.1	64,655.5	4,947.6

The bidding regulations enclosed in the Decisions 88/1999/ND-CP, Decision 14/2000/ND-CP and Decision 66/2003/ND-CP define 7 modes of contractor selections: Broad, Limited, Appointive, Competitive Canvass, Direct Purchase, Self implementation and Special purchase. Among all of them, Broad bidding is the major mode to be applied. The others are only applied in case they could meet the particular requirements and are approved as part of the bidding plans by authorized people.

8. Please explain under which conditions pre-selection procedures are conducted.

Preliminary selection is compulsorily applied to the purchase contracts valued from 300 billion dongs up, construction contracts from 200 billion dongs, and the EPC of from 300 billion.

9. If your country is currently engaged in or planning a major reform of its procurement system, please briefly state the scope and objectives of this reform.

Vietnam has drawn a plan to reform the bidding activities with a series of practices, like: compiling and filing the Law of Public Purchase Bidding to the National Assembly Standing Committee; compiling and filing the template documents used in bidding-such as the Tender Invitation Dossier for Goods Purchases, for Construction, and for Consultancy- to the Minister of Planning and Investigation; and carrying out the program of bidding capacity reinforcement.

B. Transparency and Fairness

Transparency of general procurement policies and regulations:

10. Are the existing laws, regulations and policy guidelines on public procurement publicly available and, if yes, where/how?

The key legal documents on bidding such as the Decision to promulgate and revise the Bidding Regulations, several instructional Circulars published on the Government's Official Gazette and on the website of the Ministry of Planning and Investment, bidding column through path: <http://www.mpi.gov.vn/dauthau>. In additions, the bidding regulations are also available in form of reference books so that the involves can consult anytime.

11. In your country, do certain territorial entities or institutions establish lists of eligible contractors (sometimes called "white-lists")? If yes, please explain the criteria for a company to be included in or excluded from this list, and what use is made of such lists.

According to the regulations at Decision No 66/2003/ND-CP clause 1 items 7, 8 and 22 , and part of Circular No 01/2004/TT-BKH, at present, the Ministry of Planning and Investment is establishing a database of contractors throughout the country. The aim of the administration authorities in the establishing of this database is to know all the basic information on the number of contractors as well as their activities all over the country.

12. Is a bid security and/or a performance guarantee required from the bidder? What are the procedures for advertisement of procurement opportunities?

According to the current Bidding Regulations, the contractors for Goods purchases and Construction have to pay as a guarantee for their bidding of the contract and if they win, they will have to pay for the guarantee of implementing the contracts (Decision 88/1999/ND-CP, clauses 28, 32, 39 and 43).

Also basing on the Bidding Regulations, for the broad bidding packs, the host has to announce the invitation openly on the media or on the Bidding Information Bulletin and the web for bidding of the State, Ministries and localities at least 10 days before issuing the Bidding Invitation Dossier (Decision 66/2003/ND-CP, clause 1, item 3).

Transparency of procurement opportunities:

13. Describe where and how tender opportunities are published, including if their publication is mandatory or depends on certain criteria (if so, please list)? Please state if a fee has to be paid to receive tendering documents and – if yes – how this fee is fixed and whether other processing fees apply. Please briefly explain whether your country allows adequate and reasonable time for interested suppliers to prepare and submit responsive bids.

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In case the domestic broad biddings have the Dossiers to sell, it will be no more than 500,000 VND each. There will be no additional fees. The cost to hold and assess the bidding dossiers of the host is included in the whole expenses of the project (Decision 88/1999/ND-CP, clause 57)

The valid period of time for the preparation of the bidding dossiers is at least 15 days for domestic biddings (7 days for small-scale packs) and 30 days for international ones, counting from the day that the invitation dossiers are issued (Decision 88/1999/ND-CP, clause 12, item 1)

14. Are selection and award criteria prescribed by law? If yes, are they prescribed in an exclusive manner? Please name these criteria a) for procurement of goods, and b) for procurement of services (e.g. technical requirements, qualification of the bidder, evaluated price, expertise/experience, etc.) and those that are explicitly excluded (e.g. nationality of the bidder or other affinity, etc.). Is the description of these criteria in the tender documentation mandatory?

According to the Bidding Regulations, all the criteria used in assessing the dossiers have to be stated clearly and adequately in the Invitation Dossier and the host must not omit, add or change anything in the content of these criteria during the assessment period (Decision 66/2003/ND-CP).

Transparency of contract evaluation and award procedures:

15. What is the procedure if none of the bids or too few – relative to a prescribed limit – fulfill the technical requirements as defined in the call for tender (e.g. reopening of the bid, negotiations, etc.)? Do you keep a register of all bids received?

When there are less than 3 participants submitting the dossiers, the host has the responsibility to report to the authorized people or agencies and ask the permission to lengthen the bidding closing time in order to increase the dossiers, or to open the submitted dossiers to begin the assessing process (Decision 88/1999/ND-CP, clause 55, item 2)

All the dossiers on schedule are received and kept “secret” by the host. Then all of these will be opened to the public right after the closing time according to the appointed date, time and place mentioned in the Invitation Dossier. All the opened dossiers will go on to the assessment stage.

16. Where and how are actions and decisions in the procurement process recorded? How long and where are these records preserved, and who can access this information?

As it is regulated by the Bidding Regulations, all the agencies, organizations and individuals participating in the bidding and assessment of the bidding have to keep the dossiers, documents and information about the bidding process in secret, following the rules below: (Decision 88/1999/ND-CP)

Must not reveal the content of the invitation dossier to any party before the issuing day of the dossier.

Must not reveal the contents of the participant dossiers, notes, reports of assessment meetings, opinions of experts and consultants about each tenderer and other documents of “secret”, “top secret” or “confidential”

Must not reveal the result of the bidding before the host officially does.

Must not expose purchase information related to the assessments of the dossiers during the assessment stage.

Must not provide the information of the bidding assessment process for the media, counting from the opening time to the time the result is announced.

17. How and to whom is the final decision on awarding the tender disclosed? Do reasons for the selection of the winning bidder have to be stated? Are post-awarding negotiations allowed and, if yes, under what conditions?

After the winner of the contract has been approved by the authorized person, the host starts announcing the result of the bidding on the Bidding Information Bulletin and the web for bidding activities. (Decision 88/1999/ND-CP, clause 13, item 3 and Decision 66/2003/ND-CP clause 1 item 18)

For the consultant selection biddings, the host will negotiate with the winner in the first position before filing to the authorized person for the final decision of the bidding (Decision 88/1999/ND-CP clause 20 item 11). For the biddings of construction and goods purchases, basing on the approval of the authorized person on the result of the bidding, the host invites the winner to enter the negotiations to complete the contract (Decision 88/1999/ND-CP clauses 31 and 42). However, the total price of the contract to sign must not exceed the price of the winning contract. In case it exceeds, the host has to report to the authorized person to reconsider and decide (Decision 88/1999/ND-CP)

18. Are framework contracts allowed? If yes, what measures are taken to control against corrupt or unnecessary demands?

According to the Bidding Regulations of Vietnam, there are only three kinds of contracts: package, EPC and price-adjusting contracts. (Decision 88/1999/ND-CP). Frame contract does not exist yet.

C. Integrity

Integrity of procurement personnel:

19. Do codes of ethics or similar instruments exist that explicitly apply to procurement personnel and entities? If yes, do they specifically address corruption risks, and do they contain conflict of interest provisions (e.g. provisions making mandatory the declaration of personal interests by agents and buyers)?

All the civil servants, organizations that work as purchasers, project owners, tender state management agency have to abide by the Ordinance on Public Official promulgated in 1998 and revised in 2003 by National Assembly Standing Committee. Accordingly, regulation against corruption is emphasized: “it is forbidden for the head, the deputy head and their relatives to be a share holder at an enterprise doing business in the field that they are in charge of directly”.

Circular 01/2004/TT-BKH guides more concretely: “Representatives of bidders is legal if their relatives do not take part in the tender, expert and consultant group that consider and assess the tender result”. (Part 1, section II, item 2).

20. Does your country provide for specific training for procurement personnel that include integrity issues? Please list manuals or policy guidelines that might exist to clarify procurement procedures and principles to procurement personnel (if existing please attach a copy or internet-address for download).

The training courses for civil servants who take charge in buying assets are mainly concentrate on required techniques and skills when they carry out a tender. The requirements to experts who take part in the group of assessing bidding documents are also presented in the training course. Under the regulations, all the memberships of the expert and consultant group have to meet all the capacity and experience demanded such as tender understanding, technical knowledge, (Decree 66/2003/ND-CP, section 11, item 1).

The expert group is responsible to report its ideas honestly, objectly to the purchaser during the process of analyzing, assessing, ranking bidding documents. (Decree 88/1999/ND/CP, section 16, item 3, point d). In addition, the purchaser, expert and consultant group are not allowed to pool capital with the individuals who is legal representative of the bidder. (Circular 01/2004/ND-CP part 1 section II, item 2).

21. Is procurement personnel required – and if yes by what regulation and to what institution – to report attempts by suppliers to undermine the impartiality and independence of action by offering bribes, benefits or other forms of inducement?

According to current tender regulation, all the activities of bribing, taking the bribes, reporting untruthfully, colluding that affect the independence and transparency in the process of assessing the tender are the illegal activities and will be dealt following decree 88/1999/ND-CP item 60 and decree 66/2003/ND-CP Section 26, item 1.

22. Which penal and/or administrative sanctions are applicable to procurement personnel for accepting or soliciting bribes? Are public officials liable for the economic damage that the procuring entity suffers? What is the policy that applies to procurement personnel for accepting or soliciting small facilitation payments such as gifts, benefits, hospitality (e.g. outright forbidden, accepted under certain circumstances, etc.; please explain).

Individuals, organizations will be taken disciplinary actions or taken criminal proceedings according to regulation infringement. (Decree 66/2003/ND-CP section 26 item 1).

Integrity of bidders and suppliers:

23. Which penal sanctions are applied to a bidding company as a legal person and to its employees if it is found guilty of corruption related to the bidding procedure? Is the company liable for the economic damage that the procuring entity suffers?

The bidder has to compensate the loss, will be forbidden to take part in the tender or will be taken criminal proceedings if he infringes the tender regulation. (Decree 88/1999/ND-CP item 60 and decree 66/2003/ND-CP section 26 item 1).

24. Do your country's laws and regulations permit authorities to suspend, temporarily or permanently, from competition for public contracts and/or from other commercial activities an enterprise determined to have bribed a public official? If yes, is such disqualification mandatory or optional and which body decides on the disqualification and its exact terms? Which means are employed to implement the disqualification (e.g. publicly available list, declaration in the bidding process...)?

Decree 88/1999/ND-CP item 60 and decree 66/2003/ND-CP section 26 item 1. If having infringements, the bidder will be named on tender information newspaper and website of investment and planning ministry. If being named 3 times, the bidder will be forbidden to take part in any tender for 1 year. If being named the next 3 times, the bidder will be forbidden to join the tender for 2 years. The bidder will no longer has the right to join the tender if breaking regulation three time.

25. Do bidders have to explicitly declare their abstention from any means that could improperly influence the procurement process or decision and, if yes, do such declarations also cover such unlawful practices by subcontractors or other third parties?

Decree 88/1999/ND-CP item 60 and decree 66/2003/ND-CP section 26 item 1, the bidder must provide the purchaser with truthful information and the purchaser have the right to refuse the bid document and refund caution-money (if having) if information about bidder's financial and technical capacity, experience, curriculum vitae of consultants is untruthfully. The bidder infringes the regulation will be named on the tender information newspaper and state tender website.

26. Do bidders have to disclose commissions, gratuities, or fees that have been or have to be legally paid to individuals or sub-contractors for their services provided for instance in the preparation of a bid or the execution of the contract?

According to tender regulation, the bidder is not required to enumerate commission, fees paying individuals or other bidders. If the bidder is a joint - venture company, the bidder has to present the assignment of work, volume of work and correlative value of each side.

D. Accountability

Separation of responsibilities and independent scrutiny:

27. Which means are employed to avoid insulation of procurement staff and to ensure mutual control? (e.g. rotation of officers, decisions taken/validated by more than one actor, etc.)?

In the project, the work and responsibility assignment among administrator, project manager, purchaser is very clear and concrete. In addition, tender process is supervised by an independent side - tender result and planning assessment agency. At present, tender supervision is enhanced through tender inspection activities.

28. Are there regular and systematic internal and external audits of procuring entities/PPOs? If yes, are they mandatory; which bodies are in charge of this audit; are the audit reports publicly available? Are independent actors/NGOs invited to monitor the procurement procedures and what is the setting prescribed by law?

Currently, there is no requirement for internal and external audits of procuring entities/PPOs in Vietnam.

Review and complaint mechanisms:

29. Do your laws and regulations provide for review and complaints procedures? If yes, are they at administrative and/or judicial levels; what is the time limit for complaint/appeal, if any? How many complaint cases related to procurement are handled per year?

Individuals and organizations have the right to raise questions in the tender process. The administrator is responsible to consider and solve all the complaints through check or inspection. Investment and Planning Ministry has not had the official statistic of complaints relevant to tender in nation-wide till now.

30. Who is entitled to initiate a complaint procedure (e.g. competing bidders, any citizen, etc.) and how are potential informants protected against retaliation (e.g. confidentiality, anonymity)? Are the decisions of the body handling complaints binding? What are the consequences if a complaint is proven valid (e.g. reopening of the bidding, liquidation of damages, etc.)?

Mechanism of solving complaints is not mentioned in VN tender regulation currently. However, the state tender management agency at all levels is responsible to solve all complaints of individuals, organization being bidders or purchasers. (Decree 88/1999/ND-CP, item 50). This is a part of tender inspection content, decree 66/2003/ND-CP section 25 item 1.