Annex 10: Governance and Anti-corruption Action Plan (GAAP)

Objectives

The objectives of the Governance and Accountability Action Plan are to strengthen 1) management control and 2) independent oversight over the project with a view to ensuring transparency, accountability and professional integrity.

The GAAP will deliver on its objectives by identifying the main governance and corruption risks and presenting specific mitigating mechanisms. The mitigating measures will be incorporated into the Project Operations Manual and implemented by the Project Implementation Unit, see Annex 6.

Types of risks

All projects of this nature bear certain risks in terms of the potential for fraud or corruption that could result in financial losses to the state. With regard to PINTAR, key risks fall into two categories:

Technical Risks
ICT system of the kind envisioned by the project must meet highly specific technical standards. An element of oversight will be required to ensure that equipment and software procured and/or developed meet technical specifications and that the same equipment and software is not available elsewhere at a better price.

Fiduciary Risk
Risks are associated with both the selection of consulting services and procurement of hardware. Because of the large size of these tenders and the complexity of the relevant procurement regulations and guidelines enhanced scrutiny, including independent assessments, of such procurements is warranted. Similar scrutiny should be applied to major group-based training activities funded by the project.

Mitigating Measures

It is in the best interest of both the DGT and the World Bank to ensure that adequate mechanisms are put into place to improve project-level governance and to reduce the above-mentioned risks. The mitigating measures designed to address these risks are mainstreamed into PINTAR project management and implementation. Some of the measures indicated below thus serve GAAP purposes as well as broader project management purposes of communication, change management, stakeholder management and core project management.

Disclosure and access to information

A key good practice in reducing governance risks while increasing transparency is the enhancement of access to project information provided this does not involve the disclosure of state secrets. To ensure proactive disclosure of project-related information, the DGT will establish a website to disseminate information related to PINTAR. The website can either be a dedicated project website (e.g. www.pintar.id) or a clearly marked section on the homepage of the existing DGT website (www.pajak.go.id). The following information will be made available on the site:

- A general description of the project, its objectives, components, timeline and implementation structure.
- After the completion of a mid term review of the project, the mid term review report and the World Bank Aide Memoire prepared for this purpose.
- Semi annual Project Progress Reports.
- Contact details for the complaints handling mechanism.
• Contact details for the Project Implementation Unit.
• Advertisements for procurements funded by the project.
• The procurement plan including any updates thereof.
• Contract award information for all contracts funded under the project after such award.
• Final audit reports prepared by BPKP and all formal responses of the Government.
• Annual Technical Audits as prepared by the owner’s agent.
• Information on annual public project meetings.
• Outline of what information is available to the public upon request.
• Press releases.

As part of component D, the Project Implementation Unit will develop a public communications strategy. Press releases will be published when major project milestones are met including when major contracts are awarded.

The Project Implementation Unit will organize a press conference one month after loan effectiveness and again, once each year, at the time of the publication of the annual Project Progress Report to inform the public about project objectives, design and progress. Notice of these annual meetings will be posted on the project web-site and through press releases. A report on the attendance and materials distributed at annual press conferences will be made public at the project website.

Upon request (in writing, via email, via post, or in person), the Project Implementation Unit will make available to any member of the public:
• all bidding documents and requests for proposals subject to payment of a reasonable fee to cover the cost of printing and delivery. In the case of requests for proposals, the relevant documents will only be made available after notification of award to the successful firm.
• at no cost, any short lists of consultants and, in cases of pre-qualification, lists of pre-qualified contractors and suppliers;
• at no cost, a list of all contracts awarded to date in the project in respect of the project, including the name of the contractor consultant, the contract amount, the number of bidder makers of proposals, the procurement method followed and the purpose of the contract.
• subject to payment of a reasonable fee to cover the cost of printing and delivery, summaries of the evaluation of all bids and proposals for such proposed contracts. Information in these summaries will be limited to a list of bidders consultants,
• all bid prices and financial proposals as read out at public openings for bids and financial proposals, bids and proposals declared non-responsive (together with reasons for such declarations), the name of winning bidded consultant and the contract price.

Documentation will continue to be available until the project is formally closed.

The Project Implementation Unit will keep records, electronic or hard-copies, of all information requests received and documentation provided in response to such requests and will include this information as an annex to the annual Project Progress report. The Project Implementation Unit will issue an annual Project Progress Report. The content of the report will be specified in the Project Operations Manual and will, inter alia, cover the following issues:
• Progress against project milestones
• Summary of awarded contracts
• Overview of information requests
• Summary of complaints
• Result of the technical audit performed by the owner’s agent

The Annual Project Progress Report will be signed by the Minister of Finance, the Director General of DGT and the Project Director, will be made public at the project website and will be presented at a meeting open to the public as mentioned.

Procurement and Financial Management Mitigation Measures
The main mechanism intended to ensure that procurement is conducted with a high level of integrity will be the appointment of a team providing implementation support, verification and validation services (the owner's agent) to ensure adequate quality control standards are met in all key aspects of the project. The owner's agent will be appointed using selection procedures acceptable to the Bank. The aim is to have the owner's agent selected prior to loan effectiveness.

All PINTAR procurement activities will be subject to parallel bid evaluations by a separate consultancy funded by the PFM MDTF. In terms of financial management, additional scrutiny will be focused on “soft” expenditures, particularly training costs and consultant-related disbursements. The BPKP will conduct an annual project audit which will be made publicly available. The World Bank may, in consultation with the Project Implementation Unit, request special attention to designated expenditures as part of the BPKP’s Terms of Reference for its regular audit.

Technical Mitigation Measures

The management framework for PINTAR is developed in accordance with CMMI (Capability Maturity Model Integration) standards as well as ISO 15504, and applicable ISO 9000 series standards for quality assurance. The technical and managerial discipline required by such standard application will ensure adequate quality in outputs and outcomes and thus mitigate technical risks. The owner’s agent will be mandated by its terms of reference to provide competent technical oversight for project activities including, but not limited to:

- An Annual Technical Audit, to be built into the project’s Monitoring and Evaluation plan, to ensure full compliance with technical specifications for procured equipment and price conformity in comparison to local ICT market prices. The technical audit will be included in the Annual Project Progress Report
- Ensuring ongoing technical compliance with internationally recognized quality assurance standards including meeting mentioned ISO benchmarks;
- Quarterly reports from the owner’s agent to the project Steering Committee, copied to the World Bank will identify any significant technical-related problems as well as recommending a viable course of action to overcome identified problems or constraints.

Human Resource Mitigation Measures

The project will develop and support a variety of training programs such as trainee and managerial training as well as technical training programs supporting skills development related to the core tax processes. As part of the contract for the owner’s agent, an international Resident Training Advisor will be hired. Among the early, key tasks for the resident advisor will be to develop sustainable systems for quality assurance related to all training within DGT including for the selection processes. Processes and mechanisms for selection for training will thus be a key area for the monitoring by the owner’s agent. The duties of the Resident Training Advisor’s from the owner’s agent will involve an annual assessment of PINTAR’s training activities with a particular focus on the relevance and cost-effectiveness of senior level training opportunities (including training of auditors, tax collectors and Tax Service Center staff. This assessment will also examine the eligibility criteria, nomination and selection procedures and post training reintegration and will make recommendations for improvement, as necessary, with a view to maintaining a high level of transparency. Training applicants and their managers will be eligible to file grievances with the PINTAR complaints handling mechanism (as described below) in the event of perceived bias or lack of fairness in training selection or reintegration.

Complaints Handling Mechanism

A semi-independent complaints handling mechanism will be established to receive, investigate (as appropriate) and resolve internal and external complaints related to any aspect of project implementation. This mechanism builds upon and reinforces the procurement-related complaints procedures already mandatory under Keppres 80/20039. Complaints related to PINTAR will be handled by the sub-
director of Internal Compliance and Internal Investigation in the Directorate of Internal Compliance and Resources Transformation. The PINTAR complaints handling system will:

- Establish a dedicated email address for incoming complaints. This email address will be posted on the project website and published in all annual reports and press releases;
- Designate relevant personnel within the Sub-Directorate to receive and investigate incoming complaints;

Procedures for complaint, handling, and sanctions are described in the Keppres 80/2003. Bidders may file complaints to the Director General of Taxation. If not resolved, the complainants can refer the complaints to the Minister of Finance. It is noted that under the current Taxation Law, the DGT has its own robust system and standard services of filing and administering the complaints related to the taxation. In addition, DGT employees are expected to follow a published code of ethics. One of the main features is that employees are prohibited from taking any gifts or gratuities which may affect decision making. Bidders can report bribes in writing to the supervisor of the respective officials, or they can report directly to PO BOX 5000 which is the official mail box of the Vice President for handling public complaints, or they can send text messages to the President office through SMS 9949 which is handled and responded directly by the President’s office, or through a hotline service of the office of the Anti Corruption Commission (KPK).

- Record all complaints and acknowledge receipt to the complainant (except in cases of anonymous complaints) within two working days;
- Establish a detailed complaints handling procedure to be in the Project Operations Manual
- Undertake investigations, as may be required, with a view to satisfactorily resolving complaints.
- Any complaints that cannot be resolved will be brought to the attention of the Steering Committee and Director General of DGT (with copy to the World Bank) within 60 days of submission of the complaint.
- The number of complaints received and cases investigated and resolved will be reported in the Annual Project Progress Report. The World Bank may request information on specific cases at any time.

Sanctions and Remedies

Cases of fraud and corruption that are reported and for which evidence is found will be treated in accordance with criminal procedures under Indonesian law by the appropriate institutions (the National Police, the Attorney General’s Office or KPK and the court system) and in accordance with the World Bank administrative procedures for investigation, debarment of companies and repayment of loans by the Client.