SOCIALIST REPUBLIC OF VIETNAM

Results-Based Rural Water Supply and Sanitation under the National Target Program

Fiduciary Systems Assessment

September 28, 2012

PREPARED BY

THE WORLD BANK
# List of Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>ACG</td>
<td>Anti-Corruption Guidelines</td>
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<tr>
<td>AusAID</td>
<td>Australia’s Agency for International Development</td>
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<td>BER</td>
<td>Bid Evaluation Reports</td>
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<td>DANIDA</td>
<td>Danish International Development Agency</td>
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<td>DARD</td>
<td>Department of Agriculture and Rural Development</td>
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<td>DFID</td>
<td>UK’s Department for International Development</td>
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<td>DLI</td>
<td>Disbursement-linked Indicator</td>
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<tr>
<td>DOC</td>
<td>Department of Construction</td>
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<td>DOF</td>
<td>Department of Finance</td>
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<td>DOH</td>
<td>Department of Health</td>
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<td>DPI</td>
<td>Department for Planning and Investment</td>
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<td>FA</td>
<td>Fiduciary Systems Assessment</td>
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<td>GOV</td>
<td>Government of Vietnam</td>
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<tr>
<td>GI / GIA</td>
<td>Government Inspectorate / Government Inspection Authorities</td>
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<td>IDA</td>
<td>International Development Association</td>
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<td>IEC</td>
<td>Information, Education and Communication</td>
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<td>INTOSAI</td>
<td>International Organization of Supreme Audit Institutions</td>
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<td>INTVP</td>
<td>Bank’s Institutional Integrity Vice Presidency</td>
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<td>IT</td>
<td>Information Technology</td>
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<td>IVA</td>
<td>Independent Verification Agent</td>
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<td>M&amp;E</td>
<td>Monitoring and Evaluation</td>
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<tr>
<td>MARD</td>
<td>Ministry of Agriculture and Rural Development</td>
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<td>MOF</td>
<td>Ministry of Finance</td>
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<td>MOH</td>
<td>Ministry of Health</td>
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<td>MPI</td>
<td>Ministry of Planning and Investment</td>
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<td>NA</td>
<td>National Assembly</td>
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<td>NCERWASS</td>
<td>National Centre for Rural Water Supply and Sanitation</td>
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<td>NTP</td>
<td>National Target Program</td>
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<tr>
<td>NTP1 / NTP2</td>
<td>National Target Program for Rural Water Supply and Sanitation Phase 1 / Phase 2 / Phase 3</td>
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<td>NTP3</td>
<td>Phase 3</td>
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<td>PAP</td>
<td>Program Action Plan</td>
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<td>PCERWASS</td>
<td>Provincial Center for Water Supply and Sanitation</td>
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<td>PforR</td>
<td>Program for Results</td>
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<td>PPA</td>
<td>Public Procurement Agency</td>
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<td>PPC</td>
<td>Provincial People’s Committee</td>
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<td>RRD</td>
<td>Red River Delta</td>
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<td>SAI</td>
<td>Supreme Audit Institution</td>
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<td>SAV</td>
<td>State Audit of Vietnam</td>
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<td>SOE</td>
<td>State-Owned Enterprise</td>
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<td>SSS</td>
<td>Single Source Selection</td>
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<td>TABMIS</td>
<td>Treasury and Budget Management Information System</td>
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<td>USD</td>
<td>United States Dollar</td>
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<tr>
<td>VBSP</td>
<td>Vietnam Bank for Social Policies</td>
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<td>VND</td>
<td>Vietnamese Dong</td>
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EXECUTIVE SUMMARY

Purpose of Fiduciary Systems Assessment

1. The Results-Based Rural Water Supply and Sanitation under the National Target Program (Program) fiduciary systems should provide reasonable assurance that the financing proceeds will be used for intended purposes, with due attention to the principles of economy, efficiency, effectiveness, transparency, and accountability. The Assessment of Program fiduciary systems integrates findings in three areas:

   (a) The Program procurement systems were assessed to determine the degree to which the planning, bidding, evaluation, contract award and contract administration arrangements and practices provide a reasonable assurance that the Program will achieve intended results through its procurement processes and procedures;

   (b) The financial management systems were assessed to determine the degree to which the relevant planning, budgeting, accounting, internal controls, funds flow, financial reporting and auditing arrangements provide a reasonable assurance on the appropriate use of Program funds and safeguarding of its assets; and

   (c) The Program was also assessed in how its governance systems handle the risks of fraud and corruption, including the use of complaint mechanisms, and how such risks are managed and mitigated in light of the government’s commitments under the Guidelines on Preventing and Combating Fraud and Corruption in Program-for-Results Financing (Anti-Corruption Guidelines or ACGs).

2. The Fiduciary Systems Assessment (FA) has been prepared based on interviews and analysis at the national level -- National Target Program (NTP) Standing Office under the Ministry of Agriculture and Development (MARD), the Ministry of Finance (MOF) and the Ministry of Planning and Investment (MPI) -- and the provincial level (all eight provinces were visited for Financial Management Assessment and six out of the eight participating provinces were visited for Procurement Assessment and Governance Assessment) and the Vietnam Bank for Social Policies.

Procurement

3. Procurement under NTPs is governed by national procurement laws and regulations. Specifically, the procurement done before April 2006 was governed by, in turn, Decrees 88CP dated September 1, 1999; Decree 14CP dated May 5, 2000 and then Decree 66CP dated June 12,2003. The procurement implemented after April 2006 has been subject to the Procurement Law No. 61/2005/QH11 dated November 29, 2005, Law No. 38/2009/QH12 on Amendments to the Procurement Law dated June 19, 2009 and subsequent implementing Decrees (including Decree No. 111/2006/ND-CP, dated September 29, 2006; Decree No. 58/2008/ND-CP dated May 5, 2008; and Decree No.85/2008/ND-CP dated October 15, 2009). It is noted that a new Public Procurement Law is under preparation. The new Law, expected to be ratified by the National Assembly (NA) in late 2012 or early 2013, may subsequently be applicable to the
Program. In addition, to guide the procurement arrangements and implementation of NTP, MARD and MPI have jointly issued a Procurement Guidance Document (dated June 16, 2008). That Document stipulates in detail the organization of procurement implementation, applicable procurement methods and thresholds, procurement procedures for each method, model bidding documents, bid evaluation report and contract forms.

4. Legally, procurement complaints are handled in accordance with the procedures stated in Decree No. 85. These procedures require complaints to be duly signed and stamped by a legitimate representative of the complaining bidder (anonymous complaints are not considered); for complaints related to contract award, the complainant has to deposit a fee which would be cashed if the complaint is not substantiated. Complaints are handled by procuring entities or project owners and appeals are reviewed by a competent agency – normally the Provincial People’s Committee (PPC). This procedure seems to be rather rigid and discouraging of complaints.

5. The team identified four specific areas during the assessment of the procurement cycle that could, directly or indirectly, compromise the efficient achievement of Program objectives: (a) an insufficient use of competitive bidding results may in higher than needed prices; (b) contract award to dependent State-Owned Enterprises (SOEs) creates a perception of, or actual, conflicts of interest; (c) unrealistic cost estimates can result in rejection of high quality bids that exceed an artificial ceiling; and (d) shortage of funds will result in delays in contract performance. In the context of the Program, a series of actions were recommended to address these shortcomings.

6. In addition to the application of the Bank’s debarment list, the Program will also be subject to Vietnam’s national debarment procedures. Prohibition from participation in future tenders is governed by the Law on Procurement which provides a defined set of “prohibited acts” -- commission of which can lead to debarment. For procurement, initial sanctioning decisions will be made by the tendering authority. Lists of debarment within a given province are prepared by the provincial Department of Planning and Investment (DPI) and are submitted to the PPC and MPI on an annual basis. Provincial officials gave the team inconsistent information regarding whether tenders consistently refer to the MPI sources and the DPI lists to determine bidder eligibility.

Financial Management

7. **Planning and budgeting cycle.** The principal law governing budget management is the revised State Budget Law approved by the NA in 2002 which came into force for the 2004 budget year. This revised Law has strengthened the legal platform for budget management. It clarified the powers and responsibilities of stakeholders participating in the budget process and strengthened decentralization by providing greater budgetary powers to Provincial People’s Councils.

8. The Provincial Center for Water Supply and Sanitation (PCERWASS), assigned by PPC to be the standing point of the provincial NTP Steering Committee, prepares a five-year financial plan for the NTP which forms part of the overall provincial plan. On the basis of the five-year plan, PCERWASS also prepares an annual investment program. This annual plan will be reviewed by the provincial Department of Finance (DOF) and the provincial DPI, and approved by PPC before being submitted to the NTP Standing Office as the basis for the NTP budget
allocation for the coming year. The budget allocation from the central government, however, is based on the availability of funds. Normally, the approved annual budget allocation is only around 30 to 50 percent of the province’s proposed amount. Once budget reconciliation has been completed at the national level, the MPI informs each province of the amount of NTP funding allocated to them. Upon receiving the annual budget allocation, the PPC revises the investment plan to accord with available resources. As long as the chosen activities fall within the scope of the annual plan presented to MPI, the allocation of the budgeted resources is at PPC discretion, without any further intervention from central government. In the context of the Program, the earlier differences between provincial budget proposals and provided funds will be addressed through an improved provincial planning process, complemented by a national guidance that is based on annual budget allocations that have a high degree of certainty.

9. **Fund flow.** NTP funds flow from Government Budget to the ultimate beneficiaries through the State Treasury system, in parallel to the budget allocation. Based on the revised plan approved by the PPC, implementing units conduct NTP activities. After expenditures are incurred and work completed, contractors/suppliers send supporting documents and request for payment to implementing units. Implementing units review and transfer to provincial State Treasury to verify and make payments to contractors/suppliers. NTP funds flow from the National State Treasury to provincial State Treasury. The MOF recognizes the need to formulate a results-based financing mechanism for what, in the past, was an input-based fund flow system. They have begun that work and a system will be put in place by Program effectiveness.

10. **Internal control, financial reporting and audit.** In terms of accounting and financial reporting, the capacity of the State Treasury and each implementing agency (PCERWASS and the Department of Health (DOH)) is expected to be adequate when the TABMIS\(^1\) (treasury) system is fully implemented. However, there remains a risk of mis-recording of transactions or mis-presentation of financial statements overall. This risk is mitigated by provision of technical assistance to equip the PCERWASS with accounting systems, trained staff, and controls with the aim of producing comprehensive financial statements on a quarterly basis. Internal controls exist in PCERWASS, covering critical areas such as segregation of duties, work acceptance and payments, asset count, cash reconciliation and advance management. There is, however, no financial management manual issued for the investment owners/spending units as guidance for them to manage their funds. While there are many inspection missions covering various areas, there are risks of these overlapping, yet leaving some areas uncovered. The risk of inadequate internal control of NTP is assessed as Substantial, and the introduction of an Internal Audit function from central to provincial level is proposed. The scope and frequency of external audit, which is performed by State Audit of Vietnam (SAV), also needs to be increased. The Assessment recommendation that the Program be strengthened in this way has led to specific components in the Program Action Plan and in the parallel Australian Agency for International Development (AusAID)-funded technical assistance program that will work with the provinces and at the national level to put in place implementation upgrades that mitigate these risks. The implementation support similarly targets this performance.

\(^1\) TABMIS is a computerized system used by State Treasury to record public expenditures, including NTP.
Governance

11. According to the Anti-Corruption Law 2005, each province has established its own Anti-Corruption Committee, reporting to PPC and there is a National Anti-Corruption Committee. The provincial Committee is chaired by the PPC chairman and includes members from provincial level inspectorate, police, court, prosecutor and other related agencies. The Committee is operated through a standing office, which is a provincial department equivalent.

12. In addition to the system for handling procurement complaints, which could include allegations of fraud or corruption in the Program’s procurement process, the Bank has identified a parallel complaints “system” which is used to capture fraud and corruption allegations. Under the Law on Complaints and Denunciations and the Anti-Corruption Law, citizens can submit fraud and corruption complaints to Government Inspectorate (GI) offices or government agencies at the commune, district, province or State levels.

13. Under phase 3 of the National Target Program for Rural Water Supply and Sanitation (NTP3), allegations of fraud or corruption will be handled by the provincial or commune level GIs, the implementing Department of Agriculture and Rural Development (DARD) or PCERWASS or the PPCs in the eight implementing provinces. In those cases where crimes are alleged, allegations can be passed to the local police and prosecutors for handling. Each of the parallel complaints handling systems at the provincial level contains a reporting system that can capture information on the number, type and handling of fraud and corruption allegations in NTP3 and is periodically reported up to the national level.

14. While this multiple-entry complaints system provides a number of options for citizens, it can also be confusing and result in complaints being passed around agencies or lost in the transfer process making it difficult for citizens to follow up their complaints. The Assessment found that no fraud or corruption complaints were received in NTP1 or NTP2. Under the Law on Complaints and Denunciations, citizens cannot submit anonymous complaints. While this may be a disincentive for citizens to provide information about fraud and corruption in the Program, the assessment found that a number of provincial implementing agencies and GIs, in practice, do accept and record anonymous complaints when they are received.

15. Over recent years, the Bank has received several complaints related to fraud, corruption and collusion in water sector projects in Vietnam. The Bank has substantiated three cases of fraud and corruption resulting in the debarment of international and local firms and individuals. While it has not been possible to substantiate all the complaints, in each instance the Bank has worked with the client to review and resolve issues, mitigate risks and strengthen systems where necessary. Despite progress in water program governance, it is acknowledged that some weaknesses remain in the sector.

Key Performance Indicators

16. Key indicators of fiduciary performance have been identified and compiled to form a reference framework to be monitored over the life of the program. These specific indicators, for both financial management and procurement, will be measured periodically and compared to an initial baseline to assess the extent of improvement in the program's fiduciary performance.
Summary

17. In assessing the performance of the fiduciary systems under which the Program operates, the Bank identified a number of weaknesses which, once addressed either prior to effectiveness or during implementation of the project, will result in Program fiduciary systems that provide reasonable assurance that the Program expenditures will be used appropriately to achieve their intended purpose. The fiduciary systems assessment identifies risks and proposed mitigation measures. Prior to the mitigation measures being taken, Program risk is assessed “substantial”. During preparation the Bank assessed all available options: dated covenants, capacity building, Disbursement-Linked Indicators (DLIs) and Program design revisions, to help mitigate these risks. The results of the assessment and recommendations are reflected in the technical assistance program and the Program’s integrated action plan.
FIDUCIARY SYSTEMS ASSESSMENT

Background and the Program’s Institutional Arrangements

1. The Government of Vietnam (GOV) gives high priority to rural development. An example of such commitment is the recently-launched National Target Program on New Rural Development for 2010-2020. This program makes significant investments in rural infrastructure and human development to reduce inequality and promote growth. In most rural areas, achieving universal and sustainable access to hygienic water and sanitation facilities remains a major challenge. In order to address this challenge, the Government put in place a National Rural Clean Water Supply and Sanitation Strategy in 2000, which emphasizes community participation, demand-responsive approaches and cost recovery. To coordinate the implementation of the strategy, GOV established a National Target Program for Rural Water Supply and Sanitation (henceforth NTP) which has been the driver for considerable progress over the past ten years. Phase 2 of that program (NTP2, 2006 – 2010) supported the extension of safe water to an estimated 5.4 million rural people through an estimated total expenditure of VND 20,000 billion (USD 1 billion). Phase 3 (NTP3) commenced in 2012 and draws on lessons from previous phases of the program.

2. The NTP seeks to provide safe water and improved sanitation services and to promote healthier hygiene behaviors in rural areas. NTP3 has three main elements:

- **Rural domestic water supply and rural environment** represents the largest investment. The program provides financing for the capital costs of rural water supply systems, while beneficiaries finance sustainable service delivery. Two types of water supply interventions are supported: community solutions through piped networks and individual solutions for households outside of community service areas. Household systems are financed by households themselves, supported by access to subsidized credit. Community water systems benefit from government funding through a combination of grants and concessional loans, meeting up to 90 percent of capital financing needs. Beneficiaries cover the balance of the investment cost in the form of a connection fee and finance loan repayment through tariff payments. The tariff also covers operations and maintenance costs, as well as rehabilitation or any later capital costs. The program aims to achieve an 85 percent access rate to hygienic water for rural people by the end of 2015, with 45 percent access to ‘clean’ water, the higher Ministry of Health (MoH) potable water quality standard. This component also includes interventions to improve the environmental conditions within communes, through household hygienic livestock pens and biogas facilities that control animal feces, minimizing human contact.

- **Rural sanitation** focuses on the provision of sanitation (latrines and toilets meeting national standards) and associated water supply in schools, clinics, and government offices, for which the program funds 100 percent of the capital costs. Operational costs are expected to be covered by the benefiting institution. The program also supports investment in domestic sanitation through a lending facility that covers up to 60 percent of the capital costs of hygienic latrines, allowing households to spread the cost of
improvements over five years. Households thus bear the full investment cost, but financing facilitates the speed of adoption. Interest rates are fixed below current market rates, delivering an effective subsidy to borrowers. The national goal is that 65 percent of rural households will have a hygienic latrine by the end of 2015.

- **Capacity building, communication, supervision, monitoring and evaluation of NTP** includes training and capacity building for the rural water supply and sanitation sector in different areas such as monitoring and evaluation, water quality control, planning and sustainability of the water schemes. It also includes information, education and communication (IEC) activities designed to promote hygiene and behavior change, increase demand for sanitation and create the potential for commune-wide changes in sanitation outcomes.

3. Nationally the NTP3 aims to provide:

- hygienic water to 4.6 million people;
- clean water to 5.1 million people;
- household latrines to 1.7 million households; and
- a total of 5,550 school sanitation facilities, 1,450 sanitation facilities in health clinics, 480,000 livestock pens and 420,000 biogas installations.

4. With the opportunity to test the use of results-based lending in NTP, the Government of Vietnam has selected eight provinces in the Red River Delta (RRD) region -- Bac Ninh, Quang Ninh, Phu Tho, Vinh Phuc, Hanoi, Hung Yen, Ha Nam, and Thanh Hoa -- for such investments within the framework of the NTP3. In these provinces, arsenic, nitrate, pesticide, and other water quality concerns in particular render the use of small household water supply infrastructure inappropriate and the priority in many communes is to provide safe piped water from surface sources. In addition to public sanitation and hygiene education, the target in these eight provinces is to provide:

- clean water to 1.7 million people;
- household latrines benefiting 650,000 people; and household sanitary latrines benefiting 650,000 people (38 percent of the NTP3 target); and 1.3 million people benefitting from the collective gains of achieving commune-wide sanitation.

5. The Program for Results (PforR) program will support the delivery of NTP3. It will build on the experiences of NTP1 and NTP2 and, in particular, on the lessons learned from the Red River Delta Rural Water Supply and Sanitation Project which demonstrated effective ways of planning, delivering and managing large piped water supply schemes such as those needed in the RRD region. The operation will deliver public sanitation, domestic sanitation, hygiene promotion and water supply. It will be results-based, meaning that funds will be disbursed when results (such as working connections to water supply) are achieved and embedded in a province-wide

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2 It is estimated that this will imply the construction of approximately 1440 sanitation facilities in schools and health clinics (21 percent of the NTP target)
approach. The executing agencies of the NTP3, MARD and MOH along with the Provinces, will implement the program using their own systems that have been modified to capture efficiency gains and ensure social inclusion and protection.

Institutional Framework and Fiduciary Arrangements under the NTP

Plan and Budget

6. The NTP Standing Office has developed an overall proposal for NTP3, for the entire period 2012 – 2015, that has been approved by the NA and the Prime Minister. The overall budget presented by NTP3 includes all sources of funds (central, local, donors, community and private sector) needed for program delivery. The total budget for NTP3 is broken down into sub-components: investment for water supply, investment for sanitation and environment, and recurrent expenditures. More detailed breakdowns, such as budget by province, by sub-project, by activities, by spending unit and by year, are not yet reflected in the NTP3 proposal.

7. Provinces, under the leadership of the PPC, play the key implementing role in the program. To carry out this role, the PPC assigns responsibility to one of its subordinate units to prepare an implementation plan for the NTP program conducted in the province, as part of the provincial overall five-year plan. In most provinces, the PCERWASS is given that responsibility. The implementation plan becomes the basis for preparation of the proposed NTP annual plan. This annual plan is reviewed by the provincial DOF and provincial DPI prior to submission for PPC approval before being submitted to the NTP Standing Office as the basis to request an allocation of NTP central budget resources for the coming year. In NTP2, Provinces typically submitted annual plans that would need much more resources than they know to be available. NTP2 met 90 percent of its funding goal, but provinces typically received annual budget allocations of 30 – 50 percent of their request.

8. After all provincial requests are reviewed at the national level, and adjusted to meet the available resources, a proposed comprehensive annual plan is sent to the NA for approval. Upon approval by the NA of the NTP budget, the Prime Minister authorizes MPI to announce the budget allocation for capital expenditures to PPCs. MOF is authorized to announce the budget for recurrent expenditures. PPC informs PCERWASS (and other spending units) of the amount of budget allocated and then works with them to revise their initial plan and to allocate the available budget to each activity and sub-project. As long as the final plan contains only activities that were in the original submission, the PPC has the power to determine which elements of their annual plan will be funded, without further reference to the central level.

9. Because of the lack of funds and the usual budget revision process, the final annual budgets for NTP in provinces are approved very late, causing delay to provincial NTP activities. In Hung Yen, for example, the revised detailed budget plan for 2011 was approved in August 2011. In Ha Nam, PPC and PCERWASS did not even prepare a revised budget for capital expenditures, but decided that the full amount would be used to clear their payables for completed construction. Since the centrally-allocated budget is always significantly lower than requested, the entire budget is utilized every year, leaving no differences between the allocated and utilized budgets. In Bac Ninh, a comparison of the 2010 approved budget (VND 39 billion) and actual
expenditures (VND 79 billion) provides an overall indication of the poor quality of expenditure estimates and received allocations, which in turn tends to affect implementation.

10. The budget development process is very much input-oriented, rather than output- or outcome-oriented, resulting in a weak link between multi-year sector plans and strategies and the annual budget. Although the overall program has clear output goals, those multi-year targets do not translate into annual proposed investment plans that are informed by information sharing among finance and treasury offices, provinces, line ministries and spending units. Without clear guidance on likely national government budget availability for a given year and, for some provinces, weak analytical capacity, the tendency is to submit annual budget requests that are much higher than the national budget can afford. The budget estimates typically lack clarity as to purpose, tasks and priorities. Budget negotiations themselves focus predominantly on controlling budget numbers rather than on allocating resources efficiently and strategically.

Procurement

11. The PPC determines the final annual investment plan, as described above. The PPC also assigns the investment responsibility within the province. In NTP1 (2001-2005) implementation was highly decentralized. The investment owner role was mostly assigned to district and commune levels and consequently procurement was carried out by these levels. The completed works (rural water supply schemes) were then operated and managed by the districts or communes. However, experience showed that districts or communes lacked the necessary technical and program management capacity to efficiently implement and manage the investments.

12. Drawing the above lesson learned, in NTP2 (2006-2010), the implementation responsibility was generally given to PCERWASSs under the overall coordination, management and oversight of National Center for Rural Water Supply and Sanitation (NCERWASS, housed in MARD). PCERWASSs function as agencies reporting to the provincial DARD. PCERWASSs also acted as program owners. They implemented the subprojects within the investment plan, including carrying out procurement and managing contract implementation. For operation and maintenance of the resultant water supply schemes, PCERWASSs took responsibility for major facilities, while smaller water systems were handed over to beneficiaries (typically communes) to operate. Most PCERWASSs are judged to have good technical and management capacity. In carrying out their procurement function, they have developed a good knowledge of procurement requirements through long experience in handling Government-funded procurement.

13. Procurement under National Target Programs is governed by national procurement laws and regulations. Specifically, the procurement done before April 2006 was governed by, in turn, Decrees 88CP dated September 1, 1999; Decree 14CP dated May 5, 2000 and then Decree 66CP dated June 12, 2003. The procurement implemented after April 2006 has been subject to the Procurement Law No. 61/2005/QH11 dated November 29, 2005, Law No. 38/2009/QH12 on Amendments to the Procurement Law dated June 19, 2009 and subsequent implementing Decrees (including Decree No. 111/2006/ND-CP, dated September 29, 2006; Decree No. 58/2008/ND-CP dated May 5, 2008; and Decree No.85/2008/ND-CP dated October 15, 2009). A new Public Procurement Law is being prepared to replace the current Law. The new Law,
expected to be ratified by the NA in late 2012 or early 2013, will subsequently be applicable to the program. In addition, to guide the procurement arrangements and implementation of NTP, MARD and MPI have jointly issued a Procurement Guidance Document, dated June 16, 2008. That Document stipulates in detail the organization of procurement implementation, applicable procurement methods and thresholds, procurement procedures for each method, model bidding documents, bid evaluation report and contract forms.

14. While procurement planning is a mandatory requirement at the level of the individual investment, there are no comprehensive procurement plans at a provincial or program level. Instead, under NTP each water supply scheme is considered as a single self-standing sub-project with its own procurement plan. Additionally, there is weak or no integration between procurement planning and budgeting and financial management for the province. This echoes the lack of integration between the multi-year output plans and the annual budgeting process described in the previous section. As with budgeting, the program would benefit from strengthened procurement planning to, at a minimum, formulate medium-term investment plans for water and sanitation within the provinces.

15. For each approved investment, the draft procurement plan is based on the program proposal including a design and cost estimate that had been appraised by relevant provincial departments such as the Department of Construction (DOC) or DPI and then approved by the PPC. However, the procurement plan can only formally be prepared once the budget has been allocated for it. Once approved by the PPC, the procuring entities have to implement the plan as approved. Procurement plans will be updated if there are substantial changes or modifications during implementation. A typical procurement plan for a water supply scheme includes four packages: one consulting package for detailed design, one consulting package for construction supervision, one package for equipment and construction of the works, and one package for transmission pipelines and distribution networks. Reviews show that bidding is carried out in strict compliance with the procurement plan.

Control, Reporting, and Auditing

16. With respect to the law on control, reporting and auditing, expenditures of the State budget must be controlled before, during and after payment. In order to be paid, expenditures must be listed in the approved budget estimates, be in line with standards and norms of the State, be approved by the authorized officer of the spending unit, and must have adequate supporting files and documents.

17. Budget spending units are required to open an account at the State Treasury and the financial agencies and the State Treasury control compliance with budget execution. The State Treasury has the power and responsibility to determine which payments can be legitimately made from the State budget. The Treasury system is the main source of control over expenditures, with Treasury records being reconciled and the SAV providing assurance of the accuracy of Treasury financial data.

18. According to the State Budget Law, budget expenditures should be directly paid by the State Treasury to suppliers and beneficiaries. An exception to this principle is made for administrative expenditures with a value less than VND 5 million (USD 250 equivalent) and
other special expenditures. For transactions of this size, cash payments remain common in Vietnam. For these small expenditures, advances of funds are made to the spending units, which then make payments to the suppliers or beneficiaries and subsequently submit supporting documentation to the State Treasury. The State Treasury then verifies and records the actual expenditures against the relevant advances.

19. The Accounting Law, which was approved by the NA in 2003 and became effective as of January 1, 2004, governs the financial accounting and reporting for government and its entities at all levels. The Law: (a) defines applicable principles and requirements and the scope of accounting; (b) prescribes the types of accounts, chart of accounts, financial statements, their disclosure and publication, their audit and inspection; and (c) assigns to the MOF the responsibility for formulating accounting standards in conformity with international financial reporting standards. An important provision of this law is the requirement for all spending units to publish their annual financial statements within 30 days of the date of approval by relevant authorities.

20. In respect of procurement, the government regulations require program documents and records to be maintained for at least five years after program completion. All contract records, including the procurement advertisement, are kept at the Financial and Administrative Department of PCERWASS (or other relevant project owner). The implementation of NTP, including procurement performance, is subject to audit or inspection by various government authorities including the Provincial Inspectorate, State Audit Authority, and Government Inspection Authority. However, during field work for this Assessment, the provinces reported that they have not been regularly audited. To meet the requirements of PforR lending, annual audits of all Financial Statements are necessary. Hence, Program implementation will require well defined procedures and requirements for systematic technical and financial audits, as well as the monitoring of procurement and implementation performance.

21. The 2005 State Audit Law requires internal auditing to be implemented in every organization that uses State budget, funds, and assets, and empowers the SAV “to direct and instruct on the internal audit profession and operation, and on the use of internal audit results of agencies and institutions”. However, there are no implementation guidelines to clearly define the internal auditing functions, roles and responsibilities, and currently no active leadership on the implementation of internal auditing within the public sector.

**Governance and Accountability**

22. According to the Anti-Corruption Law 2005, each province has established its own Anti-Corruption Committee, reporting to the PPC and the National Anti-Corruption Committee. The provincial Committee is chaired by the PPC chairman and includes members from the provincial level inspectorate, police, court, prosecutor and other related agencies. The Committee is operated through a standing office, which has a status equivalent to a provincial department.

23. Legally, procurement complaints are handled in accordance with the procedures stated in Decree No. 85. These procedures require complaints to be duly signed and stamped by a legitimate representative of the complaining bidder (anonymous complaints are not considered);
for complaints related to contract award, the complainant must deposit a fee which will be cashed if the complaint is not substantiated. Complaints are handled by procuring entities or program owners and appeals are reviewed by a competent agency – normally the Provincial People’s Committee. This procedure appears to be rather rigid and to discourage complaints.

24. In addition to the system described for handling procurement complaints, which could include allegations of fraud or corruption in the Program’s procurement process, there exists a parallel complaints system which is used to capture fraud and corruption allegations. Under the Law on Complaints and Denunciations and the Anti-Corruption Law, citizens can provide fraud and corruption complaints to GI offices or government agencies (when they believe they have been subject to corruption from public servants or in programs run by the agency) at the commune, district, province or State levels. In addition, each of the provinces provides a monthly opportunity for citizens to bring concerns to the attention of the PPC. As a result, there are multiple entry points for fraud and corruption allegations. Under the Program, such complaints would be handled by the provincial or commune level GIs, the implementing DARD or PCERWASS or the PPCs in the eight implementing provinces. According to information provided by local counterparts, regardless of where a fraud and corruption allegation comes in to the system, the receiving organization is charged with reviewing it and ensuring it gets to the office or agency with direct responsibility for the subject of the complaint (e.g., procurement complaint, corruption in service delivery, etc.). In those cases where crimes are alleged, allegations can be passed to the local police and prosecutors for handling.

25. The Procurement Law and implementing Decrees do not have a separate procedure for handling allegations of fraud and corruption in procurement, although they include provisions on prohibiting fraudulent and collusive practices. Procedurally, such allegations have to be handled according to the complaint handling procedure or if more serious, according to the Law on Anti-Corruption. This procedure appears to be impractical and ineffective.

26. Under the existing laws, a complaining citizen has the right to appeal a decision that he or she does not agree with to the head of the authority that made the original decision (the DARD or PCERWASS GI in most rural water supply cases). A further appeal is open to the courts. Investigations are carried out with site visits and minutes of the investigative findings are kept by the GI staff.

27. The 2004 Law on Inspectorate governs the extensive inspectorate system of Vietnam. It is a multi-tiered system in respect to program financial management, with inspectorate bodies existing at the central, province and district administrative levels of government, together with specialist sector inspectorates at the central level.

Experience under Past Bank Projects

28. Over recent years, the Bank has received several complaints related to collusion in water sector projects in Vietnam. It has not been possible to substantiate all the complaints but in each instance the Bank has worked with the client to review and resolve issues, mitigate risks and strengthen systems where necessary. Despite progress in program governance, it is acknowledged that some weaknesses remain.
29. Reviews by the Bank's Institutional Integrity Vice Presidency (INTVP) have specifically found instances where firms have tried to take advantage of weak contract procurement and contract management capacity. In 2011, an international firm (Kellogg Brown and Root (KBR)) was debarred for two years for such practices in the Red River Delta Rural Water and Sanitation Project, implemented under MARD. The Bank found that this consultancy company had made deliberate misrepresentations in their bid in order to win a technical assistance contract and provided gifts to officials in the hope of influencing the process. The KBR case also uncovered multiple small payments made to local government officials by the consultant in connection with meetings and field surveys. Such payments should have been made in a more appropriate and transparent manner, indicating that projects must also pay more attention to the provision of necessary expenses and incentives.

30. Several previous allegations and reviews have indicated a lack of competition in the construction industry either due to collusion or due to the tendency for some SOEs to benefit from an unfair advantage. The size and influence of these SOEs can make it difficult for other local firms to win contracts and gain experience, creating a situation where it is difficult for the contractor pool to expand. Regulations aimed at preventing province-level agencies from hiring their dependent SOEs are not always followed.

The Program Expenditure Framework

31. The assessment of the Expenditure Framework focuses “on those government budget and expenditure management issues that may put at risk the capacity of the program to reach its expected results.” It draws extensively on experience with the preceding NTPs, particularly NTP2, in clarifying both policy and practice in program implementation. It benefits from the intensive engagement of other donors in NTP2 budget and expenditure management, including their support for audits and monitoring and evaluation (M&E).

32. The technical analysis concluded that the government has put in place budget and expenditure management systems and practices that, with some well-recognized difficulties, support the NTP in reaching its expected results. Two sources of difficulty stand out, both of which are addressed by the structure of the proposed IDA-financed NTP3. The first is a budget cycle (common to all of Vietnam’s government budgeting) with timing inconsistencies that result in very late budget decisions disruptive to investment programs. The second, particular to the NTP itself, is that the five year plans and annual plans are made against notional resource availability, an important part of which is outside of central government control. In NTP2, actual resources fell about 10 percent below initial projections and even those were concentrated in the last three years of the program. This provided a highly uncertain funding environment for groups implementing the NTP.

33. Finally, long run sustainability of key investments in water supply and sanitation in schools, commune health centers, and other public institutions depends on adequate budgeting through the education and health systems that manage those institutions.

34. Within the scope of NTP3 execution in the PforR regional slice, the IDA Credit will finance about 90 percent of the expected NTP investment costs in the poorer provinces and a
much smaller amount in the two wealthier provinces.\(^3\) This financing minimizes the lack of funding predictability experienced by these provinces under NTP2. The proposed IDA allocation will be transferred in a combination of grant (two-thirds) and a long term, local currency loan (one-third). The remaining resources are those generated at the provincial, local, and household levels. Meeting the NTP3 funding goal will require that VBSP loan funds be made available for sanitation investments and that households contribute at the expected level.

35. The NTP3 program, like those of NTP1 and NTP2, is decentralized in design and execution, with the province being the level of government with primary implementation responsibility. That said, the central government has a clear view (supported by the donor community) of the appropriate mix of program elements, be they in water, sanitation, or hygiene promotion. The central government publishes concrete national goals for the program, as shown in the Table 1 below:

<table>
<thead>
<tr>
<th>NTP3 RWSS Targets</th>
<th>Unit</th>
<th>Target</th>
<th>Coverage 2010 (%)</th>
<th>Target coverage end 2015 (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water supply (hygienic water)</td>
<td>People</td>
<td>4,550,000</td>
<td>78</td>
<td>85</td>
</tr>
<tr>
<td>Water supply (clean water)</td>
<td>People</td>
<td>5,086,000</td>
<td>37</td>
<td>45</td>
</tr>
<tr>
<td>Domestic latrines</td>
<td>Households</td>
<td>1,678,000</td>
<td>55</td>
<td>65</td>
</tr>
<tr>
<td>School latrines</td>
<td>Number</td>
<td>5,550</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Clinic latrines</td>
<td>Number</td>
<td>1,450</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Livestock pens</td>
<td>Number</td>
<td>480,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Biogas tanks</td>
<td>Number</td>
<td>420,000</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: NTP on RWSS, Phase 2012 – 2015

**Program Fiduciary Performance and Significant Fiduciary Risks**

*Program costing*

36. Cost estimates for works and consulting services are calculated using the government’s cost norms. For works under the program, cost norms are established by relevant departments (normally departments of construction) based on the Ministry of Construction’s norms on construction inputs (standardized consumption of material, labor, construction machinery for a unit of a work item) and local prices of such inputs. These cost norms are regularly updated (normally on a quarterly basis). Cost norms for detailed designs and construction supervision are

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\(^3\) Without considering the NTP-related administrative and implementation expenditures budgeted outside of NTP.
calculated as a fixed percentage of the total construction costs. These “percentage norms” are also regulated by Ministry of Construction, currently being less than 2 percent for detailed design and less than 3 percent for construction supervision for works of similar size and nature. These amounts are considered to be unreasonably low and in many cases affect the quality of the services provided which in turn affects implementation. Experience in Bank-funded water supply projects show that the actual costs for detailed design and construction supervision approximately account for 7-9 percent of total construction costs, while the government’s cost norm system only allows 4-5 percent. However, some of the risk that comes with these norms can be mitigated by the project owners. For example, detailed design may require test drilling or other work that can be a separate cost item from the design norm itself.

37. In terms of works, the government’s cost norms themselves appear to be generally reasonable and comparable to the local market. However, the total cost estimate of any particular works may easily become unrealistic and incommensurate with market prices as once approved it cannot be revised or updated despite the fact that the period of time from the preparation of a cost estimate until contract award is normally long. The government’s cost estimating methodology mainly considers direct costs (materials, labor, machine costs) and pays less attention to indirect costs (e.g., social and environmental protection). This may lead to inadequate cost estimates.

38. Final cost estimates are subject to appraisal and approval by relevant government agencies. Once they are approved, they would be considered contract ceilings and awards cannot be made above these ceilings. Under direct contracting arrangements, this ceiling is used to negotiate price and bidders are normally asked to voluntarily offer a discount of a few percent below the established ceiling. Under open competitive bidding, bids offering prices above the approved cost estimate are rejected. Overall, while this system seems to pragmatically control the risk of cost overruns, it poses a risk to the quality and timeliness of the program since if contractors and consultants are not allowed to have market-based contract prices, they may be unable to fully perform their contractual obligations, resulting in substandard quality of works or services delivered or delays in contract implementation. This then becomes a significant technical risk in the context of the program because poor quality or delays in implementation will inevitably lead to delays in achieving some DLIs.

**Procurement Implementation Experience**

39. From a review of project implementing agencies, they appeared to satisfactorily handle procurement transactions in compliance with the approved Procurement Plans (based on available budgets) and the national procurement laws and regulations. For open competitive bidding (with post qualification – prequalification was not used because of small size of contracts), invitations for bids were adequately advertised in the Public Procurement Newspaper and sometime in other publications. Bidding documents were prepared using the Model Bidding Documents issued by MPI, and included detailed bid evaluation criteria.

40. Bid evaluation usually used a merit point (scoring) methodology although the laws and regulations allow both pass/fail and merit point methods. However, bids offering prices higher than the approved cost estimate were rejected. Direct contracting was handled according to the procedure stated in the laws and regulations. Signed contracts contain adequate major conditions...
and clauses. The timeliness of procurement process from advertising (or from initiating Direct Contracting process) to contract signing was generally acceptable although this could be improved, especially under higher value contracts.

41. The assessment, however, showed a clear preference for the use of single source and direct contracting. It appeared that all consulting packages were procured using single source selection (SSS) because of their small values (normally below VND 500 million – the SSS thresholds permitted under the program). All consultants’ contracts, in all provinces, were awarded to consultants on a single source basis. In some cases the SOEs awarded contracts are dependent SOEs of the project owner. Regarding procurement of works, although the Procurement Guidance Document encouraged competitive bidding for works contracts estimated to cost between VND 150 million and VND 1 billion (USD 7,500 – 50,000), program implementing agencies normally used Direct Contracting as a default method. There is a concern that this practice tends to lead to lower quality results as there is no competitive pressure put on companies to improve performance. If open competition is used as a proxy for economy of, and transparency in, the procurement process, PCERWASS will need to reduce the incidence of direct contracting and avoid using solely the monetary threshold criteria as a justification for choice of contracting method.

42. In cases where competitive procedures were followed, the evaluation did not appear to be robust and the bid evaluation reports (BER) appear inadequate and poorly prepared. As far as evaluation is concerned, the qualifications of the bidders are evaluated at the first stage (rather than as a part of post qualification) resulting that in one case, among three bids received, two bids were already rejected at the first stage of bid evaluation. In a second case of six bids received, five were rejected immediately at the first stage due to reasons related to bidder’s qualification.

43. Program implementing agencies hired consultants to provide assistance in supervising and managing construction of works. A typical contract for construction of water supply scheme normally has a contractual construction period of one year or less.

44. Debarment from participation in future tenders is governed by the Law on Procurement which provides a defined set of “prohibited acts”, commission of which can lead to debarment. Under the Law, bidders prohibited from tendering are listed in the “tendering newsletter” and on the tendering website.

**Contract Management Performance**

45. One major challenge faced by PCERWASS is the extensive delay in implementation. It was reported that most contracts could not be completed within the contractual period, but had to be extended up to twice the initial period or even longer. Three major reasons were: (a) the serious shortage of funds or unsystematic flow of funds from the program leading to frequent delays in payments to contractors, with no provision for compensation for delayed payments; (b) delays in construction of distribution systems to the household level due to social and administrative conditions (such as household willingness to connect, coordination with various local authorities, transport, and dyke safety); and (c) low paid supervising consultants sometimes were not active in overseeing the contractor’s performance.
46. Cost overruns rarely occurred since the program implementing agencies always managed to complete works within the agreed budget as it was difficult to obtain additional budget. Contract variations or changes were also often not handled promptly as required by the conditions of contract due to lack of budget. Contract disputes were resolved according to the government’s laws and regulations. In practice, if there were disputes, the program implementing agencies and contractors tried to resolve this through negotiations. No serious disputes requiring resolution by a court were reported.

System Performance

47. The quality of works, as reported by PCERWASSs, was generally satisfactory at completion. However, they reported that a significant number of water supply facilities that were handed over to communes to manage were not operational because they had seriously deteriorated. The explanation was that communes lack both technical and financial capacity to operate these facilities. Meanwhile, other facilities that were contracted to a private sector company to operate or were self-managed by PCERWASSs remain in good conditions and well-functioning. To address the situation, over the last few years, some program provinces decided to take back those water supply facilities being managed by communes in order to repair and renovate them and then transfer them to PCERWASSs or outsource the operation to private sector companies.

Filing and Record Keeping

48. Transactions recording, filing of supporting documents, and preparing of financial reports are done by the investment owners or spending units of the NTP. Recording and Reporting systems vary among provinces and departments within the same province (manual, excel-based or automated software). The State Treasury of every province also records the expenditures of the NTP to their system on a cash basis, using TABMIS. A separate code is given by TABMIS to each program, project, and subproject, therefore the financial reports generated by State Treasury are detailed and comprehensive (although they exclude work completed but not yet paid, being a cash basis system). The State Treasury can generate consolidated financial reports for the provincial NTP monthly, quarterly and yearly.

49. The government regulations require program documents and records to be maintained for at least five years after the program completion. Program implementing agencies apparently complied well with this requirement as they were able to even provide procurement documents dated as early as 2003. However, visits to some procurement filing systems being operated at specific PCERWASSs revealed that the systems were not well organized or systematically maintained, which may cause difficulty in retrieving documents when needed.

50. All contract records, including the advertisement, are kept in the Financial and Administrative Department of PCERWASS. PCERWASSs showed interest in receiving support to establish a computerized procurement and contract management system that covers each stage of procurement and disbursement through contract completion.
Staffing

51. Provincial PCERWASS centers in charge of program implementation have a variable number of staff. In some provinces, as in Phu Tho, there is no PCERWASS department per se, and staff in charge of NTP programs are not exclusively dedicated to implementation of the NTP program, but are also responsible for irrigation and water resources management programs. Although the PCERWASS usually has units for Administration and Planning (includes accounting and M&E functions), Technical, and Construction Management, weak capacity has been reported in some areas, mainly in M&E, sanitation promotion and behavior change, supervision of designs and construction, and fiduciary issues. The capacity of the implementation units to prepare technical specifications for bidding documents, to conduct technical revisions, or to supervise works is varied at the provincial level. This is due to a combination of factors with more or less relevance depending on the province: low technical skills, insufficient staff and recurrent budget to adequately perform these tasks.

52. Generally, PCERWASSs have adequate numbers of qualified procurement staff who have attended the necessary training, possess Procurement Certificates issued by MPI, and have gained good procurement experience. They were able to self-prepare bidding documents and carry out bid evaluation without external assistance. PCERWASSs also have capable technical staff who usually provided assistance in bidding process and subsequently assume the responsibility for contract administration, construction supervision and even operation and maintenance of water supply facilities. The procurement work is generally carried out by the Planning and Technical Units. Standard bidding documents and contracts that are issued by MPI are used. Staff in districts and communes generally have weaker capacity than those of PCERWASSs. That said, it was observed that in some cases preparation of the design and technical specifications was contracted out to consultants. Also, in Thanh Hoa the staff did not appear to have experience in conducting competitive procurement procedures.

53. The financial management duties in PCERWASSs are performed by the Chief Accountants who have adequate experience and qualification to manage government budget expenditures. They are however normally overloaded with daily work of PCERWASSs plus various programs. In the proposed Program, PCERWASSs will be responsible for consolidating annual provincial Program financial statements, working with State Audit of Vietnam, and consolidating Program annual plan and annual budget; therefore, additional resources and capacity building are to be provided to PCERWASSs’ financial management personnel.

Controls, Oversight and Accountability

54. In the past, all procurement transactions under NTP were subject to appraisal and approval by relevant provincial agencies (usually clearance by Department of Planning and Investment and approval by People’s Committee). More recently, program implementing agencies (PCERWASSs) have been allowed to act as the program owner and therefore permitted to take sole responsibility for their procurement decisions, with the exception that the Procurement Plans remain to be approved by the PPC.

55. Transactions recording, filing of supporting documents, and preparing of financial reports are done by the investment owners or spending units of the NTP. The practices vary from
province to province. In the case of Ha Nam the rights and responsibilities are decentralized to enterprises and the accounting and financial reporting functions are carried out by them. Each enterprise is wholly responsible for payments, bookkeeping and financial reports of the water construction assigned by PPC and PCERWASS to it. The enterprise approves payments to contractors and suppliers, submits documents to provincial State Treasury for disbursements, prepares financial reports when the construction is completed and gets it audited and accepted by provincial DOF. Similarly, spending units of recurrent expenditures include PCERWASS and provincial Preventive Health Center; each of them does the accounting work and prepares financial reports for its own part. The PCERWASS does not prepare consolidated financial reports for the provincial NTP expenditures. Reconciliation with State Treasury is also done by each delegated investment owner or spending units.

56. In other provinces, PCERWASS is the sole investment owner of the centrally allocated NTP budget and therefore is responsible for the accounting and financial reporting of the overall provincial NTP program. PCERWASS keeps all supporting documents, records transactions, works with State Treasury for disbursements to contractors and suppliers, work with Department of Finance for final audit and acceptance of the construction cost and annual recurrent expenditures. PCERWASS prepares financial reports for provincial NTP and reconciles it with provincial State Treasury.

57. Recurrent expenditures are accounted for in accordance with Decision 19 issued by Ministry of Finance for government administrative expenses. Capital expenditures are accounted for using Decision 214 issued by Ministry of Finance for investment owners. Those accounting policies are based on a modified cash basis. One PCERWASS does not have any accounting software for NTP, the accountant records transactions and prepares financial reports using an Excel Spreadsheet. Some PCERWASS (Thanh Hoa and Vinh Phuc) have accounting software. In Quang Ninh, the accountant made accounting entries and prepared financial reports by hand.

58. There are no intra-year financial reports or analyses. Financial statements for capital expenditures are not prepared annually, but only at the time when the construction is finished and accepted. There are no financial statements for total capital expenditures, instead each construction project has a single separate financial report. The consolidated sheet prepared by PCERWASS only lists the completed construction. The work in progress is not recorded.

59. State Audit prepares the financial statements. There are no consolidated financial statements for the entire NTP, only separate financial statements for the NTP at each province. There is no accounting function therefore at the NTP Standing office.

60. As of January 2012, TABMIS has been successfully launched in 46 out of 63 provinces, with full technical function and capacity. Among the eight provinces of this Program, seven have fully implemented TABMIS. The launching of TABMIS in the remaining province, Thanh Hoa, is expected before the end of 2012, hence prior to Program implementation.

61. There is still a gap in the timely of recording transactions, due to the cash-based methodology applied in the public accounts. For example, some revenue and expenditure amounts of one accounting year may be recorded in a different financial year (largely due to cash
basis of accounting), leading to incorrect recognition of budget revenue, expenditure and deficits, and unreliable year-to-year comparisons of budget expenditures.

62. Official documents to guide the internal control of the NTP are issued by all levels, from Prime Minister, ministers of MARD, MPI and MOF, to head of the investment owners and spending units, covering various areas of operation. The ultimate responsibility of ensuring the NTP funds are used for the intended purposes rests with investment owners and spending units, which are typically PCERWASSs in this case.

63. The second level of ensuring proper use of funds is expenditure verification done by the provincial State Treasury on every single payment from NTP funds. The State Treasury’s payment control is mainly documentation-based and the effectiveness of post-review procedures is limited by the lack of regular audit and inspections. It is difficult for the State Treasury to check if payment documentation is prepared by the spending units merely to withdraw money for purposes other than that of the activity for which the documentation is based. Pre-review of documentation for payment has been conducted by the State Treasury with some level of success, but the same is not true for the post-review procedure. The State Treasury can check the documentation sent by the spending unit, but it depends on auditing or inspection results by relevant authorities to know if the activity for which payment is made is actually implemented. However, the audits and inspections are not carried out on a regular basis, particularly in the case of small spending units. Also, a number of expenditure items are not based on expenditure norms, and hence the State Treasury does not have a basis for payment control. These factors limit the effectiveness of the Treasury payment control procedures.

64. Internal controls exist in PCERWASS, covering such critical areas as segregation of duties, work acceptance and payments, asset count, cash reconciliation and advance management. There is however no financial management manual issued for the investment owners and spending units as guidance for them to manage the funds. Through technical assistance, as one of the areas in the financial management capacity building component, a comprehensive financial management manual will be developed. Measures to strengthen internal control, such as adequate segregation of duties and prohibition of potential conflicts of interest, will also be addressed in the manual in conjunction with other aspects of financial management, procurement and governance. The manual's implementation will be monitored during the Program implementation support.

65. The 37/2005 State Audit Law, Provisions 3 and 15, Articles 6 and 15 respectively, require internal auditing to be implemented in every organization using State budget, funds, and assets, and empowers the SAV “to direct and instruct on the internal audit profession and operation, and on the use of internal audit results of agencies and institutions”. However, there are no internal audit units within the eight provinces where the NTP will be implemented; this creates a significant gap in the control framework of the program.

66. Currently, the reconciliation between the State Treasury and spending units is performed in line with the Administrative Units accounting regime and the requirements of the State Budget accounting regime and State Treasury operations. At most State Treasuries, the reconciliations is performed adequately as required by the regulation; however, in some provinces, the State Treasuries have not yet performed it adequately, and this can prevent timely identification and
correction of accounting errors and can impact adversely on the quality of budget and expenditure reports. For example, reviews at the provincial and district levels for NTP have shown that reconciliations are performed at the aggregate level only and not at the detailed transaction level. We recommend that reconciliations are done in a timely manner, on the aggregated and detailed levels, and unusual items and variances reviewed.

67. The State Budget Law stipulates that the functions and responsibilities of the MOF Inspectorate are to conduct compliance audits of budget spending and revenue units in terms of budget and public asset management. However, at present, inspection and audits are carried out by various agencies and result in overlaps in audits. The State Inspectorate conducts inspections of all ministries reporting directly to the Prime Minister. The MPI Inspectorate inspects its Ministry administrative activities as well as investments activities within MPI’s responsibility. The MOF and DOF Inspectorates carry out administrative and sector inspections for the Ministry, while each General Department of MOF has a specialist inspection function focusing on the specific activities of the Department. Each Ministry also has an Inspectorate carrying out specialist inspections relating to their Ministry’s functions and activities. Although, annually, the Inspectorates develop their inspection plans for the following year and submit the plans to the Provincial People’s Committees for approval, partly with the goal of avoiding duplications and overlaps, in practice the duplication continues. For example, in Hung Yen, NTP2 has been inspected by the Provincial Inspectorate (reporting to the PPC), Department of Finance, DARD and Provincial Anti-corruption Steering Committee.

68. Inspections are essentially input and compliance orientated with limited attention to identification of systemic improvements. Inspectorates do not produce statements or reports on the overall assessment of internal control systems, and the effectiveness of the inspection work seems limited. Inspectorates report that their functions are hampered by the lack of staff and resources together with lack of expertise in sound auditing practices. Moreover, due to the small number of staff (inspectors), the number of units that are inspected is low. The proportion of inspected units in Ha Nam is 5-7 percent annually and in the four years 2003-2006, the Financial Inspectorate conducted only 28 missions.

69. Instances continue where national auditors and inspectors arrange missions to units that have just been audited or inspected by local inspectorates. The provinces have no mechanism in place to review the implementation of recommendations made by inspection or auditing missions. The post-inspection review is limited to the review of unit’s reports. Auditing and inspection results are not disclosed in the provinces.

70. The SAV is the Vietnamese Supreme Audit Institution (SAI). The SAV operates from a relatively clear statutory base. Although the Vietnamese constitution does not make reference to the state public audit, the State Audit Law passed by the NA on June 14, 2005 which came into effect on January 1, 2006, created the legislative basis for the legal position, functions and working modalities of the SAV. The State Audit Law sets out principles on which the SAV should operate free of influence of the executive.

71. The current legislation protects SAV’s independence on two levels: (a) institutional (The Auditor General is elected by the NA; and (b) operational (the SAV decides upon its annual audit plan. The SAV needs neither Government nor the NA to agree to the plan or report).
72. The State Audit Law does not specify the relations between the State Auditor, the MOF Inspectorate and the State Inspectorate. As a result, overlaps in execution of the roles and responsibilities of the bodies exist.

73. The NTP2 was audited by SAV annually, with technical assistance provided by the Danish International Development Agency (DANIDA) and the Australian Agency for International Development (AusAID). The audit focuses on financial, compliance and some particular aspects of performance. The audits complied with the Vietnamese Standards of State Auditing. The audit reports of the provinces visited were issued by July in the year subsequent to the fiscal year audited, contained an evaluation of the eligibility of the funds used, the compliance with laws and regulations and to some extent, the effectiveness and efficiency of the program. Where the audit reports did not follow good practices and standards, they can be improved to a level acceptable by the Bank.

74. There are a number of good practices in the Audit of NTP2 – 2010 done by SAV:

- **frequency**: the audit of NTP2 was done on an annual basis. The reports are issued within 7 months after financial year end;
- **audit report issuance**: SAV issued separate audit reports for each province that they have visited;
- **scope**: SAV audit covers the majority of the funds and all expenditures; and
- **compliance audit**: SAV audit covers compliance audit as it was conducted based on SAV Laws, Construction Law, Procurement Law and other laws and regulations, as applicable.

75. Furthermore, beyond the scope of the financial audit, SAV’s reports also include the performance of each audited province in achieving the NTP key performance indicators (12 indicators on clean water supply and sanitation). This is a very positive basis for the NTP to move to a results-based financing approach.

76. Findings of auditors are followed up by provinces and the Standing Office. After provinces addressed the recommendations of the auditors, SAV was invited to check the status of implementation of recommendations. Workshops including SAV, the Standing Office, and the provinces are also regularly organized to disseminate the audit findings.

77. Nevertheless, presentation of the audit reports and audited financial statements, as well as auditing standards and methodology reveal a number of gaps with international standards and best practices, such as:

- community contribution is excluded;
- only selected provinces are audited;
- compliance with laws and regulations were embedded into other sections of the audit reports;
- there isn’t an overall conclusion for compliance;
• the audited financial statements do not have explanatory notes and accounting policies;
• no opinion on the audited financial statements;
• no Statement by Program management; and
• the auditing standards of SAV are not fully compliant to INTOSAI, with critical gap in risk-based approach and materiality in sample selection.

Complaints Handling Systems

78. Two laws in Vietnam address the complaint handling mechanism: the first is the Law on Complaints and Denunciations, the second is the Procurement Law. According to the Public Procurement Agency (PPA) at the central level and PCERWASSs no procurement complaints were recorded under the NTP program so far. This could be attributed to the rigid and cumbersome current complaint handling mechanism (for example, imposing a fee if disputing an award decision and requiring the complaint to be signed). This poses the risk that individuals with knowledge of misbehavior would fail to report it, thus affecting the integrity of the procurement processes, and the fairness and the transparency of the procurement decisions under the program. The complete lack of any complaints brings about serious concerns regarding the credibility and transparency of the procurement processes.

79. The inability to submit anonymous complaints due to their prohibition in the Law on Complaints and Denunciations may be a disincentive for citizens to provide information about fraud and corruption in the Program. However, according to information provided by a number of the DARD and PCERWASS GIs, in practice these officials do accept and record anonymous complaints when they are received. The officials noted that if anonymous complaints contained credible or serious allegations the inspectors would investigate them fully. Notwithstanding the practical handling of anonymous complaints in some of the implementing provinces, the lack of a clear and consistent affirmative policy and procedure for these complaints is a clear weakness in the Program’s complaints handling system.

80. The reporting system for the Government Inspectorate allows reporting up from districts and provinces to the State level GI. The GI system is hierarchical with lower levels reporting data and information on complaints and investigations up to higher levels until the information is aggregated at the State GI. According to a retired inspector from the State GI, the reporting system contains both routine and “urgent” reports each of which would contain details on the number and type of complaint, status of inspector’s investigations and ultimate resolution. The reports also provide explanations for those complaints that are not pursued.

81. Based on the team’s field visits there does not appear to be a single, unified reporting system for the GI data. Some provincial GIs told the team that information was kept manually in a log book, while others noted that results of investigations can be put on the provincial websites and are shared with the complainant (and summaries may be shared with other authorized “users” or “participants”, which could include the press).

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4 International Organization of Supreme Audit Institutions
82. No cases of fraud and corruption under the program were reported so far. However, experiences under other Bank-financed projects show that numerous allegations of fraud and corruption in procurement are made and have been received directly by the Bank. Most notable is the case under the Red River Delta Rural Water Supply and Sanitation Project in which a complaint to the Bank resulted in the sanctioning of an international firm for two years. A significant difference between the national and Bank complaints systems is that under Bank procedures anonymous complaints are considered and if necessary investigated. Field visits showed that provincial authorities may also review and act on anonymous complaints, but local authorities have considerable discretion on whether they conduct reviews.

83. Based on discussion with provincial and national officials and former officials, the lack of fraud and corruption complaints in the national systems could be due to: (a) citizen’s lack of knowledge about the complaints system; (b) citizen’s lack of knowledge about their rights and service standards under the NTP; and (c) general satisfaction with any water service relative to lack of service previously. Under the Anti-Corruption Law, decisions based on fraud and corruption complaints are to be made public but since there have been no corruption complaints under the previous NTP programs this process has not been tested. The lack of any past use of the complaints handling system during previous NTP implementation has meant that the team is unable to identify other gaps or weaknesses that may appear only during implementation of the system.

84. While this multiple-entry complaints system may provide a number of options for citizens, it can also be confusing and result in complaints being passed around agencies or lost in the transfer process and can make it difficult for citizens to follow up. Staffing in the province level GI offices varied greatly: some of the implementing provinces had sufficient staff to create a dedicated complaints handling office while others had as few as two inspectors at the DARD level that had to cover all GI functions including complaints handling. However, if use of the system increases in NTP3, lack of sufficient numbers of trained staff could become a constraint on the Program’s ability to collect, manage and investigate allegations in some provinces.

85. The lack of a common, electronic reporting system across the implementing agencies may make it difficult for the borrower to meet the ACG obligation to inform the Bank of fraud and corruption allegations and report on how they are handled (investigated, mitigated and sanctioned). The use of written log books in some implementing provinces raises questions about the quality of the data collected. In addition, the team was unable to get agreement to share data on allegations from any of the provincial GI officials interviewed during the field visits. Notwithstanding the fact that the Anti-Corruption Law requires that the findings of corruption investigations be made public, it was clear that these officials felt they did not have the authority to commit to sharing this required information with the Bank team.

Sanctions and Debarment

86. Sanctions for non-procurement related fraud and corruption are handled under the Anti-Corruption Law and the Law on Complaints and Denunciations. In most cases, a GI office conducts the initial investigation and turns over the case file to the police if the investigation identifies a possible criminal violation. If warranted the corruption charges can be brought by local prosecutors in Vietnam’s court system. One commentator has noted that Vietnam, like
other developing countries, lacks the necessary capacity and sufficiently trained and experienced staff in its anti-corruption bodies, police, prosecutors and courts to effectively and efficiently handle all corruption allegations.

87. Lists of debarment within a given province are prepared by the provincial DPI and are submitted to the PPC and MPI on an annual basis. Under the Law, bidders prohibited from tendering are listed in the tendering newsletter and on the tendering website controlled by the MPI. Provincial officials gave the team inconsistent information regarding whether tenders consistently refer to the MPI sources and the DPI lists to determine bidder eligibility. One Program should be to ensure the sharing and use of this information across provinces.

88. PCERWASSs do not check the national debarred list of PPA when taking procurement decisions. There seemed to be a mix between “blacklisting” as a result of committing a fraudulent or corrupt act and “blacklisting” for the lack of technical performance. Under the Procurement Law, bidders can be sanctioned for multiple warnings of poor performance (Art. 75(1) (c)). This provision provides significant discretion to the tendering authority to determine “poor performance” and if misused could lead to sanctions and debarments for reasons beyond violations of procurement rules and procedures or fraud and corruption. PCERWASS and DARD counterparts met during field visits were often unable to tell the team whether there had been any “poor performance” debarments in previous water sector projects.

Fiduciary Risks

89. The fiduciary assessment identified the following key areas which need to be addressed to ensure that the program is able to reach its stated goals.

Program Planning and Budgeting

90. At the central level, NTP Standing Office developed an overall budget proposal for the entire NTP3, which was submitted by the NTP Steering Board to Government for review and the NA for approval. At the provincial level, PCERWASS, as assigned by PPC, also prepares a five-year financial plan for the provincial NTP program, as part of the provincial overall five-year plan which will be the basis for PCERWASS to prepare the NTP annual plan. Due to the shortage of funds and the usual budget negotiation and revision process, final annual budgets for NTP in the provinces are approved very late, causing delays in implementation of the provincial NTP activities.

91. The risk for financial planning and budgeting cycle is assessed at High before mitigation measures. With the implementation of the following recommendations from the Bank, the residual risk can be assessed at Substantial: (a) the central and provincial Governments need to work more closely in preparing annual plans and budgets. The provincial plans need to be realistic, taking into account the budget constraint informed annually by the Standing Office; and the usual practice of over-planning and then cutting down by more than half should be avoided; (b) the five-year financial plan for the entire NTP would more effectively guide annual planning if it included breakdowns by province, by sub-project, and by year; (c) when budget resources do not meet needs, prioritizing criteria for budget reallocation need to be transparent and, in particular, address the balance across program sub-projects; (d) the linkage between the budget
available (all sources of funds) and the expected Program results for the year needs to be evaluated for changes over time in construction and other Program costs to ensure that the original NTP3 combination of resources and expected outputs remains achievable; and (e) announcement of the budget centrally allocated to each province, and the reallocation by PPC to each activity, needs to be completed in the first quarter of the year at the latest. To ensure adequate focus on these issues at the provincial level, the preparation of annual and long run provincial plans has been incorporated in DLI 3 of the Program, providing specific oversight of this process and a strong incentive for high level provincial performance.

**Bidding and Contracting**

92. The procurement risk before mitigation is rated as High and would be reduced to Substantial after mitigation.

- **Direct Contracting.** Excessive use of Direct Contracting and single source selection affects the economy, transparency and effectiveness of the procurement decisions. The PCERWASS should reduce the incidence of direct contracting and avoid sole use of the threshold criteria as a justification. The Government Decree No. 85CP (currently effective) permits relatively high thresholds for Direct Contracting (DC), specifically, VND 5 billion (USD 250,000) for works; VND 2 billion (USD 100,000) for goods, and VND 3 billion (USD 150,000) for consulting services. Given these thresholds and the observations under the previous NTPs, it is envisaged that most consulting contracts could fall under the DC threshold and it would remain possible to award contracts on that basis. The DC thresholds for goods and works are unreasonably high and considered inappropriate by all international donors. The excessive use of this method, which leads to a lack of transparency and competition, may decrease the economy and efficiency in achieving the Program’s results. In order to mitigate this risk, the following measure should be adopted: (a) more competitive bidding methods such as limited or open competitive bidding should be encouraged for contracts below the DC thresholds; and (b) procurement planning should be effectively controlled to avoid unreasonable contract splitting and to promote combining works for bulk procurement where possible. This should include multi-year procurement planning. To implement these recommendations, explicit goals for increased use of competitive procedures should be included in the Program design.

- **Inherent actual or perceived conflicts of interest.** Inherent actual or perceived conflicts of interest result from: (a) the role of SOEs as both bidders and procuring entities; and (b) from the ability of SOEs to bid on procurement projects issued by the government entity which owns or controls the SOE – which, in turn, may affect the transparency, and possibly the economy and effectiveness of the procurement process. The Bank has discussed with the Government the option of forbidding contract awards to a dependent SOE and including this in the Program design.

- **Unrealistic cost estimates.** Applying the government’s cost norms for preparing cost estimates for works and consulting services is mandatory, which may lead to underpriced contracts because: (a) the cost norms may be low, even with quarterly updates; (b) the government’s cost estimating methodology seems to mainly account for
only direct costs and pays less attention to indirect costs; (c) the cost estimate is commonly not updated or changed after approval by the government authority and therefore may easily become unrealistic and incommensurate with market prices at the time of commencing the contract; and (d) cost norms for detailed designs and construction supervision are calculated as a fixed percentage of the total construction costs and are currently less than 2 percent for detailed design and less than 3 percent for construction supervision. These levels are considered relatively low. Underpriced contracts would not enable contractors or consultants to deliver the required works and services at the required standards (including timeliness) with negative effects on achieving the program’s results. Mitigation measures for this potential risk may include: (a) regularly updating cost norms for civil works; and (b) moving from fixed percentage norms for design and construction supervision services to market price-based cost estimation. The Program will respond to this risk as described in the following paragraph.

93. Reference to the governmental unit costs in deciding contract awards adversely affects open market competition and provides room for collusion. The PCERWASS should avoid rejecting an otherwise conforming bid simply because it exceeds the cost estimate. They should utilize the mechanisms available in Vietnam for the clearance of award. As a mitigating measure in the Program, bids above the stated norms are to be considered during bid evaluation.

94. Shortage of funds. Delays in contract performance and in payments to contractors frequently occur due to many reasons, but the most serious reason is shortage and untimely provision of funds. This could continue to be one of the biggest challenges under the new NTP3 and it may adversely impact the quality and timeliness of works and services delivered under the program. Mitigation measures for this potential risk are included in the Program design and include appropriate advance payments and Program DLIs that are scalable -- allowing partial disbursement against partially achieved results.

95. Procurement performance. Procurement performance is audited and inspected by various government authorities such as Provincial Inspectorates, the SAV, and Government Inspection Authorities (GIA). There is a need to establish and operate a clear set of procurement performance indicators and systematic monitoring and reporting at all levels. In the Program, the Independent Verification Agent (IVA) will, as part of results monitoring, review procurement performance against the targets set in the provincial investment plans and any other requirements of the Program.

96. The Bank will support the government in updating the procurement manual that has been used in NTP2 in a manner that reflects that procurement framework that will be agreed upon for NTP3. Some provinces have also expressed an interest in establishing an information system for monitoring procurement performance and contract management, an interest that can be responded to through the technical assistance program.

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For example, Timeliness of completion of contracts, Cost-effectiveness, Effectiveness and quality of procurement planning, Competitiveness of the procurement processes, Timeliness of payments to contractors, Extent of the implementing agency's compliance with applicable rules on the use of different procurement methods, and Effectiveness of the complaint mechanism.
Program Execution

97. Overall, the capacity for accounting and financial reporting of the State Treasury and PCERWASS is at an adequate level. However, before mitigation, the risk of mis-recording or mis-presentation of financial statements is assessed as Substantial. With the implementation of the following Bank recommendations, risk can be reduced to Moderate: (a) PCERWASS is to prepare the consolidated financial statements for the provincial NTP, including both recurrent expenditures and capital expenditures. The format of the financial statements is to be agreed by the Standing Office, State Audit and the Bank. Financial statements are to be generated quarterly and include all sources of funds and all NTP expenditures; (b) PCERWASS needs to be equipped with accounting software to record transactions and prepare financial statements for the provincial NTP; (c) in the provinces where PCERWASS accountants do not have enough capacity (limited time or limited qualification), recruitment of qualified staff or necessary training is needed; and (d) reconciliation is to be done between PCERWASS and State Treasury on a quarterly basis for the expenditures disbursed.

98. PCERWASS needs to be equipped with integrated software to assist with record keeping, contract administration, and preparation of financial statements for the provincial NTP. A preferred option is to utilize the existing TABMIS; however, if this is not feasible, then the eight provinces need to find a unified information technology (IT) solution to deal with their needs in an efficient and timely manner.

99. PCERWASS needs to prepare consolidated financial reports for the provincial NTP, including both recurrent expenditures and capital expenditures from all sources of funding. The format of the financial reports is to be agreed by Standing Office, State Audit and the World Bank. Financial reports are to be generated quarterly. The recommendations in this section will be implemented in conjunction with the technical assistance program. The Program should include specific measures on building and implementing effective financial capabilities.

Program Reporting

100. Lack of procurement reporting. Observations under previous NTPs show that although procurement performance is audited and examined during inspection visits, this is not done on the basis of a monitoring and reporting system. Furthermore, under NTP2 audit frequency was not high enough to offset this lack of a reporting system. Mitigation measures for this potential risk could include: (a) developing and enforcing a systematic procurement monitoring and reporting system across the program; (b) enhancing procurement oversight functions and performance of supervisory agencies such as Government Inspectorate and State Audit; (c) establishing and monitoring procurement performance indicators; and (d) the first year audit of the program including an audit of procurement to identify specific areas that need further attention. Under the Program, the audit function will be significantly enhanced and audits will be conducted annually, providing increased and systematic audit oversight.

Internal Controls and Internal Audit

101. Internal controls exist in PCERWASS, covering critical areas such as segregation of duties, work acceptance and payments, asset count, cash reconciliation and advance management.
However, there is no financial management manual issued for the investment owners and spending units as guidance for them to manage the funds. The conflict of interest issue is also not addressed in the NTP regulations or internal controls. The official internal audit function does not yet exist in NTP. Instead, PPC uses its own inspectorate and functional departments to perform inspection on the use of funds. Although there are many inspection missions covering various areas, there are still risks of overlap and areas left uncovered. The risk of internal control of NTP is assessed at Substantial before mitigation measures. With the implementation of the following Bank recommendations, risk can be assessed at Moderate: (a) financial management manual is to be developed by Standing Office, approved by Steering Board and applied by all investment owners and spending units of the NTP. The manual needs to be comprehensive, covering all areas of financial management, including the conflict of interest issue; and (b) at the beginning of the year, all provincial agencies responsible for inspection of the provincial NTP program need to work together and with NTP Standing Office to develop an overall comprehensive inspection plan, to ensure all critical areas are covered, and to avoid overlap.

102. The plan also helps to review status of findings of previous inspections. Responsibility for reporting, format and contents of the reports by each agency, need also to be agreed upfront to enable the cross-use of all parties. The Bank, other donors of NTP, and Standing Office will provide comments on TORs of the inspection to bring it to international standard internal audit equivalent. Technical assistance to build up capacity of the provincial inspectors will be provided. The internal audit function will be created as part of the Program, and the Bank will review the external auditor appointment and TORs. Through the technical assistance, as one of the areas in the financial management capacity building component, a comprehensive financial management manual will be developed. Measures to strengthen internal control, such adequate segregation of duties and prohibition of potential conflicts of interest, will also be addressed in the manual in conjunction with other aspects of financial management, procurement and governance. The manual's implementation will be monitored during the Program implementation support.

103. Technical assistance to SAV will help them address, in their auditing, the particularities of the results-based approach embedded in the PforR program. It will also assist them reach their goal of full compliance with international standards in their audit work for the eight provinces. The assistance comes in two forms, first through the AusAID-funded technical assistance program, with its focus on supporting SAV in its external audit function, and second through Bank technical assistance, separately from the PforR Program, in the form of an Institutional Development Fund to strengthen the SAV’s audit standards and methodologies toward better alignment with international practices.

104. The audit TORs are to be agreed among SAV, the NTP Steering Board (represented by the Standing Office), the World Bank and other donors. The TOR will ensure that all eight provinces are audited every year -- covering financial, procurement and performance (Financial Management and Procurement) areas -- and that the audit results are submitted to the World Bank within the agreed period. These activities, together with the provision for implementation support in the financial management area, will ultimately result in SAV’s adequacy to perform its obligation as the external auditor for the Program.
Governance and Anti-corruption

105. Under the “Guidelines on Preventing and Combating Fraud and Corruption in Program-for-Results Financing”, Vietnam is obligated to apply the Bank’s debarment list for Program-supported investments. In addition to the application of the Bank’s debarment list, the Program will also be subject to Vietnam’s national debarment procedures. Prohibition from participation in future tenders is governed by the Law on Procurement which provides a defined set of “prohibited acts” -- commission of which can lead to debarment. For procurement, initial sanctioning decisions will be made by the tendering authority. To ensure full application of the national and provincial debarment lists to any procurement activity within the Program, the Program will include a specific requirement for such application.

106. In order to remove a possible obstacle to effective citizen feedback and reporting on problems in the Program, the technical assistance program will support the GOV in establishing an effective mechanism for communicating to beneficiaries their rights, roles and responsibilities as related to the Program. In particular this would cover items such as how to provide timely feedback and complaints regarding the Program to agencies in the eight implementing provinces. The Program will contain its own reporting systems that can capture information on the number, type and handling of fraud and corruption allegations in the Program.

107. Different options that ensure the availability of “open complaint procedures” and functioning handling mechanisms of these complaints have been discussed with the government. These include:

- establishing a simple alternative route for citizens to provide feedback on the program, including anonymous complaints. For example, an easily accessible Information Technology Platform at the national level might be linked to a credible follow up process;
- formalizing the process for acceptance, review and investigation of anonymous complaints at the provincial level; and
- improving citizen and bidder knowledge and access to information about rights and processes for making complaints about concerns with the Program.

108. Two parallel reporting systems may capture the information on the handling of fraud and corruption allegations in the Program: the reporting system for the Government Inspectorate (allows reporting up from districts and provinces to the State level GI) and the reporting system covering procurement tenders under the Procurement Law. The information required to be shared with the Bank includes: (a) allegations or other indications of fraud and corruption; (b) investigative or other actions taken; and (c) final resolution of the allegation. As required under the ACGs, the Bank and the borrower have reached an agreement on sharing all information required by the ACGs on a bi-annual basis with the Bank.

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6 Under the Guidelines on Preventing and Combating Fraud and Corruption in Program-for-Results Financing, the borrower is required to provide the Bank with a set of information on the handling of fraud and corruption allegations under the Program.
109. The MARD Program Standing Office, with assistance from donors of NTP2 (AusAID, DANIDA and the UK’s Department of International Development [DFID]), has built in the following key controls in operation and monitoring of the NTP to ensure achievement of the objectives: (a) annual audit by the SAV, with extended TOR covering not only financial figures but also the performance of audited provinces in achieving the NTP objective (12 indicators); (b) annual joint review of the NTP operation by donors in cooperation with MARD; and (c) regular progress meetings and training provided by the Standing Office to provinces to improve budgeting and to implement recommendations of SAV and the joint operational reviews. In addition, the State Treasury system provides a number of key controls in fund flow; and the various departments under PPCs (including the provincial Anti-corruption Committee) carry out internal inspection and supervision of the provincial NTP program.

**Monitoring Fiduciary Performance over Program Period**

110. While key fiduciary areas requiring specific actions for strengthening in government systems have been listed in the Program Action Plan, it will be important to also monitor the overall fiduciary performance during the duration of the Program. The following table identifies the specific indicators which will be monitored (together with the relevant baseline position) to provide the framework to measure improvements in the performance of financial management and procurement processes.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Measure</th>
<th>Baseline</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Financial Management</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Annual budget realism</td>
<td>Variance between annual budget proposed by provinces and budget allocated (%)</td>
<td>Except for Hanoi, budget allocated is less than 50% of budget proposed.</td>
</tr>
<tr>
<td>In-year budget adjustments</td>
<td>Significance of the budget adjustment/reallocation made by PPC versus. amount approved annually</td>
<td>NA</td>
</tr>
<tr>
<td>Quality of annual financial statements</td>
<td>Completeness and timeliness of annual reports</td>
<td>Incomplete and untimely annual financial statements</td>
</tr>
<tr>
<td>Effectiveness of reconciliations</td>
<td>Regularity of bank reconciliations and clearance of advances and suspense accounts</td>
<td>Reconciliation with State Treasury is done only once a year</td>
</tr>
<tr>
<td>Availability of Program funds</td>
<td>Ready availability of Program funds for implementing units requesting payments for completion of Program activities</td>
<td>Typically there is a delay in budget allocation to implementing units</td>
</tr>
<tr>
<td>Effectiveness of internal audit function</td>
<td>Coverage, quality and management response to</td>
<td>No internal audit function exists.</td>
</tr>
<tr>
<td>Effectiveness of internal controls</td>
<td>Existence and effective use of financial management and cost norms. Timely and accurate information system for decision making</td>
<td>TABMIS and cost norms effective. No financial management. No TABMIS in Thanh Hoa</td>
</tr>
<tr>
<td>----------------------------------</td>
<td>-------------------------------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Quality of audit report</td>
<td>Scope, nature and adherence to acceptable auditing standards. Audit Opinion on consolidated financial statements</td>
<td>Not all provinces are audited. Community contribution is excluded. Audit standards are not fully compliant to international standards. No Audit Opinion on financial statements</td>
</tr>
<tr>
<td>Follow-up on audit recommendations</td>
<td>Evidence of timely and adequate follow-up by the Program management on audit recommendations</td>
<td>Audit recommendations are not seriously followed up</td>
</tr>
<tr>
<td><strong>Procurement</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Procurement plan</td>
<td>Percentage of implementing agencies that prepare comprehensive procurement plans</td>
<td>One procurement plan is prepared for each scheme. None of the agencies prepares a comprehensive procurement plan.</td>
</tr>
<tr>
<td>Contract packaging</td>
<td>Bundle contracts where possible</td>
<td>Usually, each scheme is procured under one civil works contract, one consultant contract for design and one consultant contract for execution supervision.</td>
</tr>
<tr>
<td>Procurement method</td>
<td>Percentage of contracts to be awarded by competitive bidding method other than direct contracting or single source selection.</td>
<td>Almost all consultant contracts and about 60 per cent of civil works contracts are awarded on single-source-selection or direct contracting basis respectively.</td>
</tr>
<tr>
<td>Advertisement</td>
<td>Percentage of the invitation for bids for contracts using open competitive bidding to be publicly advertised</td>
<td>100 per cent</td>
</tr>
<tr>
<td></td>
<td>Percentage of contract awards publicly disclosed</td>
<td>All contract awards are not publicly disclosed.</td>
</tr>
<tr>
<td>Bid evaluation</td>
<td>Number of bids rejected due to offering bid price higher than contract cost estimate</td>
<td>100 per cent</td>
</tr>
<tr>
<td></td>
<td>Time taken for bid evaluation (from bid)</td>
<td>30-45 days</td>
</tr>
</tbody>
</table>
Opening to contract signing

Checking Government and World Bank debarment list before contract award

Not always done

Contract award

Percentage of contracts awarded to dependent SOEs

Some cases of contracts being awarded to dependent SOEs

Contract administration

Percentage of contracts to be completed in original contraction completion period

Most of the civil works contracts delayed in execution.

Complaint handling mechanism

Percentage of received complaints to be admitted, recorded and dealt with

Anonymous complaints not admitted

Procurement records

Percentage of contracts with complete records and systematically filed and maintained

Procurement records not properly filed and difficult to retrieve

Fiduciary Elements of the Implementation Support Plan

111. The fiduciary elements of the Program’s Implementation Support Plan are listed in the table below

**Main Focus of Implementation Support**

<table>
<thead>
<tr>
<th>Time</th>
<th>Focus</th>
<th>Skills Needed</th>
<th>Resource Estimate</th>
<th>Partner Role</th>
</tr>
</thead>
<tbody>
<tr>
<td>First twelve months</td>
<td>Implementation of the Program Action Plan (PAP); changes in operational procedures and their communication to local implementing agents; establishment of arrangements for independent verification; strengthening of the M&amp;E system; and provincial and</td>
<td>Legal; fiduciary; engineering/procurement; social; water and sanitation monitoring and evaluation; and technical (water, sanitation, economics and finance)</td>
<td>2 supervision missions plus 2 mini-missions 2 x 5 people x 2 weeks = 20 weeks Plus 2 x 2 people x 1 week = 4 weeks Total 24 weeks</td>
<td>Key roles for AusAID, DFID and DANIDA in supervision and advising particularly on M&amp;E and verification procedures. Also to provide feedback on provincial planning and advise on links with national</td>
</tr>
</tbody>
</table>
consolidated national planning.

| 12-48 months | Reviewing implementation progress and cross-checking linkage between provincial planning and results, providing support in case of disputes relating to verification (national-provincial or between GOV and IVA) | Legal; fiduciary; social; environment; monitoring and evaluation; and technical (water, sanitation, economics and finance) | 2 supervision missions per year
2 x 3 yrs x 4 people x 2 weeks
= 48 weeks
Plus mid-term review
1 x 6 people x 2 weeks = 12 weeks
Total 60 weeks | As above plus supporting the review of PforR operation and design of mainstreaming approaches for the national program |

| Other | Independent audit/assessment of verification of results | Independent technical expertise | 2 people for 4 weeks
Total 8 weeks | Participating as observers |

### Task Team Skills Mix Requirements for Implementation Support

<table>
<thead>
<tr>
<th>Skills Needed</th>
<th>Number of Staff Weeks</th>
<th>Number of Trips</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal</td>
<td>6</td>
<td>n/a</td>
<td></td>
</tr>
<tr>
<td>Governance</td>
<td>610</td>
<td>n/a</td>
<td></td>
</tr>
<tr>
<td>Fiduciary</td>
<td>8</td>
<td>n/a</td>
<td></td>
</tr>
<tr>
<td>Social</td>
<td>8</td>
<td>n/a</td>
<td></td>
</tr>
<tr>
<td>Environment</td>
<td>16</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>M&amp;E</td>
<td>20</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>Water supply</td>
<td>12</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>Sanitation</td>
<td>12</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>Economics and finance</td>
<td>8</td>
<td>4</td>
<td></td>
</tr>
</tbody>
</table>
Role of Partners in Program implementation

<table>
<thead>
<tr>
<th>Name</th>
<th>Institution/Country</th>
<th>Role</th>
</tr>
</thead>
<tbody>
<tr>
<td>AusAID</td>
<td></td>
<td>Financing, planning, M&amp;E, Coordination with other NTP support activities</td>
</tr>
<tr>
<td>DANIDA</td>
<td></td>
<td>NTP financial planning and allocations, M&amp;E</td>
</tr>
<tr>
<td>DFID</td>
<td></td>
<td>MOH/DOH implementation of sanitation and hygiene components of NTP</td>
</tr>
</tbody>
</table>

Actions to Meet ACG Requirements

112. Agreement on Information Sharing and Reporting on Fraud and Corruption Allegations. Based on this assessment and the team’s field visits, there does not appear to be a unified national system for collecting and reporting on how the authorities handle allegations of fraud and corruption. Therefore, in order to ensure that the client will be able to comply with its reporting obligations under the ACGs, the client has committed to provide this information from the eight implementing provinces. The information required to be shared with the Bank includes: (a) allegations or other indications of fraud and corruption; (b) investigative or other actions taken; and (c) final resolution of the allegation. This information will be provided in a clear format such as the one below and shared on a semi-annual basis during the life of the Program:

<table>
<thead>
<tr>
<th>Type of complaint or allegation (what is being alleged)</th>
<th>Investigating Agency</th>
<th>Outcome of Investigation</th>
<th>Sanctioning Agency</th>
<th>Sanction Decision</th>
<th>Date Sanction Publicized</th>
</tr>
</thead>
</table>

113. Broaden the Usefulness of the Complaints Handling Systems. The Bank continues to engage more broadly with the client in policy discussions on expanding access to the existing systems by formally permitting the submission of anonymous complaints. In addition, with support from the Program’s technical assistance component, the Program’s communication strategy will include extensive outreach efforts to improve citizen and bidder knowledge and access to information about their rights under the Program including their rights to water service as well as clear information on the process for making complaints about service delivery or fraud and corruption in the Program both to Vietnamese authorities and the Bank.

114. Clarify Debarments under the Program. In light of the ability of provincial officials to debar firms in addition to the formal national debarment list managed by MPI, the Bank reached an agreement with the client to provide periodic information on all debarred firms in each of the eight implementing provinces as well as those listed in the national debarment list. This
information will be provided on a periodic basis and include the following information: (a) name of debarred entity; (b) date and duration of debarment; and (c) reason for debarment.

115. **Client to Ensure that Program Participants are Obligated to Cooperate with Bank Investigations.** During appraisal, the client provided the Bank with clear steps that it will take to assist Bank-led investigations of fraud and corruption allegations. This agreement includes identifying the participants and beneficiaries of the Program (e.g., water users at all levels, commune-level water authorities, DARDs, contractors, etc.) and providing steps that the client will take to ensure the cooperation of these participants and beneficiaries. It further includes a commitment that those authorities with enforcement and investigative rights, such as provincial, DARD and commune GIs as well as the police, will assist the Bank in any fraud or corruption investigation. Government has also submitted to IDA evidence of a written communication from a competent central government authority to the relevant provincial authorities which sets out the obligations of those authorized to cooperate with any investigations under the Program, including any investigations that may be necessary by the Bank’s Integrity Vice-Presidency. This communication to the provinces has been issued by MARD under the authorization of the Office of Government.