Additional Annex 12: Anti-Corruption Plan

INDONESIA: Initiatives for Local Governance Reform Project

Overview

The project encompasses some of the most important elements of an anti-corruption strategy as major integral parts of its design. It acknowledges the inherent weaknesses of working at the kabupaten level and aims to tackle them in a systematic manner, actively promoting greater transparency and accountability. However, this positive approach in the design does not mean that there is room for complacency in relation to corruption. Due diligence must be given to ensure that the rules of the project are followed and its aims properly met. This will require a strict regime of monitoring, supervision and, where necessary, the use of sanctions.

Success of the ILGR depends on continued support from many actors (*inter alia*): MOHA, Bappenas and the national level government; province government; Bupatis, Bappeda and district level government; DPRD, civil society and, ultimately, citizens living in the participating communities. Consultants, contractors, facilitators and auditors will also play important roles in the project. This diverse set of actors needs to work together to ensure that the project achieves its goals in an effective, efficient and corruption-free way. Involvement of so many actors in the process can in itself act as a major disincentive to corruption: everyone knows that someone else is watching. The challenge will be to ensure that each actor remains properly informed on a regular basis of plans and progress. For this reason, it is possible that the project’s increased levels transparency and proactive dissemination of information may eventually prove to be the most important of the anti-corruption elements.

It is recognized that strong *local* mechanisms will not be in place at the outset. Indeed, a primary purpose of this project is to develop and install improved systems (especially in relation to kabupaten governance, financial management and procurement) in a gradual, participative manner. Improvements can be expected to occur during and as a result of project implementation. This means that corruption risks may be greater at the beginning, and more support and supervision would therefore be necessary during the earlier phases. For this reason, the investment funds of the project are held back until an appropriate level of reform has been achieved.

As the new systems become established the increased levels of transparency and accountability will significantly reduce corruption risks. Monitoring by empowered communities and civil society groups will further reduce risks and the burden of supervision. The investment stage will begin after 36 months of start-up (including Project Preparation). However, the improvements in management and governance may take up to more than 4 years to become fully consolidated. This period will be a crucial learning stage where the local governments need to test and strengthen their new capacities. The investment funds are designed to encourage the reforms and provide an ideal opportunity for ‘learning by doing’. Since the systems will still be new, it is essential that the effort is carefully overseen in order to avoid mismanagement and corruption. A similar tactic of combining facilitation, capacity building, investment grants and appropriate levels of supervision has been used to good effect by the KDP project to empower villages and kecamatans (subdistricts) over recent years.

Since the project aims to reach across sectors, and impact on kabupaten governance as a whole, it will be essential that cases of corruption be treated seriously. Investigation of complaints must be done in a timely and professional manner, and sanctions applied wherever cases are proven. The following sections of this annex review the elements of the project that relate directly to the prevention of corruption, identification
and investigation of cases, and proposed remedies, including sanctions. The anti-corruption elements of this project are inseparable from the project Procurement, Financial Management, Disbursement and Disclosure strategies. In the ILGR, the Anti-Corruption Plan is not a 'stand-alone' feature, but rather a set of mainstreamed, integral facets pervading the project design, further details on most of the elements of this plan can be found in the relevant sections of this PAD.

Corruption mapping

Procurement of facilitation and TA contracts will be centralized. The normal procurement and financial management procedures acceptable to the Bank will be enhanced by measures for improved disclosure (see also below).

The main dangers of corruption in this project are at the kabupaten level where there will be three key areas of concern:

Numerous trainings, workshops and other small-scale activities. The many payments can be difficult to monitor and control, and can be subject to serious financial leakages or even completely bogus requests for reimbursement. Deliberate abuse of funds, especially during the early phase of the project, may severely discredit the entire effort. Tight controls need to be applied over such items as allowances and expenses. Difficulties are compounded because of the limited financial management capacity (in fact, it is not uncommon for funds to be 'stolen' from one budget line in order to cover up for a more innocent management error in another!), hence it is essential that the project team provides hands-on bookkeeping and basic management support. Disclosure of budgets will help reduce risks. Technical assistance related to the financial management and procurement reforms will also be a mitigating factor.

Procurement of infrastructure-related contracts. This will be a major area of concern at the beginning of the implementation phase and thereafter. There must be stringent adherence to procurement rules and increased disclosure in the procurement process. The Dinas agencies will be managing contracts but not constructing the infrastructures. Involvement of end-users/civil society in the procurement process, as members of bidding committees and process monitoring teams, will act as a deterrent to abuse. Bids must be open to contractors from outside of the kabupaten and sufficient efforts must be made to ensure that bid information is widely disseminated. Transparency is a key: the likelihood of monopoly-control and collusion is greatly reduced. Simplification and standardization of forms and procedures will also reduce corruption risks.

Supervision and quality control. In the past, quality control in infrastructure projects has tended to be very poor. Often there has been collusion between supervisors and contractors resulting in the certification and payment of infrastructures that are substandard, even of dangerously bad quality. The end result is roads, schools and other constructions cost more than they should and are soon in a grave state of disrepair. This project must ensure that trained, motivated supervisors are actively monitoring quality as infrastructures are constructed. Spot checks must be made by national project staff and technical audits performed on a reasonably large sample of cases. Civil society groups (NGOs) will be involved in ensuring that standards and specifications are being met. This will include the involvement of NGOs in routinely checking specifications in each subproject location. Attention will be given to the control and payment systems where simplification, standardization and civil society oversight will all reduce risks. The project will ensure that timing of contractor payments is carefully tracked, as payment delays are often a sign of rentseeking.

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Enhanced disclosure provisions

Recently the World Bank and GOI (Bappenas) have agreed upon a set of enhanced disclosure provisions that will be piloted under new Bank-assisted projects. Participating kabupaten in ILGR will agree to adopt the enhanced disclosure provisions, at least in respect to Bank-supported activities. These provisions include:

- Audit reports will be made publicly available by both the Borrower and the Bank.
- The mid-term report will be made publicly available by the Borrower.
- The procurement process, where the Borrower has agreed that additional information concerning parts of the procurement process in the project will be made publicly available. The legal agreements for this project will include specific undertakings to effectuate these arrangements. These undertakings would eliminate the need for GOI approval to be obtained prior to the public release of such information.

Salient information from monthly and quarterly reports, will also be made available to the public and disseminated to the press.

For other documents, which are currently not disclosed without Borrower consent, the Bank will continue to consult GOI prior to disclosure.

These provisions are a good starting point. All ILGR locations are expected to go beyond this by not only making basic information routinely available, but by making it available in a form that is useful and easily understood. The information needs of different groups need to be considered. The needs differ between government staff, civil society; companies and communities. The project will acknowledge these differences and endeavor to regularly supply each stakeholder group with sufficient and clear information to meet their needs.

Civil society oversight

Training for people from civil society groups is a key part of this project. This training will help prepare the groups to play a more active and effective role in the decision-making and monitoring process. Their involvement in key parts of the project (helping to oversee aspects such as procurement, financial management, progress and quality control) can provide a vital, objective element to the project. Clearly it is essential for the involvement to be bona fide, and not captured by the "pseudo-NGOs" which proliferate in some areas. Such NGOs include those that have a blatantly, unswerving anti-government stance, and also those that are actually created for and by civil servants. The key will be to engage in dialogue first and foremost with genuine civil society groups that have good motivation and capacity. Failure to do so may lead to serious cases of fraud and corruption later on since pseudo-NGOs can attempt to legitimize corrupt practices.

Partners from civil society will participate in many aspects of the project, from budget planning to monitoring. The project will include civil society in kabupaten procurement committees and monitoring teams to ensure there is no collusion between contractors and dinas staff involved in implementing the projects. The project will then empower local universities, NGOs and journalists networks to monitor progress and local government performance through contracts for independent monitoring, citizen score-cards and assessments of citizen satisfaction with kabupaten services. These efforts will help ensure demand for greater accountability and transparency of local government representatives.
As members of the multi-stakeholder forums, civil society groups will have an ideal platform to voice their concerns, particularly in relation to slow, shoddy and corrupt practices. Project information dissemination will include links to the local press, radio and strategic civil society networks, ensuring that people are kept up-to-date between and outside of the forums.

It is planned that, beyond the measures imbedded in the project, local civil society groups will also be asked to participate in monitoring activities to be financed separately through an approved Japan Social Development Fund grant.

Complaints handling, monitoring and supervision mechanisms

The project will have mechanisms to investigate and follow up on complaints from communities (including individuals, families and community-based groups); civil society (NGOs, religious, education and other organizations); consultants and companies; and also civil servants. Complaints might be very open and vocal, encouraged through supervision or monitoring visits, or submitted anonymously. The ILGR complaints system will differ somewhat from that used by KDP in that it must be more easily accessible to local government, contractors and other groups, whereas the focus of the KDP system has tended to be response to inputs from communities. This may result in a shifting of the typologies of complaints towards more technical, procurement and financial management issues. Of course, like that in KDP, the complaints handling system in ILGR must also be capable of dealing with cases reported by communities, such as elite capture of benefits and other abuses of power.

It is essential that independent channels be provided for complaints related to corruption, since project staff and consultants may be implicated in corruption cases. This project will replicate systems tested under KDP, whereby citizens have several channels for their comments and complaints. It is also essential to discriminate between cases that are due to innocent error or inexperience, and cases that are due to deliberate, illegal acts. To ensure that innocent people are not persecuted, the complaints handling system must include a professional system of investigation. BPKP will be the main auditors for the project and Bawasda will act as an independent auditor in relation to kabupaten level procurement. The local government will be required to make a commitment towards investigation and prosecution of cases involving KKN.

Information concerning cases will be made public through meetings and the project’s information dissemination system – particular attention will be given to cases that have been successfully prosecuted, since news of these will act as a disincentive to future abuse.

Cases of corruption can be reported, but they can also be found as a result of supervision and monitoring. The main methods by which corruption cases are likely to be found are as follows:

**Internal monitoring** of the project is mainly designed and implemented though management and facilitation contracts allotted from the national level. The key will be to ensure that reports of corruption, in whatever form, are shared with the appropriate levels of the project in a clear and timely fashion. For example, if a consultant suspects that there is a case of collusion at the kabupaten level, then a report should be sent immediately to appropriate people at the province and national levels for further investigation.

**External monitoring** will also be undertaken (e.g. see notes on civil society oversight above) and cases reported from these activities must also be properly investigated and tracked.
Quality control reports and audits, from internal consultants and from external agencies will be another possible starting point for investigations into corruption. The role of Regional TA in the regular monitoring of quality issues will be crucial to ensuring that standards are met and maintained. Annual technical and financial audits will be a means of checking whether the TA reports have been accurate, and whether additional measures need to be applied.

Progress and payment records can also give clues as to where corruption is taking place. Unduly high payments and late payments should be investigated.

Score cards which measure citizen satisfaction of the project will also be used. The results of these need to be very carefully analyzed, since public perceptions of problems can sometimes be misleading. However, the cards can provide an indication of whether corruption remains a problem in a given area. Appropriate investigations must be launched wherever indications are strong that corruption is a problem.

Government and Bank supervision may also catch infringements that have not been reported through the normal channels (this is often itself a sign of collusive practices concerning project facilitators or staff).

As with incoming complaints, cases caught during monitoring and supervision, will be tracked in such a way that it will be possible to easily tell which cases remain unresolved. Clearly a robust system of information management is required to filter incoming information. This system needs to be able to refer cases to the appropriate people (or authorities) and track progress of each individual case. Again, a system similar to that being used in KDP will be applied.

Policies to mitigate chances of collusion

The prominent role of multi-stakeholder forums in the project will greatly reduce the risk of collusion. It is vital that the forums are truly representative of a broad section of society. The forums must also be properly encouraged and supported, so that all members can play an active role.

The emphasis on transparency in the ILGR will also discourage collusion. For this reason the project needs to disseminate all salient information direct to civil society and private sector groups, as well as to the press.

Linking project payments to proven progress (e.g. with proper certification of quality) will also reduce the scope for corrupt and collusive practices.

External monitoring (see above) will further reduce risks of corruption and collusion.

The wide range of policy reforms related to governance, financial management and procurement should all lead to a more responsive and responsible local government. The project helps the kabupaten to work through these reforms and implement them.

Sanctions and remedies

There are many strict laws on theft and corruption in Indonesia, but severe penalties for significant abuses are seldom applied, especially in cases concerning civil servants and people with political influence. Sanctions need to be applied otherwise the social stigma from the publicity surrounding a case will be the only disincentive to corruption. This stigma is unlikely to be an effective deterrent on its own. In fact, if it
becomes public knowledge that prosecuted cases receive little or no punishment then there will be a severely perverse negative effect.

It will be essential that cases of corruption be treated seriously. Suspicion of corrupt practices would be enough to trigger the suspending of payments (or reimbursements) to specific contractors, subprojects, or even entire districts depending on the severity of the apparent case. Where corruption allegations are proven, expended funds would have to be returned and appropriate action taken. If appropriate action is not taken then pressure must be applied at the next level. For example, a worker is engaged is stealing – if the contractor who employs the worker does not take appropriate action then the contractor will be held responsible and held liable. Where contractors are proven guilty of corrupt practices and the local dinas does not take action, then the kabupaten may be held complicit and jointly responsible.

The project will encourage a system of blacklisting for companies that engage in collusion or have produced unacceptably poor quality results. Due care will be taken to ensure that this system does not result in threats and rentseeking.

The project will require government civil servants working on the project to:

(i) sign/agree to code of ethics related to KKN free project management; and
(ii) require the Kabupatens to take administrative action against staff involved in KKN including prosecution or demotion.

Since the project aims to reach across sectors, and impact on kabupaten governance as a whole, it is essential that sanctions be applied strictly and fairly. A 'one-strike' policy needs to be applied to contractors, facilitators and consultants: any case of complicity in corruption would lead to dismissal and possible prosecution.

An entire kabupaten would be removed from the project list if it fails to deal with corruption issues properly – even if the specific cases are not directly linked to the project – since ILGR cannot function in a setting where corruption is allowed to thrive. Therefore, the kabupaten governments need to ensure that other development activities (irrespective of funding source and sector), also adopt strict governance rules.

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