Additional Annex 16: Anti-Corruption Strategy
INDONESIA: Water Resources & Irrigation Sector Management Program

Summary

The Project is being implemented at the national, provincial, kabupaten and community levels. The risks and mitigating measures will vary accordingly. The main mitigating measures include the following:

- Project design based on a model empowering the WUAs, which will exert scrutinization of (local) government.
- Increased disclosure of information and civil society monitoring.
- Development of a credible complaints handling system for the Project, in the form of a third-party.
- Impact Monitoring and Evaluation Unit (IMEU).
- Implementation of policies mitigating collusion in the loan agreement.
- Clearly defined remedies and sanctions for corrupt behavior.
- Review of systems on a yearly basis.

The action plan lists the agreed actions and responsibilities to implement the mitigating measures, many of which are further detailed in the relevant sections of the PAD (e.g. procurement and financial management).

Introduction

Bappenas, the National Development Planning Agency, has repeatedly stated that it is aiming to eradicate corruption in government-supported projects. The situation became dire during the 1980s and 1990s, due in part to the highly centralized system that had been created to enable the massive development works of the 1970s. One result of this system was the elimination of effective checks and balances, especially at the local level. Gradually, upward accountability to the central government became increasingly weak, whilst at the same time downward accountability to the communities became all but nonexistent. In this situation development becomes more expensive and considerably slower. Clearly it is important to insist on the timely and clean processing of contracts of all kinds and to monitor expenditures, quality and timeliness of activities.

Both the CAS and CPPR have acknowledged that projects in Indonesia are at high-risk of corruption and leakage. The following strategy aims to minimize the risks in relation to the Project. These anti-corruption measures will be routinely evaluated for effectiveness through audits and supervision, and they must be further refined to reduce risks as the Project progresses. The strategy outlined here should be seen as a beginning rather than an exhaustive list of measures to be taken. Subsequent Phases in the WISMP APL will build upon the experience gained in the previous Phase.

Since significant financial management and procurement are occurring at national, province, kabupaten and community levels, the Project actually needs to guard against a number of possible risks.

Corruption Mapping

The first step towards taking preventative action is the mapping of where corruption might occur and an analysis of incentives and disincentives. A simplified view of this Project would identify at least two sets of issues:
• At the national, province and kabupaten levels the Project must implement the standard procurement and financial management systems that have been approved for large projects. The concern is to ensure efficient and effective use of funds through procedures such as National Competitive Bidding, International Competitive Bidding and National Shopping. To enable these measures to be taken the Project creates PIUs at these three levels. National level procurement packages are limited in scope and are not expected to present major challenges as long as the procedures are properly followed. However, most packages will be at the province and kabupaten level where the majority of staff will have had little or no previous procurement experience. Aside from contracts issued to qualified contractors, province level packages may also involve some purchase of equipment and civil works on basin schemes through force accounts controlled by the respective the Basin Management Unit (Balai).

• The Kabupaten level also oversees works that use a Community Driven Development approach, supervised by the Komisi Irigasi. These works are carried out by Water User Association Federations (WUAFs) at the community level and the risks of corruption are different in terms of size and nature from those mentioned above.

The list of possible risks given below is indicative rather than exhaustive.

**Works and other contracts.** Main risks may include: losses in transfer (e.g., funds cut or materials substandard); poor contractor performance due to lack of supervision by disinterested district technical offices; over-billing and over-design; false taxes and charges, and rent seeking.

**Provision of Technical Assistance.** Common dangers include: falsification of qualifications and experience; forced mergers between winners of bids and companies with political connections; cuts in salaries or expenses of staff to increase company profits or pay hidden extortion; price fixing or falsification of quality control (e.g., payments to TA for certification of works completed that are actually substandard or even completely fictitious).

Collusive practices amongst bidders have been reported in the past and sanctions have not always been properly enforced, so it is important that this Project take proactive measures to minimize risk. The greatest source of risk appears to be at the kabupaten level, which will act as a hub from which many sizable construction contracts may be bid. Collusive practices at this level may be less visible and more difficult to tackle than at the other levels. Preventative measures, such as encouraging contractors from other kabupaten to participate, will be far better than trying to cure.

One risk that is evident, especially at the kabupaten level, is the high dependency on local government staff in the bidding process, as well as in supervision and evaluation. The risk of collusion is high. For example, the Komisi Irigasi, the KIIF, the Procurement Committees and the Project Management Units, all involve civil servants operating out of the same local offices: The sense of security raised by having the many operational and supervisory bodies may turn out to be a false one. The importance of disclosure and involvement of the WUAFs and other community groups will be emphasized in order to reduce risks.

**Mitigation Measures**

The Project has provided a detailed financial management assessment, disbursement plan and an extensive assessment of the proposed procurement process. Elements of these are key and integral parts of the anti-corruption strategy.
Empowering Recipients and Communities. Involvement of beneficiaries in procurement committees should help to greatly reduce the risk of corruption. Perhaps one of the most promising aspects of the project from the perspective of the anti-corruption strategy is the importance of WUAFs (and their representatives) in key decision-making and management activities.

Lessons Learned from JIWMF, Loan No. 3762-IND

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<tr>
<th>Box: Empowerment of end-users (recipients) in the procurement process</th>
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<tr>
<td>a. End-user participation in procurement is incorporated in the following manner:</td>
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<td>• In Tendering Process: Representatives of WUA are members of the tender committee with a formal decree from the project manager. They participate in pre-bid meeting, attend the bid opening, and contract signing</td>
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<td>• In Day to Day Supervision: With a letter from the project manager, WUAs are encouraged to contribute in the day to day supervision of construction work.</td>
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<tr>
<td>• In Handing-over of Completed Works: Representatives of WUA are members of the Handing-over Committee with a formal decree from Project Manager. They participate in checks in the field and sign the handing-over minutes.</td>
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<td>b. A study was conducted to document the results of the increased participation of the end-users confirmed the following benefit: (1) the creation of a more transparent environment enhancing accountability, (2) better quality of works, (3) more volume of works completed for the same cost.</td>
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<td>c. The field observation showed that the quality of all works in 2001 had improved compared to 2000 and before. Contractors, WUAs, and local project offices reported that this was the result of increased involvement of the WUAs since late 2000. WUA's participation in the tender process improved accountability and performance.</td>
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Non-government inclusion in decision-making bodies should not be limited to representatives of the WUAFs. Though inclusion of beneficiaries is certainly a very positive step forward in reducing the risks of corruption, as beneficiaries they are also not fully objective observers. Furthermore, the WUAF representative may themselves be civil servants (often local teachers). Therefore the project activities/institutions, such as the Komisi Irigasi will also involve truly independent observers (NGOs and universities).

Increased disclosure of information. It is important to increase the level of transparency so that people are aware of what should be happening and what is actually happening. This requires a serious effort in information dissemination to communities. The detailed actions of this mitigation are enclosed as an attachment.

Civil Society Partnerships and Feedback. Civil society partnerships can only occur when they feel well informed, therefore transparency of information should also extend to civil society groups. At the province and district levels, the IMEU will conduct routine workshops with civil society groups to exchange views and carry out surveys. The meetings will be widely publicized and any local NGO forum will be given invitations to all its member groups.

An independent monitoring plan, involving NGOs, universities and the local media, will be designed during the earliest stage of the Project by the IMEU. The Unit will also conduct technical and financial audits of a sample of project locations other than those by the BPK and BPKP. However the news that there will be independent audits may in fact act as a deterrent to corruption.

Non-government groups can also be an excellent source of training (e.g. to strengthen the capacity of WUAFs) and technical assistance (e.g. engineers for water supply systems). To avoid a 'conflict of interests' situation, care must be taken to avoid contracts being given to quasi-NGOs or pseudo-NGOs.
that are actually controlled by government officials. Cartel practices by experienced NGO groups should also be avoided.

**Strong Task Teams with Efficient Tools.** Both the government and the Bank will field strong supervision teams, with members who have experience in a range of related disciplines. Task teams need to look at qualitative issues including the quality of works and accuracy of the accounts. They also need to talk directly with the beneficiaries, not just with the representatives of beneficiaries. A small random sample of WUAF members should be interviewed during each field visit using non-threatening techniques.

Task teams need appropriate tools, especially when doing fieldwork. Perhaps the most important of these tools are detailed reports, copies of contracts, maps and other documents that the Project has produced in relation to the site being visited. The PIU must be ready with such documentation before the task team appears.

Task teams need to be heard. If they see and report corrupt practices in the field then action must be taken immediately, especially where this concerns a project staff member. This will send a clear message that there really is 'zero tolerance' to corruption, at least within the project staff itself.

Every year an evaluation will be made as a part of the effort to simplify and improve project mechanisms, including those related to the prevention of corruption.

**Provision of Complaints Handling System.** The IMEU will be hired to receive and investigate complaints. The BPKP and local court system are available as formal bodies charged with auditing and prosecution, but the parallel system, via a PO Box number and email address, will also be a less formal channel of that people can access easily. Suggestions for improving the Project can be forwarded to the relevant PIU section, complaints will be recorded and investigated by the independent body. The BPKP would be informed of any serious infringements. Anonymous complaints will be treated in the same way as those that can be traced, and in all cases the source should be kept strictly confidential.

Routine workshops will be held to allow face-to-face meetings between project management (especially the province and national levels) and community representatives. For example, the location should be local, not at the province capital, and the most appropriate time/day will be decided to enable the maximum number of people to attend (e.g. evenings are usually preferred). Complaints heard at such meetings must be recorded and forwarded to the relevant part of the project structure.

**Define and Announce Remedies.** The Project will have a powerful mechanism to penalize entities or individuals that have been found misusing funds. The Annual Work Plan review in which the local governments submit their requests to the national Steering Committee for the budget allocation for the subsequent year, has proven under JIWMP and JIWRIP to be very effective to signal displeasure with poorly performing local governments or with sub-activities operational within these local governments. Finds can be withheld pending proper remedial action by the offender. A small number of set remedies for generic problems will be developed. For example, a WUAF that has deliberately misused funds could be excluded from any future project until the funds are returned or used for the approved purpose. In such cases the guilty person or people must be expelled from the WUAF management team. Likewise, a company that has gained profit through unfair or illegal means could be fined and blacklisted. A matrix of these generic actions will be prepared prior to project appraisal. The example below may be used as a template.
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<tr>
<th>Problem</th>
<th>Action</th>
<th>Responsible Actors</th>
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<tbody>
<tr>
<td>Consultant accused of corrupt practices</td>
<td>Paid suspension pending inquiry</td>
<td>National PMU to stop salary and delegate team to investigate</td>
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<tr>
<td>Consultant proven to have engaged in corrupt practices</td>
<td>Dismissal. Proven damages (if any) to be taken from any outstanding salary and/or expense payments. Legal proceedings in serious cases. Public notice issued.</td>
<td>National PMU sends Personnel Manager to terminate contract of employment and ascertain what further steps need to be taken.</td>
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<tr>
<td>WUAF management accused of corrupt practices</td>
<td>Suspension of all transfers pending inquiry.</td>
<td>National PMU to stop funds and delegate team to investigate</td>
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<tr>
<td>WUAF proven to have engaged in corrupt practices</td>
<td>Funding ceases until (a) losses due to corrupt practices are recuperated and/or quality of construction meets acceptable standard, and; (b) membership of management team of WUAF changed and approved by WUAF forum.</td>
<td>National PMU.</td>
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[Table to be completed as part of the Project Management Manual].

The IMEU will draw up a shortlist of rules and sanctions and make these publicly known. Having done so, the Project must then abide by its own rules and implement the sanctions that it has threatened. These rules must encompass quality and scheduling issues as well as deliberate and unintentional misuse of funds.
Enhanced Disclosure of Information

1. The implementing agency and the World Bank will each make publicly available, promptly after completion of a mid-term review of a project carried out in accordance with this agreement, the mid-term review report and the aide-memoire prepared for this purpose.

2. The implementing agency and the World Bank will each make publicly available promptly after receipt all final audit reports (financial or otherwise, and including qualified audit reports) prepared in accordance with this agreement, and all formal responses of the government.

3. The implementing agency will (and the World Bank can):

   - make publicly available promptly after finalization all annual procurement plans and schedules, including all updates thereof;
   - make available to any member of the public promptly upon request all bidding documents and requests for proposals issued in accordance with the procurement provisions of this agreement, 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. Each such document will continue to be available until a year after completion of the contract entered into for the goods, works or services in question;
   - make available to any member of the public promptly upon request all short lists of consultants and, in cases of pre-qualification, lists of pre-qualified contractors and suppliers;
   - disclose to all bidders and parties submitting proposals for specific contracts, promptly after the notification of award to the successful bidder/consultant, the summary 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 reason for such an assessment), the name of winning bidder/consultant and the contract price. Such summaries will be made available to the public, promptly upon request;
   - allow representatives of the end-users of the goods or works being procured to attend the public bid openings;
   - make publicly available and publish widely contract award information for all contracts for goods and works above US$100,000 equivalent and all contracts for consultants above US$50,000 equivalent, promptly after such award; and
   - make available, promptly upon request by any person or company, a list of all contracts awarded in the three months preceding the date of such request in respect of a project, including the name of the contractor/consultant, the contract amount, the number of bidders/makers of proposals, the procurement method followed and the purpose of the contract.
<table>
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<tr>
<th>Corruption Mapping</th>
<th>Empowering Recipient and Community</th>
<th>Building Partnership with Civil Society and Feedback</th>
<th>Establishment of Procurement Policy to mitigate collusion</th>
<th>Building Strong Task Team with Effective Tools</th>
<th>Clearly Define and Announce Remedies</th>
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<tr>
<td>Preparation of Proc. Docs and Advertisement</td>
<td>- Involve respective WUAs in the design process (Participatory design) - Announce the bid in national/regional newspaper respectively</td>
<td>NGOs, Universities and mass media informed of forthcoming bids</td>
<td>- Fair, open and competitive procedures - Clarification of improvement to NCB procedures - Ensure that corruption and collusion mitigation measures included in the documents</td>
<td>The procurement documents properly reviewed and NOLs timely issued before tendering of those contracts above prior review threshold</td>
<td>Deficiency declared and the process re-started, the Bank is informed and gives NOL if process is satisfactory</td>
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<td>Evaluation and Contract Award</td>
<td>- Involve WUAs in the process, as a member of tender committee: (i) attend pre-bid meeting, (ii) attend bid opening, (iii) signed minutes of bid opening - Put a copy of results on strategically placed public notice boards and in WUAF’s office</td>
<td>- Report results are announced in strategically placed public notice boards - A copy sent by letter to NGOs-Universities consortium.</td>
<td>- Strict criteria for non-WUA membership of bid evaluation committees - Through disclosure - Complaints concerning this procedure can be sent to the independent M&amp;E consultant / NGO / university</td>
<td>- The evaluation reports properly reviewed and NOLs timely issued for those contracts above prior review threshold - Prior approval rules: Salient data sent to TTL and properly filed</td>
<td>- Misprocurement declared if procedures not followed - Blacklisting of firms that win bids unfairly, and those firms involved in the bidding process</td>
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<td>Implementation</td>
<td>- WUAFs provided with technical training - WUAFs encouraged to participate in the supervision</td>
<td>An independent parties (NGO / University / consultant) conduct M&amp;E during the course of the Project</td>
<td>- Complaints regarding implementation can be sent to M&amp;E. - Project management take actions and follow ups be announced properly in the public notice boards.</td>
<td>- Regular monitoring of progress Vs expenditures - Include in the supervision mission procurement experts.</td>
<td>- Misprocurement declared if procedures not followed - If required, company must give an open account of how funds have been spent - Areas may be dropped from future project activities if cases are not dealt with satisfactorily</td>
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<td>C o m p l e t i o n</td>
<td>Handing-over of Completed Works</td>
<td>- WUAFs participated in the 100% (final) mutual check. WUAFs sign handing-over minutes. WUAFs formally accept management / maintenance duties</td>
<td>Independent M&amp;E parties continuously monitor the process</td>
<td>If required, the company must give an open account of how funds have been spent at the handing over ceremony.</td>
<td>- Documentary and photographic evidence of completion be properly filed for Bank's review. - Post completion visits to check that maintenance is being carried out.</td>
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The above matrix reflects the following mitigation measures:

1) Enhanced disclosure provisions,
2) Civil society oversight including media monitoring,
3) Provisions mitigating collusion,
4) Credible complaints handling system and,
5) Clearly defined use of remedies for the Bank and the government.