

UKRAINE

Accelerating Private Investment in Agriculture Program (P166941)

PROGRAM FOR RESULTS (PforR)

FIDUCIARY SYSTEM ASSESSMENT

November 2018 – April 2019

World Bank

Contents

Section 1: Conclusions	1
1.1 Reasonable assurance	1
1.2 Risk assessment	1
1.3 Procurement exclusions	3
Section 2. Scope	5
2.1 Scope of Fiduciary System Assessment	5
2.2 The Government’s Expenditure Program	5
Section 3: Program Implementation and Responsibilities	6
3.1. Implementation Arrangements	6
3.2. Government Procedures for Program Implementation.....	6
3.3. Disbursement of Program Funds	6
3.4. Fiduciary Capacity of MOF	7
3.5. Fiduciary Capacity of Implementing Institutions	7
Section 4: Review of Public Financial Management Cycle	9
4.1 Planning and Budgeting	9
4.1.1 Adequacy of budgets.....	9
4.1.2 Procurement profile of the Program.....	10
4.2 Budget Execution	12
4.2.1 Treasury management and funds flow.....	12
4.2.2 Accounting and financial reporting.....	14
4.2.3 Performance of the procurement system.....	15
4.2.4 Contract administration.....	18
4.3 Internal Controls	19
4.3.1 Internal controls.....	19
4.3.2 Internal audit.....	20
4.3.3 Program governance and anticorruption arrangements.....	21
4.4 Auditing	24
4.4.1. Program audit.....	24
4.4.2 ACU Mandate and current coverage.....	24
4.4.3 ACU Staffing.....	25
4.4.4 ACU Audit Methodology.....	25
4.5 Procurement and Financial Management Capacity	25

4.5.1 Staffing should be adequate in both numbers and experience.....	25
Section 5: Risks and mitigation actions proposed	26
Section 6: Implementation Support measures and Key Performance Indicators	28
Section 7: Fiduciary Action Plan.....	29
ANNEX 1:	31

ABBREVIATIONS AND ACRONYMS

ACGs	Anti-Corruption Guidelines
ACU	Accounting Chamber of Ukraine
AMCU	Anti-Monopoly Committee of Ukraine
CMU	Cabinet of Ministers of Ukraine
DLI	Disbursement-Linked Indicator
DLR	Disbursement-Linked Result
EU	European Union
GeoCadastrer	State Service for Geodesy, Cartography and Cadaster
HACC	High Anti-Corruption Court
KPI	Key Performance Indicator
MAPF	Ministry of Agrarian Policy and Food
MEDT	Ministry of Economic Development and Trade
MOF	Ministry of Finance
MoJ	Ministry of Justice
MRD	Ministry of Regional Development, Construction, and Housing and Communal Services
NABU	National Anti-Corruption Bureau
NACP	National Agency for Corruption Prevention
NGO	Non-Governmental Organization
PAD	Program Appraisal Document
PAP	Program Action Plan
PCU	Program Coordination Unit
PforR	Program-for-Results
POM	Program Operational Manual
PPL	Public Procurement Law
SAPO	Special Anti-Corruption Prosecutor's Office
SAS	State Audit Service
SPS	Sanitary and Phyto-sanitary measures
SSUFSCP	State Service of Ukraine for Food Safety and Consumer Protection
TBT	Trans-Boundary Trade
TOR	Terms of Reference
UAH	Ukrainian Hryvna
UNFCCC	United Nations Framework Convention on Climate Change
VE	Verification Entity
WTO	World Trade Organization

Section 1: Conclusions

1.1 Reasonable assurance

1. Pursuant to World Bank policy and directives for Program-for-Results Financing (July 10, 2015) and the Program-for-Results Fiduciary Systems Assessment Guidance Note (June 30, 2017), the World Bank's fiduciary team assessed whether the Program's fiduciary systems provide reasonable assurance that financing proceeds will be used for the intended purposes, with due attention to the principles of economy, efficiency, effectiveness, transparency, and accountability. Based on the assessment and agreed upon actions to strengthen the system, which are reflected in the Program Action Plan (PAP), and other mitigation measures, the Program's fiduciary systems are considered broadly adequate to meet the requirements in the Bank's PforR Policy and Directive.

2. The assessment was conducted on the basis of desk review of relevant legislative acts, selected procurement transactions including verification of contracts executed, several meetings held with various participating agencies, as well as procurement questionnaire used, and inputs provided by these entities and other procurement related data analysis conducted including procurement and contract information available online at ProZorro website.

1.2 Risk assessment

3. The key procurement risks and mitigations actions are:

- a) The Law on Public Procurement requires the use of specific procurement procedures: two are competitive (open tender and competitive dialogue) and one is non-competitive (negotiated procedure). There is a risk of overuse of a negotiated procedure by Program Implementing Institutions¹ for cases not sufficiently justified in accordance with the procurement law. To mitigate this risk (i) Implementing Institutions will be requested to share with the Ministry of Finance (MOF) and publish on ProZorro website their annual procurement plans indicating the competitive procurement procedures as default methods to be followed under the Program's procurable activities; (ii) the Implementing Institutions will reduce the total value of negotiated procedures each year by at least five (5) percent of the preceding year of the Program.
- b) There is a risk of low level of competition, since the average number of bids per open tender procedure is only two (2). In order to enhance competition, Implementing Institutions will try to combine into larger packages their planned tenders and publication of the annual Procurement Plan at the beginning of each calendar year encompassing procurement activities for the upcoming year. In addition, business outreach/market sounding events will be organized before launching of planned procurement activities under the Program. Both procurement and technical staff of the Implementing Institutions shall be trained to produce high quality tender documents before the start of Program activities and during the Program implementation.
- c) Due to annual budget planning and annual funds allocation and lack of long-term planning, it may not be possible for Implementing Institutions to sign a longer-term contract (beyond 12- month)

¹ Implementing Institutions under the Program include: Ministry of Agrarian Policy and Food (MAPF), Ministry of Regional Development, Construction, Housing and Communal Services (MRD), Ministry of Justice (MOJ), State Service for Geodesy, Cartography and Cadaster (Geocadaster), and State Service of Ukraine for Food Safety and Consumer Protection (SSUFSCP).

with any supplier of goods or services. The proposed mitigation measure is that the Implementing Institutions plan their respective procurement activities in advance, to ensure that contracts can be still implemented within a budget period including allowed extension.

- d) Multiple Implementing Institutions involved in procurement transaction might not be aware about the lists of debarred and suspended firms declared by the World Bank and other Multilateral Development Banks. The Program does not involve conducting of many tendering procedures by Implementing Institutions and most of the contracts planned are of relatively small size, except those under DLIs 2.1 and 2.3 to be implemented by in Geocadastre. It is, therefore, unlikely that these contracts would be awarded to firms debarred or under temporary suspension by the World Bank or other Multilateral Development Banks. However, to avoid this risk : (i) the MOF issues an official instruction to cause the participating agencies to ensure that no contract will be awarded to a firm or individual which is in the World Bank's debarred list or under temporary suspension; (ii) the updated lists of the debarred and temporarily suspended firms and individuals be shared on regular basis (through a web-page, if feasible, updated concurrently with World Bank update) with the agencies in charge of procurement; (iii) the TOR for annual audit of the Program request that auditors check on a random-sampling basis whether any contract has been awarded to ineligible firm or individual; (iv) the regular Progress Reports should contain a confirmations that no such debarred or suspended firms have been contracted under the Program.
- e) There are vacant procurement positions in the SSUFSCP. In order to ensure timely implementation of planned procurement activities, all vacant positions shall be filled before the start of Program activities.

4. The key financial management risks and mitigations actions are:

- a) As the Program is implemented by a total of five Implementing Institutions, therefore scope of their coordination and their specific responsibilities have been precisely defined to ensure smooth and timely implementations. This clarity should be maintained throughout the Program implementation. Key decisions regarding their roles were agreed during the Program preparation and described in the Program documents. The MOF will establish a Program Coordinating Unit (PCU) to facilitate implementation of the DLIs. The government will further prepare and approve a Program Operational Manual (POM), which will provide further detail as to roles and responsibilities of MOF as well as MAPF, MRD, MOJ, Geocadaster and SSUFSCP.
- b) As the Program is implemented by a total of five Implementing Institutions which receive state financing through their respective budget lines, under the overall coordination of the MOF, the government does not automatically produce specific consolidated Program financial statements. However, throughout the Program implementation MOF will be required to prepare such annual Program reports which would provide annual planned and actual amounts on the implementation of budget programs associated with the Program. MOF would manually consolidate data that would be received from the respective Implementing Institutions. Each Implementing Institution has the capacity as well as necessary systems in place to prepare reports on all budget programs under their responsibility. The form and content of submissions will be specified in the POM for ease of consolidation. MOF also was confirmed to have the necessary capacity to produce such annual program reports. Reports are produced within the timeframe required by legislation and include sufficient detail.

- c) Financing of the relevant budget programs of the Implementing Institutions may be insufficient, as included by the MOF in the State Budget for a financial year for the approval of Cabinet of Minister (CMU). However, MOF has incentives to allocate sufficient funds as the state budget, as then the budget funds will then be replenished by the World Bank in the amount which is connected to each specific DLI upon its achievement. Immediate costs associated with the achievement of each DLI will be less than the value of respective DLI, and the remaining amount will continue supporting the respective budget programs. Sufficiency of budget allocation will be monitored through the review of annual Program financial statements and analysis of actual and planned expenditures. Successful implementation of the DLIs will also provide indirect evidence of the sufficiency of budget funding.
- d) Given the budgeting process, the state budget for 2019 may not include full provision for the costs required to start the activities towards the achievement of the DLIs. Accordingly, an advance in the amount of US\$20 million will be paid to the MOF upon approval of the Program and its effectiveness. MOF will further provide additional funding to the Implementing Institutions upon receipt of such request along with detailed calculations from the Implementing Institutions. Such calculations are prepared during the Program preparation and will be the basis for calculations of precise amount of advance after the Program effectiveness.
- e) Program disbursements may be delayed in case of longer period than estimated required for the Implementing Institutions to achieve the DLIs or for those DLIs to be confirmed by independent verifying agency. To address this risk, the Implementing Institutions jointly with the World Bank under the overall coordination of MOF developed detailed implementation schedules as well as cost estimates for activities that are required for the implementation of each of the DLIs. Each Implementing Institution confirmed its intentions and readiness to work on the implementation of the respective DLIs, and respective capacity of each agency was confirmed by both technical and fiduciary assessments. In preparation of this Program, disbursement mechanism to be used upon completion and verification of DLIs was discussed and agreed with the government.
- f) Internal audit function of the Implementing Institutions is sometimes under-staffed, and the budget programs captured in the Program are not regularly reviewed by the internal audit department. It was deemed impractical to expand the scope of work of internal audits to cover annually these budget programs. It was agreed that the consolidated Program financial statements will subject to external financial audit by the Accounting Chamber of Ukraine (ACU), on an annual basis. Such audit report will report on the execution of these budget programs and will be submitted to the World Bank within six (6) months from the end of each fiscal year of the Program implementation.

1.3 Procurement exclusions

5. Given the nature of the Program, it is not envisaged that the Program will finance any contract for works, goods and consulting services above the Bank's Operational Procurement Review Committee (OPRC) thresholds². Given the several Implementing Institutions and the nature of the Program, there is rather limited scope of procurable items in the Program. It is unlikely that the Program will finance any

² OPRC thresholds for substantial risk projects are US\$75 million for works, US\$50 million for goods, information technology and non-consulting services, and US\$20 million for firm consultants

OPRC level contracts, as currently the highest estimated value of procurement packages planned in the Program is set at US\$40 million per contract equivalent for surveying works and registering of state land by Geocadaster. However, should such OPRC level contracts be financed, they would be excluded from the Program.

Section 2. Scope

2.1 Scope of Fiduciary System Assessment

6. The scope of the Fiduciary System Assessment is based on the defined boundary and Program Expenditure Framework, i.e. included in the PforR (captured principally in various budget codes associated with the Program). The fiduciary team assessed the fiduciary systems of the MOF for financial management and financial management and procurement functions at the Implementing Institutions at central Governmental level, including Ministry of Finance (MOF), Ministry of Agrarian Policy and Food (MAPF), State Service of Ukraine for Food Safety and Consumer Protection (SSUFSCP), State Service of Ukraine for Geodesy, Cartography and Cadaster (Geocadaster), Ministry of Justice (MoJ) and Ministry of Regional Development (MRD).

2.2 The Government's Expenditure Program.

7. The total GSAP cost are expected at around US\$ 1.19 billion over a seven-year program period, covering the components described in Table 1. The part of the expenditure program associated with the PforR Program amounts to US\$646.91 million over the six-year period (Table 2 below). The relevant budget codes of the expenditure program at the Ministries and Agencies implementing the Program and are responsible for achieving the DLIs are indicated below in Table 1. The Program financing support is calculated based on the average annual budget line allocations during 2016-2019.

Table 1: Summary of GSAP and Program Financing:

Government Ministry/Agency	Budget codes	Total Financing, (US\$ '000)	Personnel	Non-personnel recurrent	Capital
MAPF (DLI1)	2801010	24,830	52.7	47.0	0.3
	2801130	3,527	65.4	34.0	0.6
Geocadaster	2803010	202,195	-	70.9	21.1
	2803020	38,027	16.6	33.3	50.1
Ministry of Regional Development	2751010	22,075	79.2	19.4	1.4
	2751270	14,569	0.0	0.0	100.0
Ministry of Justice	3603020	73,648	86.4	13.5	0.1
SSUFSCP	2809030	268,039	59.9	31.8	8.3

Section 3: Program Implementation and Responsibilities

3.1. Implementation Arrangements

8. The Program will have a two-tier implementation structure supported by a Program Steering Committee. MOF will be the overall Implementing Agency for the Program. They will house the PCU with the key responsibilities of: (i) monitoring the implementation of the agreed actions based on detailed implementation schedules agreed during the negotiations; (ii) ensuring verification of the achieved results; (iii) transferring the funds to the Implementing Institutions, and (iv) overall financial management of the Program, including Program reporting and annual auditing. The Program will also have five Implementing Institutions (as listed in Section 2.1 above), which will be implementing the DLIs in their respective areas.

3.2. Government Procedures for Program Implementation

9. By the Program design, the transfer of funds from the MOF to the Implementing Institutions will take place in accordance with the regular (budget) financing procedures. Each Implementing Institutions is to prepare and submit to the MOF and the World Bank the set of the activities and the tentative budget allocation requirement for the duration of the Program implementation.

10. A Program Operational Manual (POM) will be prepared for the Program, which would include the Program objectives and targets to be achieved, detailed description, detailed implementation schedules, budget allocation requirements for the Program period, detailed procedures for transfer of the budget funds to the Implementing Institutions and periodic auditing and reporting arrangements. It has been agreed that the POM is an Effectiveness condition. It was also agreed that upon finalization the respective parts of the POM would be approved by the Implementing Institutions and the MOF will provide the overall approval of the POM.

3.3. Disbursement of Program Funds

11. The budget would be managed to allow for proper budget appropriation and availability to each participating Ministry and Government Agency. Budget lines will cover an amount equal to or higher than the amount of Bank-financed resources assigned to cover the DLIs/DLRs for each year. An advance in the amount of US\$20 million may be disbursed once the Program becomes effective to ensure the availability of financing for the second half of 2019 and 2020 to start the implementation of the DLIs. This advance would be further distributed by the MOF to the Implementing Institutions on a need basis.

12. Disbursement towards the achievement of the DLIs will take place upon verification of the achievement of the specific DLRs indicated under each DLI. Some DLIs will be scalable, while as for others – non-scalable, and the relevant formulas will be provided in the POM. Implementation of the DLIs and DLRs will be monitored by the MOF and verified by an independent verifier, to be contracted by MOF. The MOF will then submit to the World Bank the relevant evidence of the total or partial achievement of DLIs, along with verification reports. After the analysis of that evidence, the World Bank will communicate to the MOF the results of its analysis and the corresponding level of disbursement for each DLI. Each such disbursement upon achievement of DLIs will be proportionally adjusted for advance already paid in relation to that specific DLI. On that basis, disbursement requests will be submitted to the World Bank by the MOF.

3.4. Fiduciary Capacity of MOF

13. It was confirmed that the MOF has sufficient capacity, including qualified staff, to carry out the its functions as the coordinating agency. The key staff of the International Financial Projects Department actively participated in the Program preparation and will be in charge of the MOF fiduciary responsibilities during Program implementation. Given that there is no automated system what would allow for preparation of such consolidated Program report, such consolidated financial statements will be manually prepared by MOF based on the individual reports received from the Implementing Institutions in formats outlined to be outlined in the POM. MOF was confirmed to have the necessary capacity to prepare such reports based on inputs received.

14. MOF will be the overall Implementing Agency for the Program. Its PCU will work with the Implementing Institutions on the monitoring of agreed actions as well as their reporting and verification. In terms of fiduciary responsibilities, the MOF will be responsible for the following:

- Ensuring that a POM is developed, including details on Fiduciary responsibilities of the MOF and the Implementing Institutions;
- Ensuring that the Implementing Institutions are provided with sufficient resources for achievement of DLIs, via the regular budgeting process. MOF will receive and analyze detailed calculations and cost estimates related to respective activities of the Implementing Institutions which will serve as a basis to determine appropriate budget allocation;
- Preparation and submission of Withdrawal applications to the World Bank, for advance and then upon achievement of DLIs;
- Preparation of the annual consolidated Program report on the basis of annual reports submitted by the Implementing Institutions to the MOF;
- Coordination of the procedure of the annual audit of the Program as well as submission of annual Program audit report to the World Bank.

3.5. Fiduciary Capacity of Implementing Institutions

15. Fiduciary assessment confirmed that the Implementing Institutions have capacity for execution of the budget codes captured in the Program, including their budgeting, execution, monitoring and reporting, as summarized in more detail below. The key fiduciary risks and fiduciary action plan are captured in the respective sections of this assessment.

16. Fiduciary assessment of each of the five Implementing Institutions was carried out, with the focus on the existing processes and procedures of those Implementing Institutions and their capacity in implementation of their respective parts of the Program, specifically their respective budget codes that are captured in the Program Expenditure Framework.

17. Each of MAPF, MRD, MOJ, Geocadaster and SSUFSCP have sufficient and qualified staff in charge of their programs budgeting, accounting, and reporting. The names and numbers of financial units as well as their staffing and division of responsibilities between staff varies between all five Implementing Institutions. Generally, the financial units are responsible for consolidated budgeting process at the Implementing Institution, with the engagement and inputs of technical units. The five Implementing Institutions have reported on the functions of financial staff, and elements of segregation of duties and division of responsibilities are in place.

18. Existing staff is generally able to perform the required functions, as evidenced by findings of the detailed review below.

Section 4: Review of Public Financial Management Cycle

4.1 Planning and Budgeting

4.1.1 Adequacy of budgets

19. Budget preparation: Fiduciary assessment confirmed that Implementing Institutions follow the budget cycle in accordance with the relevant regulations.

20. As the State Budget for 2019 was already approved and expenditures needed to commence activities required towards the achievement of DLIs have not been allocated to the Implementing Institutions via the State Budget, a Program advance in the amount of US\$20 million was agreed with the government. Upon approval of the Program, advance will be credited to the US\$ account of the MOF opened in Ukreximbank. This advance will be credited to the Special fund of the budget, and respective expenditure line item has already been included in the MOF budget for 2019. Further, MOF will make advances to the Implementing Institutions on a need basis, to their respective accounts opened in the State Treasury of Ukraine in local currency UAH.

21. It was discussed that starting from 2020 financing of the Implementing Institutions as required for achievement of their respective DLIs will be done by the MOF following the regular budgeting process and via the General fund of the budget. Implementing Institutions will be required to follow the general budgeting timeline and procedures, but to ensure that sufficient funds as required for the achievement of DLIs and DLRs are requested and approved in their respective annual budgets.

22. It was confirmed with all the Implementing Institutions, as well as the MOF that the Program budget is prepared with due regard to government policy and implemented in an orderly and predictable manner. There is a reasonable expectation that the required resources will be appropriated in the financial years, as required. A strong budget classification system is in place which permits all transactions to be tracked throughout the budget formulation, execution and reporting of the budgets. Classification is done according to administrative unit, economic category, function/sub-function or program. This strong system in place at all participating agencies allows easy tracking of respective information related to the expenditure lines included in the Program.

23. A clear annual budget calendar exists, and it is largely adhered by the budget spending units. Under the budget code, expenditure ceilings are set by the MOF. The MOF then communicates these ceilings to key spending units, received from them budget requests, and then drafts a budget. After budget indicators are agreed between the MOF and the spending units, the MOF then finalizes the budget and submits it to the CMU for Approval. Further adjustments to the budget can then be only made after approval of CMU.

24. Following the approval of the State Budget, the MOF approves budget apportionment by month based on the inputs from budget holders. Based on these monthly apportionments, the spending units prepare breakdown by program and economic classification, which is then forwarded to the MOF. Subsequently, the STU controls budget expenditures according to such plans and apportionments.

25. Implementing Institutions demonstrate a track record of successful budget execution with no notable shortcomings, based on a review of recent-years' budget outturn reports.

4.1.2 Procurement profile of the Program

26. Procurement Overview: The Program will cover a rather limited scope of procurable items (See Table 1). Under DLI#1: IT services for creating of a new IT platform for managing register of agricultural state support recipients (pilot project for \$600,000), several consultancy services; under DLI#2, the Program plans to procure non-consulting services via open tenders in the ProZorro system for inventory, surveying, and registration of state agricultural land in the State Land Cadaster (total of 12 million hectares estimated to cost \$120 million, divided into several tenders over 5 years), production of orthophotos and topographic maps for 17 oblasts of the country, and preparation of territorial development plans for 600 amalgamated communities; DLI#3 would involve design and construction of 10 Border Inspection Points. All procurement will be conducted at the central level of various Implementing Institutions (except the territorial development plans to be procured by 600 amalgamated communities), which all follow the national public procurement law and e-procurement system ProZorro. Supervision and control function over procurement activities in those agencies is done by the Accounting Chamber of Ukraine, as well as the State Audit Service (SAS), which conduct audits of those entities on a regular basis.

Table 2: Procurement Profile of the Program

DLI/Participating Agency	Procurement Profile in Estimated Amounts (USD)					Procurement Regime
	Contracts	Goods	Works	Non-Cons. Services	Consulting Services	
DLI#1/Ministry of Agrarian Policy and Food	Max. Size	NA		600,000 IT platform	Several IC consultancy contracts 0.15 mln	PPL
	Total			0.6 mln	0.15 mln	
DLI#2/2.1 and 2.3 Geocadastre	Max. Size	NA	NA	3x40 mln per year for total of 12 mln ha land surveying and registry Few tenders for orthophoto and topographical maps for 17 oblasts estimated to cost 45 mln A very small value tender up to 20,000 for delivery of automated notifications on changes in cadastral records (via SMS).	NA	PPL
	Total			165 mln		
DLI#2/2.2 Ministry of Regional Development, in collaboration with Geocadaster	600 communities x USD 34,000 each community will conduct 1 small value tender for territorial development (land use) plans. Ministry will be in charge of TORs preparation and methodology for these plans, but tenders will be conducted by each community separately using PPL (ProZorro system- PPL). Total: 600 tenders x 34,000=20.4mln					
DLI 2/2.4 Ministry of Justice	Max. Size	Few very small-scale tenders for training and TA support.				PPL
	Total					
DLI#3/3.1 Food Safety Agency	Max. Size	NA	NA	NA	3 ICs x50,000	PPL
	Total				0.15 mln	
DLI#3/3.2 Food Safety Agency	Max. Size		Design tender – 100,000 for 10 BIPs, 10 Border Inspection Points x 1 mln		2 ICs x 50,000 experts for bids evaluation and supervision	PPL
	Total		10 mln		0.1 mln	

27. Procurement Regulatory Framework: The Government of Ukraine public procurement system has evolved in the recent years. The EU-Ukraine Association Agreement signed in March and June 2014 imposed obligatory reforms regarding problematic public procurement sectors in Ukraine. A Strategy for Public Procurement Reform (Roadmap) approved by the ordinance of CMU of 24 February 2016 №175 for harmonization with EU legislation was therefore developed along with the strategy of procurement reform which represent the framework of e-procurement system called ProZorro (<https://prozorro.gov.ua>). The current public procurement legal framework comprises both primary and secondary legislation. There is one main law on Public Procurement (the Law of Ukraine “On Public Procurement” no. 922-VII of 25 December 2015) that came into force in April 2016. Current legal framework includes also the secondary legislation including several regulations, and numerous orders issued by the Ministry of Economic Development and Trade (the regulator). Ukraine is also a member of WTO Government Procurement Agreement since May 2016.

28. The Government has been very successful in introducing the e-procurement system (ProZorro) in Ukraine, which contributed to enhanced transparency and efficiency of the public procurement system. ProZorro was developed in close cooperation between government, private sector, and civil society. Currently, all procurement procedures are conducted in electronic manner (above thresholds set by the PPL) by all procuring entities (budget-funded authorities at central and sub-national level, utilities, state-owned or communal enterprises). All procurement information is freely available online with access to all documents submitted by bidders as well as concluded contracts and any amendments. The system is mandatory to use since April 2016 for all types of procurement above the established thresholds (UAH 200,000 - \$7,176 equivalent for goods and services and UAH 1,500,000 - \$53,821 equivalent for works). Implementing Institutions use internal regulations related to the procurement below the thresholds set in the law. In most cases, participating agencies would still use the ProZorro system (e-reverse auctions) for very small value procurements i.e. in Geocadaster ProZorro system is used for any procurement above UAH 5,000 (\$170 equivalent) and below this threshold a direct contracting can be applied. In SSUFSCP, the thresholds established in UAH 10,000.

29. The national procurement system is fully decentralized with each budget holder responsible for their own procurement. Each Implementing Institution, whether it is a line ministry or other government entity, which is a directly financed from state budget, prepares annual Procurement Plans and conducts procurement on the basis of annual budget allocations approved. All Implementing Institutions are subject to the public procurement law of Ukraine. All Implementing Institutions conduct procurement using mandatory ProZorro system including for tenders below the established threshold, which is a good practice. Even at the lowest level of subnational government, at the level of amalgamated communities, based on review conducted of three amalgamated communities, they hold simplified tenders via ProZorro system even for very small value procurement, which is a good practice.

4.2 Budget Execution

4.2.1 Treasury management and funds flow

30. Adequate funds are available to finance Program implementation as planned, based on the outcome of reviews of the following areas.

31. Funds availability: Fiduciary assessment confirmed with all Implementing Institutions that actual funds were largely available through the State Treasury for payments on expenditure items that are part of the approved budget. Only small delays in payments execution by the State Treasury of Ukraine were

reported, but they were minor in nature, and subsequently settled in full. Generally, payments under protected budget items are financed as a priority; however, unprotected items also get financed in full, even if with a several-days delay.

32. As the Implementing Institutions submit their calculations for the amounts to be included in the next fiscal year budget, those initially requested amounts often reduced by 20-30 percent by the MOF, and particularly excluding most of the capital expenditure items. However, the amount that is approved by the MOF is reported to be then financed in full during the fiscal year.

33. Payment processing: It was confirmed that the State Treasury payment processes operates reasonably well. The State Treasury of Ukraine executes budget expenditures for Implementing Institutions. These arrangements enable a close and regular monitoring, reconciliation and controls (including cross-checks) related to the financial information on respective budget expenditures. All expenditure transactions of the Implementing Institutions are executed through STY, and the Treasury performs daily reconciliations of flows and balances.

34. Implementing Institutions are aware of their monthly limits within one month after budget approval. Treasury controls spending according to plans and apportionments. The commitment module of the Treasury system ensures that all commitments are controlled within budget allocations. Implementing Institutions commit funds up to the value of their annual budget allocations and make payments up to the value of their monthly apportionment limits. In the beginning of the month the Treasury allocates protected budget categories (such as wages and utility payments), which represent about eighty percent of the budget. All other expenditures are allocated based on proposals of the Treasury approved by the MOF and taking into account available and forecasted TSA fund flows.

35. Treasury: It was confirmed that the Treasury Controls over the Program spending function reasonably well. Any commitment or payment of a budget spending entity needs the prior approval of the State Treasury. The Treasury checks the entities' availability of budget under the monthly apportionment ceilings. Requests for commitments and payments must be sent with documentation showing the compliance of the requests with plans, rules and procedures, including procurement procedures. The ex-ante expenditure commitment controls of the State Treasury prevent spending units taking commitments beyond the in-year spending limits. Irregularities, if any, will be in due time corrected by the Treasury control.

36. State Treasury of Ukraine prepares monthly and quarterly reports on the Implementing Institutions expenditures, after end of each month and end of each quarter. There are no major concerns over the quality of information, particularly considering the robust controls in place and periodic reconciliation of data with the Implementing Institutions. However, expenditures are only recorded at the stage of making payments, and commitments are not recorded in the existing system.

37. The Information and Communication Technology systems in the State Treasury have been maintained and upgraded.

38. Analysis of deviations: planned vs. actual: It was confirmed that the Program budgets lines are implemented with insignificant deviations, and such deviations are explained and analyzed. Budget actual expenditures vary slightly from the planned figures. Such analysis was performed for the relevant budget lines that are included in the Program for years 2016 and 2017 (refer subsection on Budget Execution and Monitoring of PAD). Per analysis, the budget execution rate for the identified budget lines in 2016 and

2017 varied between 82 percent and 99 percent. The Implementing Institutions do perform analysis of the deviations and were able to provide explanation for such deviations based on the analysis of 2017 budget execution reports (budget execution reports for 2017 were not yet available).

4.2.2 Accounting and financial reporting

39. The assessment concluded that the accounting and financial reporting systems are acceptable for the purposes of the Program. Adequate accounting records are maintained, and financial reports produced by each of the Implementing Institutions for decision-making, management and reporting. Accounting and reporting systems are comprehensive, to ensure that all activities are recorded and reported in a timely manner.

40. A review of audit reports of Implementing Institutions over the past two years observes no notable findings potentially impacting the Program.

41. Accounting Standards and IT solutions: Each Implementing Institution has very clear records and reports on their respective budget programs, including those that have been associated with the Program. Generally, such reports contain reliable information as it is also reconciled with the State Treasury and amounts are regularly confirmed by the State Treasury.

42. National accounting standards used for keeping records are mostly cash-based, expenditure are only captured at the payment stage, with elements of accrual accounting such as reporting on assets and liabilities and debt. These standards are well known within the MOF, State Treasury, as this was also confirmed with the Implementing Institutions.

43. Each Implementing Institution uses a number of IT solutions to keep accounting records, produce reports and liaise with the State Treasury. There is no universal IT solution in place at all Implementing Institutions. Further, several IT systems that were prohibited by Ukrainian government in 2016 had to be phased out and removed by others. Some of the IT solutions in use are Afina, Is-Pro (accounting), AIS State Budget, Medoc (reporting), E-Zvitnist, E-data, Kazna-Kazna (treasury documents exchange, payments, and reporting).

44. Reporting arrangements: Annual consolidated Program reports will be prepared by MMF manually with the inputs of the Implementing Institutions and submitted to the World Bank after the end of each financial year.

45. In order for the MOF to prepare the consolidated Program financial statements, MOF will receive inputs from the Implementing Institutions. Specifically, the Implementing Institutions will need to submit the annual reports on their budget execution, and MOF will produce an annual Program report which will only contain the budget lines of respective Implementing Institutions which are associated with the program. The MOF was confirmed to have the capacity for preparation of such Program financial statements. Each Implementing Institution has the capacity as well as necessary systems in place to prepare reports on all budget programs under their responsibility. Reports are produced within the timeframe required by legislation and include sufficient detail.

46. It will be relatively easy to include only budget lines that are associated with the Program, as they would be manually extracted from the consolidated budget execution reports that are routinely prepared by Implementing Institutions. As of the time of this assessment, there are a total of nine budget lines

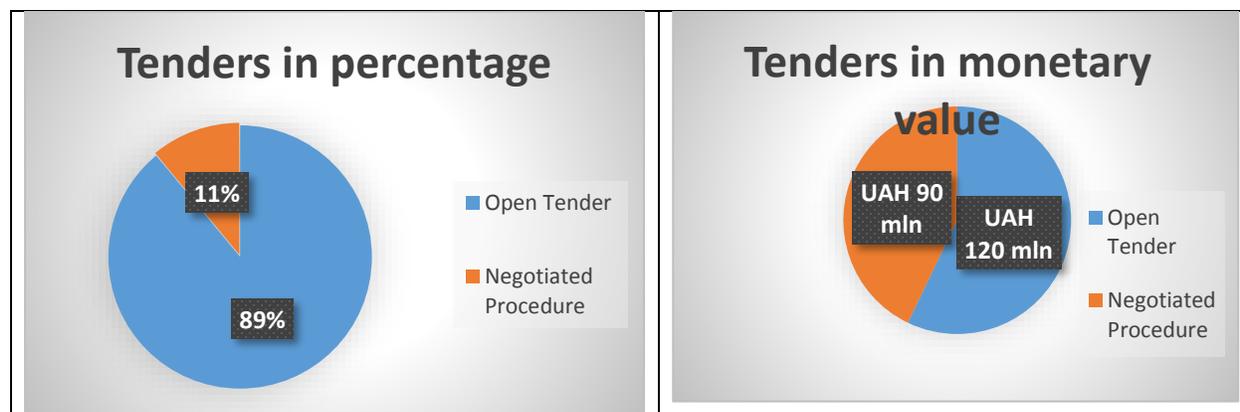
under the responsibility of the Implementing Institutions. However, the Program is intended to have flexibility to modify the list of Implementing Institutions and associated budget programs throughout the program implementation, subject to satisfactory result of assessment of such additional agencies.

4.2.3 Performance of the procurement system

47. This assessment concludes that Implementing Institutions have adequate capacity to undertake Program procurement activities.

48. The procurement methods allowed by the Public Procurement Law (PPL) include (1) open procedure tendering, (2) competitive dialogue and (3) negotiated procedure. Based on the assessment of participating agencies in vast majority of cases, an open competitive procedure is conducted through ProZorro system. In justified cases, Implementing Institutions were conducting negotiated procedure (i.e. for telecommunication services or in case of monopoly on the market or vaccines available from only one manufacturer). The tables in Annex 1 show some key performance indicators of the procurement system on the basis of tenders conducted by the selected the Implementing Institutions (number of tenders conducted in the years 2016 and 2017, average number of bid per tender, tender processing time, tenders cancelled including any complaints received).

49. Tender efficiency data and competition level: From the information reviewed, in the past two years (2016-2017) the below three Implementing Institutions conducted a total of 124 open tender procedures (SG-5, SSUFSCP-101 and MAPF-18) and a total of 16 negotiated procedures (SG-4, SSUFSCP-3 and MAPF-9). This constitutes a total of 140 tenders conducted by all three agencies of which 89 percent were open tenders and 11 percent negotiated procedure used. However, in monetary value of those tenders the percentage ratio is significantly different. The total value of all tenders conducted in the past two years is approx. UAH 210 million of which UAH 120 million were open tenders (57 percent) and UAH 90 million (43 percent) negotiated procedures. While a positive indication is that in vast majority of cases an open tender was conducted, the processing time from tender announcement to contract award was very efficient (21 days in Geocadastre, 24 days in SSUFSCP and 48 days in SSUFSCP for EU threshold tenders above EUR 133,000 for goods and services and EUR 5,150,000 for works), however the level of competition could have been higher, in case of MAPF and SSUFSCP, where the average number of bid per open tender is only two, compared to four bids in Geocadastre. Bids preparation time seemed reasonable too (11 days for smaller value tenders and 24 days for EU threshold tenders).



50. Procurement planning, conducting tenders and contracts executions is carried out by each Implementing Institution independently. All open and limited (negotiated) bidding are being carried out by assigned standing Tender Committees in those organizations. Relevant technical departments are in charge of tender specifications preparation for all types of procurement. For construction type of contracts, designs prepared must be approved by the State Expertise. Once the contract is awarded by the Tender Committee, contract execution and supervision including quality control is a responsibility of the relevant technical department, while payment is usually processed by respective financial departments of participating agencies. Overall, the procurement arrangements including contract implementation practices followed by the Implementing Institutions are satisfactory. The only concern identified is with respect to the land surveying/inventory work in Geocadastre which has been currently done without any competition through their own State-Owned Enterprise (SOE). Due to the fact, that there is a well-developed private sector for such services in Ukraine including abroad, and as per best international practices, such services are normally tendered out. The Bank has clarified to Geocadastre that land surveying services included in the Program shall be conducted by on open competitive tender process in accordance with the national procurement law in force via ProZorro system.

51. Procurement Planning Phase: With respect to procurement planning stage, on the basis of approved budget programs, a procurement plan is being prepared by each Implementing Institution for each calendar year and published on ProZorro website. These plans are subject to updates on a regular basis, after each change made to the Procurement Plan throughout the budget year. In order for bidders to take part in tendering via ProZorro, bidders are required to register via accredited e-platforms (there is a link at ProZorro website) as a new business user in order to participate in tenders and to acquire bidding documents, submit clarifications, be informed about any addenda, and submit bids and bid securities. Registration is an easy process, and does not require a fee. Only for the submission of a bid in a specific tender a fee is required. Fees are set by the CMU through a decree. Tenders are conducted in Ukrainian, however for tenders above the established thresholds of EUR 133,000 for goods and services and EUR 5,150,000 for works tender announcement including tender documents must be translated into English.

52. Eligibility for Tender Participation: All bidders from any country may participate in any tender procedure. However, in accordance with Article 17 of the PPL, a bidder's bid may be rejected if the bidder has engaged in fraudulent, corrupt activities, has been declared bankrupt, has outstanding tax liabilities or crime offences i.e. information on legal entity that is a tenderer is included in the Unified State Register of Perpetrators of Corruption or Corruption-related Offences or a bidder, during the last three years, has been hold liable for an infringement provided for in Article 6, paragraph 2, sub-paragraph 4, Article 50, point 1 of the Law of Ukraine "On Protection of Economic Competition" in the form of anticompetitive actions related to bid rigging. Tender procedure is also cancelled in case if less than two bids are received per single tender procedure as per Article 28 of the PPL.

53. If the value is lower than thresholds indicated in the PPL (UAH 200,000 for goods and services and UAH 1,500,000 for civil works), a procuring entity may conduct a simplified e-auction through ProZorro system but this is not mandatory. For procurement above the thresholds, the PPL mandates the use of specific procurement procedures among the three listed above. However, the use of negotiated procedure has to be properly justified, as this is the least competitive procedure and can only be used in the circumstances described in the PPL such as: (i) for procurement of art, (ii) procurement related to protection of intellectual property rights, (iii) there is lack of competition in the relevant market, (iv) there is an urgent need for the procurement due to special economic or social circumstances i.e. elimination of consequences of emergencies, humanitarian aid by Ukraine to other countries, (v) the contracting authority has cancelled the procedure twice due to insufficient number of bids, (vi) there is a need for

additional procurement from the same supplier to ensure standardization or compatibility with existing supplies, works or services, (vii) there is a need for additional construction works not included in the original project, but which turned out to be necessary for the completion of the project due to force majeure circumstances and total value of additional works will not exceed 50 percent of the original contract value; (viii) procurement of legal services for the protection of rights and interest of Ukraine including national security and defense legal protection, dispute settlements, representation in foreign jurisdictions.

54. Bid Preparation: Implementing Institutions are responsible for preparing the bidding documents specifying the terms and conditions of a public procurement contract. The tender documents are usually developed by agencies relevant technical departments and approved by the Tender Committees sitting in those organizations. Minimum requirements regarding the content of tender documentation is set out in Article 22 of the Law "On Public Procurement", as well as in the Ministry of Economic Development and Trade's Order no. 680 of 13 April 2016. The general structure of bidding documents includes instructions for bids preparation, qualification criteria, technical specifications, evaluation criteria for selecting, draft procurement contract. Tender announcements are published via ProZorro website allowing at least 15 calendar days for bids preparation if the cost estimates of procurement packages are below EUR 133,000 for goods and services and EUR 5,150,000 for civil works and at least 30 calendar days above these thresholds. ProZorro system assigns automatically deadlines for bids submission, bids evaluation and contract award in compliance with the national procurement law. If these deadlines are not met, then the procedure is automatically cancelled. For big value tenders above the EU thresholds EUR 133,000 for goods and services and EUR 5,150,000 for civil works, the entire tender procedure usually takes 45 days till contract award (30 days for bids preparation), 5 business days for evaluation up to 20 business days and 10 days for contract signing (in case no complaints are received).

55. Tender Committees: Composition of the tender committee, as well as Regulations on the tender committee are subject to approval by the contracting authority. Activities of an authorized person(s) shall be regulated by the relevant employment agreement signed with the contracting authority. An authorized person must have an academic degree.

56. Officers and representatives of tenderers, their family members, as well as Members of Parliament, and deputies of the district/town/city/rayon/oblast council may not be members of tender committees, nor may be appointed as authorized persons.

57. A tender committee shall consist of at least five members. Where a contracting authority's staff consists of fewer than five persons, the tender committee shall be composed of all officers (officials) of the contracting authority. Chairman of a tender committee shall manage the work of the committee. Chairman of a tender committee shall be appointed by the contracting authority, organize the work of the committee and shall be personally responsible for the performance of functions vested in the committee. Tender committees or authorized persons are in charge of drafting and approving procurement plans, conducting and evaluating bids, ensuring appropriate publication of procurement related information including archiving of documents. Decisions of tender committees are recorded in the minutes from the tender committees' meetings. Tender committees are held responsible for procurement decisions. In case of non-compliance, the Administrative Code of Ukraine provisions apply including financial penalties for public officials involved in procurement process. The entities have no separate Code of Conduct for procurement, however all government officials including procurement specialists follow the Law on Civil Service. The PPL also stipulates provisions with respect to conflict of interest inter alia: officers and representatives of bidders, their family members may not be members of the tender

committee nor may be appointed as authorized persons. Regulation of Civil Service no. 158 05.08.2016 Code of Ethics for civil servants including Law on Corruption Prevention no. 14 October 2014, no. 1703.

58. **Hiring of Individual Consultants:** Hiring of individual experts is not covered by the Implementing Institutions as such contracts are covered either by the labor law or civil code depending on the contractual arrangement. If entities need to hire additional experts - government officials under the labor law, the procedure involves publication of a contest on a specific agency website including website of the Civil Service of Ukraine, who also organizes online testing before candidates can be invited for interviews with particular agency. Each agency has a selection committee established, which usually consists of directors of various departments. On the basis of conducted interviews with the shortlisted candidates, who passed the online testing, the best qualified candidate(s) are selected. If the experts are hired under the civil law for provision of consulting services, then the entities use the Prozorro system to select those experts, if the estimated cost of the contract is above UAH 200,000 (\$7,176 equivalent). For contract below this threshold, the entities would also mostly use ProZorro system.

4.2.4 Contract administration

59. After the contract is awarded through ProZorro system, the Implementing Institutions proceed with signing the contract with selected bidder. Copy of all signed contracts are publicly available on ProZorro website including links to payments made if the payment system is done through State Treasury. Each Implementing Institution is in charge with the contract administration throughout the contract implementation period. Given the annual budget limitations, vast majority of procurement contracts are completed by end of calendar year (which is the end of the budgetary year), with a possibility of extension prescribed by the PPL. The below table shows actual contracts signed by selected Implementing Institutions, which were reviewed by the Bank team to check if they have been implemented according to original time schedule and budget. In all cases reviewed, the contracts were successfully completed on time and within the original contract price. Only in one case reviewed, the contract award was cancelled following the decision of Anti-Monopoly Committee of Ukraine (AMCU). Overall, the contract management practices followed were satisfactory.

Table 3: Timeliness of contracts completion and costs overruns

Agency	Number of contracts reviewed	Number of contracts completed within initial contract period	Number of contracts in which there was cost overrun against awarded contract price	Time delay against initial contract period	Range of percentage of cost overrun
GeoCadaastre	4	4	0	none	0
SSUFSCP	8	8	0	none	0
Ministry of Agrarian Policy and Food	4	3	0	none	1 contract cancelled following AMCU decision

60. Contract variations, whenever needed, were handled in accordance with the terms and conditions of the contract and in an expeditious manner. In most cases, contracts amendments related to the time extension of the ongoing contracts. Contract variations were firstly certified by the relevant technical

department of a particular agency and subsequently submitted to relevant financial department for approval.

61. Final acceptance and final inspection of the works, goods or services are conducted by representatives of relevant government agencies including finance departments.

62. Implementing Institutions follow payment contract conditions. Normally, payment is made within 15 days after the payment application is certified by the respective Implementing Institution.

63. Efficient contractual dispute resolution procedure is in place in each contract. In case of contractual dispute, the dispute is first settled by the contractual parties amicably. If the parties fail to reach agreement in amicable way, the dispute is referred to relevant civil court.

64. Procurement Oversight: Procurement oversight and supervision function over Implementing Institutions is normally conducted by the Accounting Chamber of Ukraine (ACU), who has the mandate to audit the financial statements of government as well as the execution of the annual state budget. In their standard audit proceedings, they also audit procurement transactions including contracts executed and payments made against signed contracts. Implementing Institutions are subject to regular audits by ACU, as well as by the SAS, which is also reviewing procurement transactions. During the assessment preparation an audit report by ACU of Geocadastre has been reviewed and there were no procurement related concerns raised there. Program audit arrangements will include terms of reference covering proposed procurement activities.

65. There is very active participation of civil society in overseeing the public procurement in Ukraine. One of the most active is DoZorro platform – a monitoring portal where all interested in the procurement chain (supplier, buyer, oversight body or citizen) may provide feedback to a state procurement entity or supplier, discuss and assess the conditions of a specific procurement, analyze procurements of a certain government authority or institution. There are other NGOs present in Ukraine, which monitor public procurement at all levels, not only tenders conducted and contracts implemented by the central governmental level, but also procurement done by local subnational level.

4.3 Internal Controls

4.3.1 Internal controls

66. The assessment concluded that the internal controls systems of the Implementing Institutions are acceptable for the purposes of the Program implementation. The Program will apply the internal control arrangements which exist at the Implementing Institutions. To confirm the continuous soundness of the control environment of the Program implementation, the program will be subject to external audit conducted by the ACU. The auditors will be required to report on any internal control deficiencies that have been identified during such annual audit of the Program.

67. Internal controls and procedures of all Implementing Institutions are in line with the existing laws and regulations on the public accounting and reporting. Specifically, the legislation that governs the establishment and operations of the internal controls at the Implementing Institutions is CMU Decree #1062 from December 12, 2018. Some Implementing Institutions also issued internal orders on some specific internal control aspects, such as guidelines on the contract preparation and management. In cases

where no such internal regulations are available, responsible staff follow the requirements of their job description, and perform their tasks in line with requirements of relevant legislation.

68. Budget execution controls are implemented consistently throughout the Implementing Institutions. The budget execution systems implement prescribed controls that include (1) technical approval by the beneficiary department (2) finance staff checking and approval (3) periodic checks by internal and external audits. These controls are applied to the entire budget execution process, from budget preparation, to contract implementation, and then to acceptance of respective goods and services.

69. All Implementing Institutions use the State Treasury of Ukraine for executing their expenditures. The segregation of duties between the State Treasury and the Implementing Institutions are comprehensive and relevant. All Implementing Institutions also have reasonable segregation of duties within the entities. Each Implementing Institution has ex-ante controls over its payments. The payments are then also periodically checked by SAS and ACU ex-post, regarding their lawfulness.

70. The State Treasury of Ukraine has robust system of internal controls in place, that have proven the function reasonably well and reliably. Any commitment or payment of the Implementing Institution needs prior approval of the State Treasury. The Treasury checks the entities' availability of budget under the monthly apportionment ceilings. Implementing Institutions send requests for commitments and payments along with the documentation that shows compliance with the plans, rules and procedures. State Treasury requests additional information/clarifications in case of any deviations from the established practices.

4.3.2 Internal audit

71. Fiduciary review concluded that reliance will be primarily placed on external audit, rather than internal unit reviews, to confirm proper annual Program execution. This is based on the following: (1) The audit function is implemented in all five Implementing Institutions; the capacity of such units and the scope of internal audit reviews varies. (2) The budget lines included in the Program did not fall under the scope of internal audit reviews in the recent years.

72. The legislation that governs the establishment and operations of the internal audit at the Implementing Institutions is CMU Decree #1062 from December 12, 2018. Some Implementing Institutions also issued internal decree or order which defines more specifically the functions and responsibilities of their internal audit units. Internal audit units in all Implementing Institutions report directly to the Minister or Head. Upon receipt of the internal audit report, the Minister or Head issue an order to respective units of the Implementing Institution to take actions upon recommendations of the internal audit. Monitoring of the implementation of the action plan is then often performed by the internal audit unit.

73. The size and staffing of the internal audit unit varies in all program Implementing Institutions. Internal audits of the Implementing Institutions cover the budget spending at both the central level as well as the subordinated agencies or regional offices of the respective Implementing Institutions. This broad scope is covered by relatively limited staff, and so the coverage of the budget programs as well as total expenditures covered by the internal audit can vary. It was confirmed that some of the Program Implementing Institutions publish their annual and semi-annual audit plans as well results of internal audit reviews on their website; however, this practice is not followed by all Implementing Institutions.

74. Most of internal audit work is focused on checking financial transactions and compliance of activities, and it still does not have systematic or diagnostic nature. Generally, three types of audits are carried out – system and operational audits, performance audits and also financial audits. Assessment of effectiveness of internal controls and management processes is not carried out. The Ukrainian Internal Audit Standards which are used by the central executive authorities are based on the International Standards for the Professional Practice and Internal Audit issued by IIA. Heads of all internal audit units of the Implementing Institutions report to the head of respective entity. The audit plans are developed semi-annually and annually, and they are somewhat based on the risk assessment. In addition, internal auditors rely on their professional judgement and recommendations received from heads of other departments, as confirmed with the implementing agencies. Audit findings are generally reported to be followed up during subsequent reviews as well as through immediate responses/actions taken by the respective heads and ministers.

4.3.3 Program governance and anticorruption arrangements

75. Complaint handling mechanism: The agency responsible for procurement appeals in the Ukrainian public e-procurement system is the Antimonopoly Committee of Ukraine (AMCU). ProZorro supports the electronic submission of complaints from interested individuals and legal entities through one of the operating platforms directly to the AMCU. The outcomes of appeal reviews are open to public.

76. On the basis of Article 18 of the PPL, complaints with regard to tender documents and/or decisions, actions or omissions by the contracting authority which took place before the expiration of the time limit established for the submission of tenders may be submitted to the Complaint Review Authority (i.e., AMCU) following the publication of the announcement of the procurement procedure, but not later than four days prior to the deadline established for the submission of tenders.

77. Complaints regarding decisions, actions or omissions by the contracting authority which took place after the evaluation of tenders shall be submitted within 10 days following the publication of the notice of the intent to award the contract on the ProZorro website, but before the date of the procurement contract. AMCU, within three business days upon entering the complaint into the register of complaints, publishes its decision on admission of the complaint within the e-procurement system, indicating the date, time and place of the complaint review, or a decision with justification to dismiss the complaint without considering it, or a decision on discontinuing consideration of the complaint. The e-procurement system automatically publishes decisions adopted by AMCU on the ProZorro website and send notices to the complainant and to the contracting authority. There is a 10-days limit for review of complaints, which must be consistent with limits set for concluding contracts after publication of notices of intent for award of contracts (contract cannot be signed earlier than 10 days after publication of the notice of intent for award of contract and not later than 20 days and within the validity period of the bid).

78. Complainant or contracting authority may appeal against the decision in court within 30 days of the date of publication of the decision within the e-procurement system.

79. Overall, in the reviewed three Implementing Institutions in the past two years, a total of seven complaints have been submitted (refer to Annex 1) and processed within the reasonable limits of 15 days in case of MAPF and average 21 days in case of three complaints submitted SSUFSCU tenders. The above processing time includes registration of the complaint in the system, preliminary review conducted by AMCU, including preliminary decision including final resolution and publication of the AMCU decision on

ProZorro website. In Geocadastre, there were no complaints submitted at all during the tender process as well as the contract award stage. In the complaint case reviewed in the MAPF, the complaint submitted by the rejected bidder to AMCU referred to discriminatory tender documents requirements and ungrounded rejection of bidder's bid. The complainant submitted a complaint on December 28, 2017 after notification for intention of award of contract was published and AMCU upheld the complainant's decision in their verdict published on January 18, 2019 (within 15 working days from submission of complaint) and requested the tender committee to cancel the decision of rejection of bid and cancel the contract award decision, which was done by the tender committee, however the entire bidding process has been cancelled and rebidding was not held due to lack of budget financing in the new fiscal year 2018.

80. Compliance with ACGs: Ukraine continues to be plagued by systemic and pervasive corruption which constrains economic development and weakens public trust and support for elected officials. According to a recent IMF *Ukraine - Selected Issues* paper, corruption in Ukraine remains worse than in lower middle-income countries and the countries of Central, Eastern and Southeastern Europe using a variety of corruption measures, including the Worldwide Governance Indicators and the Enterprise Surveys produced by the Bank (IMF Country Report 17/84, April 2017). Unfortunately, the business community has not seen an improvement in the situation in Ukraine following the Maidan Revolution. Indeed, according to the Global Competitiveness Report corruption was the second worst constraint on business development in 2013, rising to the top constraint in 2016. These results are confirmed by the 2017 annual municipal survey conducted for the Center for Insights in Survey Research which found that over 60 percent of Ukraine's population believe corruption to be either "somewhat" or a "significant" problem in their cities. This negative perception is particularly pronounced in some cities, including Kyiv, where between 82 percent and 90 percent believe corruption to be somewhat or a significant problem. In Kyiv, 23 percent of respondents stated that they or someone they knew had to give a bribe or do a favor for a local official three to five times over the past two years in order to receive a service that was due to them.

81. At the same time, Ukraine has made progress in building the legal and institutional foundation for tackling its corruption problems with strong support and the exercise of leverage from the international community. The creation of the National Anti-Corruption Bureau (NABU) to lead corruption investigations and the Special Anti-Corruption Prosecutors Office (SAPO) have raised hopes that corrupt offenders will be investigated and brought to trial. The delayed creation of the National Agency for Corruption Prevention (NACP) and the process of launching the electronic asset declaration system increased the transparency around public officials and provided another avenue for NABU investigations and for NGO and public scrutiny of government-business links. Unfortunately, the NACP has become politicized and unable to exercise its authority to review and verify asset declarations effectively. The international community has continued to monitor challenges to Ukraine's young anti-corruption institutions and respond through technical assistance, coordinated policy dialogue with the government and the issuance of strong public statements in support of these institutions. Coordinated lending leverage from the Bank, IMF and EU, the international community led to the creation of a new High Anti-Corruption Court (HACC) for Ukraine with a role for international experts in the vetting and selection of anti-corruption judges. It is hoped that the HACC, expected to begin operations in spring 2019, will finally break the vicious cycle of impunity that has protected Ukraine's corrupt public officials.

82. As per requirements of the Anti-corruption law in force in Ukraine (Law on Corruption Prevention#1700-VII), all government agencies have established an anti-corruption position or department. As per the legal requirements, there should be at least one anticorruption specialist assigned for each 100 employees in an agency or department. All Implementing Institutions involved in

procurement are subject to yearly external independent audits i.e. by ACU, SAS, with additional regular oversight conducted by various NGOs. In addition to procurement related complaint submitted via the ProZorro system, any bidder or any party can report fraud and corruption issues to any of these government agencies in anonymous or non-anonymous manner. There are established procedures for verification of such allegations, and they are also available on respective agencies websites. The number of corruption related allegations received on annual basis vary among Implementing Institutions (see below table for Geocadastre corruption related complaints). In vast majority of cases, these allegations are not referred further to the law enforcement bodies such as the police or prosecutor, as they are not substantiated. Once the claims are transferred to relevant authorized agencies, there is no report back on the status of the final resolution, unless the entity which forwarded the complaint specifically request the authorized body to inform them on the status of complaint review and final resolution.

Period	Territorial Units of StateGeoCadastre		StateGeoCadastre		Total:	
	Number of received claims	Number of claims that were transferred to the specially authorized bodies in the sphere of combating corruption	Number of received claims	Number of claims that were transferred to the specially authorized bodies in the sphere of combating corruption	Number of received claims	Number of claims that were transferred to the specially authorized bodies in the sphere of combating corruption
2017	176	2	131	0	307	2
9 months of 2018	219	7	47	0	266	7
Total:	395	9	178	0	573	9

83. The Program is subject to the Bank’s Guidelines on Preventing and Combating Fraud and Corruption in Program-for-Results Financing dated February 1, 2012, revised July 10, 2015. The MOF has agreed to inform the Bank of any credible and material allegations of fraud and corruption arising in the Program (and how the agencies addressed them) in the program progress reports, after collecting of information from all participating agencies. Program progress reports will be provided semi-annually. In case of non-compliance with the Guidelines, legal remedies may be exercised by the Bank;

84. The Government will abide by the Pfor Anticorruption Guidelines. However, there is a risk that most of the parties may not be aware about the lists of the debarred and temporarily suspended firms and individuals declared by the World Bank and other Multilateral Development Banks. Therefore, there is a potential risk that contracts will be awarded to debarred or suspended firms or individuals. The government has agreed that the MOF shall, upon Program Loan effectiveness, issue an official letter or official instruction to cause the Implementing Institutions to ensure that no contract will be awarded to a firm or individual which is in the World Bank debarred list or under temporary suspension and the participating agencies and respective Tender Committees shall be directed to check the World Bank lists of debarred and temporarily suspended firms and individuals available on the MOF’s website which will be updated concurrently with World Bank’s update. In addition, the TOR for annual audit of the program shall include a randomly selected group of awarded contracts to check whether any contract has been

awarded to ineligible firms or individuals. The progress report will indicate whether any contract has been awarded to a debarred or suspended firm.

4.4 Auditing

4.4.1. Program audit

85. ACU will be responsible for annual audit of the Program financial statements. Such agreement will be included in the Program legal agreement, and such arrangements have been discussed with ACU during the Program preparation. Program audits will need to be carried out starting with the first year of Program implementation. The audit reports will need to be produced no later than six months after the end of each fiscal year. Such Program audit is not part of the existing annual audit arrangements at ACU (please refer section 4.4.2. for details) and therefore Program audit had to be separately discussed and agreed.

86. The Program financial statements will be manually prepared by MOF. The Program financial statements will include all budget lines that are associated with the Program. The Program financial statements will also include annual amounts spent on the relevant budget lines as well as cumulative amounts since the beginning of program implementation. Such cumulative amounts spent by respective implementing agencies can then be compared to the value of the DLI amount associated with each specific Implementing Institution.

87. The audit of Program financial statements will be carried out according to the TOR that would be discussed and agreed between the MOF and ACU, guided by the World Bank to ensure adequacy and acceptability. The TORs would require auditing the annual program financial statements as well as report on any deficiency of internal controls noted in implementation of respective budget lines. Auditors will also review the procurement procedures and respective control framework and report on any high value contracts. Auditors will be required to confirm that all budget program expenditures have been legitimate, including application of WB anti-corruption guidelines, limitations related to large scale procurements and de-barred items. Additionally, auditors will report on the performance under the determined Key Performance Indicators (KPIs) (refer to Section 6 below).

4.4.2 ACU Mandate and current coverage

88. ACU has the mandate to audit the financial statements of government as well as the execution of the annual state budget. Performance of each of the Implementing Institutions are periodically checked by the ACU, and ACU produces a variety of hybrid reports which have similarities performance audit reports. These reports include conclusions, suggestions and recommendation. Reports include evidence of endorsement of such reports by the Implementing Institutions, however, there is no consistent evidence of the actual actions undertaken by the Implementing Institutions nor subsequent follow up of their implementation by ACU.

89. Each of the five Implementing Institutions was subject to ACU audits during 2016-2018. However, none of the budget lines that are associated with the Program were directly reviewed by Accounting Chamber during this period. ACU also does not necessarily need to review these specific budget line on an annual basis, per its work plan. Given the complex structure of the Implementing Institutions, including a number of subordinate entities and organizations, ACU identifies and focuses its periodic reviews on selected budget codes implemented by the Ministry or selected number of subordinated entities and organizations. Several of such relevant audit reports were reviewed in the course of the assessment.

4.4.3 ACU Staffing

90. ACU has broad experience in audits of World Bank financed projects, although it will be the first PforR program to be audited by ACU, and ACU staff will need to familiarize themselves with the Program documents as well as underlying principles governing the implementation of PforRs.

91. ACU has sufficient staff to carry out the annual audits of the program. Such annual audits need to be included in the audit plan of ACU which is formed for each fiscal year at the end of the preceding fiscal year.

4.4.4 ACU Audit Methodology

92. ACU uses own methodology for audits which is based on the ISSAIs in some respects; however, ISSAIs are not fully used in the work of ACU. Under the respective law ACU has the legal authority to conduct financial audits and compliance audits, and therefore Program audit falls fully under the scope of responsibility of ACU.

4.5 Procurement and Financial Management Capacity

4.5.1 Staffing should be adequate in both numbers and experience

93. All five Implementing Institutions confirmed that they have adequate budget and staffing to carry out their functions related to public financial management. No serious delays or deficiencies in the budget preparation, budget execution and budget reporting processes were noted that could indicate shortage or personnel. Lack of notable and serious deficiencies noted in the reviewed audit reports related to the five agencies also indirectly indicate that the existing staff is both sufficient and adequate in terms of their professional qualifications and experiences. The composition and staffing of the budgeting/planning units of each Implementing Institution varied in size and its internal structure as well as the number of staff. However, composition of such budgeting/planning units of Implementing Institutions appear to be adequate for the scope of their work related to program execution.

94. For procurement, the Implementing Institutions are adequately staffed with procurement specialists, except the SSUFSCP, which currently is staffed with only one Procurement Specialist, but the staffing plan is to get three more specialists. Tender Committees members, as well as procurement specialist from public procurement divisions in participating agencies receive regular training on the national procurement law including any changes in the legislation. These training are organized by the Ministry of Economic Development and Trade (MEDT) on a regular basis.

Section 5: Risks and mitigation actions proposed

Risk	Mitigation action	Timing	Type of action (PAP, DLI, etc.)
1. As the Program is implemented by various Implementing Institutions who receive state financing through their respective budget lines, under the overall coordination of the MOF, the government does not automatically produce specific consolidated Program financial statements.	Throughout the Program implementation MOF would be required to prepare such annual reports manually which would provide annual planned and actual amounts on the implementation of budget programs associated with the Program. Coordination between Implementing Institutions was confirmed during preparation and will also be reflected in POM	Annually	N/A
2. The state budget for 2019 does not include the provision for the costs require to start the activities towards the achievement of the DLIs.	Accordingly, advance in the amount of US\$ 20 million will be paid to the MOF upon approval of the Program and its effectiveness.	2019	N/A
3. There is a risk of overuse of negotiated procedure, which is non-competitive.	The Implementing Institutions coordinators as well as MOF ensure that the annual Procurement Plans for Program supported activities establish competitive procedures as default methods. In addition, the Implementing Institutions will reduce the total value of negotiated procedures each year at least 5% of the preceding year of the Program.	Throughout the life of the Program	PAP
4. Low competition in tenders	Implementing Institutions publish annual Procurement Plans at the beginning of each fiscal year and conduct business outreach and market sounding events before launching tenders. In addition, both procurement and technical staff of the Implementing Institutions shall be trained by MEDT to produce high quality tender documents before the start of Program activities and during the Program implementation.	Throughout the life of the Program	PAP
5. Lack of long term budget planning, procurement contracts	Participating agencies plan their procurement in advance in particular for goods and services, in order to	Throughout the life of the Program	N/A

cannot go beyond a budgetary year.	implement contracts within a budget year. There should be coordinators in charge of each agency's program established who shall oversight and supervise the program implementation including procurement activities envisaged.		
6. Fraud and corruption	Promptly inform the Bank of any credible and material allegations of fraud/and/or corruption regarding the Program as part of the overall Program reporting requirements; and ensuring that persons or entities debarred or suspended by the Bank are not awarded a contract by verifying the same prior to award under the Program during the debarment or suspension. TOR for audits firms will include the requirement to assess on randomly basis whether any contract has been awarded to a suspended or debarred firm.	Semi-annual	LA
7. Shortage of qualified procurement staff	All vacant procurement positions shall be filled by the Program's effectiveness. Procurement department of SSUFSCP shall be strengthened to at least 4 Procurement Specialists.	By effectiveness	PAP
8. Implementing Institutions are involved in various procurement activities and this may make the program implementation challenging.	There should be coordinators in charge of each Implementing Institution's program established, who shall oversight and supervise the program implementation including procurement activities envisaged in support of DLIs.	Throughout the life of the Program	N/A

Section 6: Implementation Support measures and Key Performance Indicators

95. The proposed fiduciary implementation support includes:
- Work with the entire team to review implementation progress, examine the achievement of the program results and implementation of proposed action plan;
 - Work with the team to assess the timeliness and adequacy of the program funds appropriation as approved budget. This will be done annually as well as during interim budget steps;
 - Continue assess and monitor the performance of the financial management and procurement systems including with use of below procurement Key Performance Indicators (KPIs) under the Program and provide suggestions for enhanced efficiency and effectiveness;
 - The KPIs will be reflected in the Program's Progress Reports for each Implementing Institution; KPIs monitoring procedures will be reflected in the POM, and will also be subject to review and confirmation by the Program auditors;
 - Monitor implementation of the application of the PforR Anti-corruption Guidelines (ACGs) by Anti-corruption specialist including review of semiannual reports and joining supervision missions once a year.
 - By the Program effectiveness - training conducted on PforR ACGs to MOF staff, as well as the Implementing Institutions;
 - Monitor the PforR financial statement reporting process and as advise the Implementing Institutions as well as the MOF as may be necessary;
 - During supervision mission guide the clients to resolve implementation issues related to procurement processes and contract management;
 - Agree on a PforR audit TOR, help MOF liaise with auditors, review audit reports including procurement transactions audited, and monitor that key audit findings and weaknesses receive appropriate and timely corrective actions by auditees;
 - Monitor changes in fiduciary risks of the program including changes in the legislation, and as relevant, compliance with the fiduciary provisions of the legal covenants.

Procurement KPIs:

- % of procurement completed in support of DLIs achievement;
- % of procurement (by value) following open tender procedure;
- % of contracts awarded by negotiated procedure;
- Average number of bids received;
- Volume of complaints received.

Financial management KPIs

- % of annual actual financing of the budget lines that are part of the Program, compared to the planned financing of these budget lines;
- Accounts payable for the Program budget lines at the end of reporting period.
- % of such accounts payable at the end of reporting period to the annual financing
- Average amount of days required for the State Treasury to execute payments in the Program budget lines
- Nature of audit opinion on Program financial statements and timeliness in addressing audit findings.

Section 7: Fiduciary Action Plan

Action Description	DLI #*	Responsibility	Recurrent	Frequency	Due Date	Completion Measurement
Procurement Plans published on regular basis with default competitive methods indicated for the Program procurement activities in support of achievement of DLIs.	N/A	Implementing Institutions	Implementing Institutions	On semi-annual basis and if any change occurs in the Program's procurement activities	Semi-annual	Program Progress Report including procurement KPIs results.
Procurement for land surveying and other land-services should be conducted by open tender procedure as it is linked to largest value DLIs 2.1 and 2.3.	2.1 and 2.3	Geocadastre	Geocadastre	Progress report	Semi-annual	For each tender planned for land surveying and other land services by Geocadaster in support of DLIs#2.1 and 2.3
Progress Report should provide the list of procurements completed in each year by type and amount (indicating the % use of competitive methods and negotiated procedures), participation rates, # of complaints and contracts	N/A	MOF	Implementing Institutions	Progress report	Semi-annual	Program Progress Report.

completed. Any procurement training provided.						
Program progress report should confirm that no contracts has been awarded to a suspended or debarred firm.	N/A	MOF	Implementing Institutions	Progress report	Semi-annual	Semi-annual Program Report

ANNEX 1:

Tender information summary by three Implementing Institutions:

		Works (year 2017)			Goods (year 2017)			Services (year 2017)		
Agency		Open Tender	Negotiated Procedure	Competitive Dialogue	Open Tender	Negotiated Procedure	Competitive Dialogue	Open Tender	Negotiated Procedure	Competitive Dialogue
GeoCadaster	Number of tenders conducted	-	-	-	2	-	-	4	2	-
	Number of tenders cancelled	-	-	-	-	-	-	-	-	-
	Average number of bids per tender	-	-	-	3	-	-	5	1	-
	Average duration of tender process from tender announcement to contract award notification (in business days)	-	-	-	21	-	-	21	7	-
	Average bid preparation time allowed (in business days)	-	-	-	11	-	-	11	-	-
	Average duration of bid evaluation process (in business days)	-	-	-	5	-	-	5	-	-
	Value of all tenders conducted (contract awards in UAH)	-	-	-	255 579,06	-	-	5 796 696,39	1 551 860,0	-
	Number of procurement complaints received	-	-	-	0	0	-	0	0	-

Agency		Works (year 2017)			Goods (year 2017)			Services (year 2017)		
		Open Tender	Negotiated Procedure	Competitive Dialogue	Open Tender	Negotiated Procedure	Competitive Dialogue	Open Tender	Negotiated Procedure	Competitive Dialogue
SSUFSCP	Number of tenders conducted	1	-	-	80	2	-			-
	Number of tenders cancelled*	1	-	-	2	-	-	-	-	-
	Average number of bids per tender	2	-	-	2	1	-	-	-	-
	Average duration of tender process from tender announcement to contract award notification (in business days)	-	-	-	24 48 Euro bidding **	-	-	-	-	-
	Average bid preparation time allowed (in business days)	-	-	-	11 24 Euro bidding **	-	-	-	-	-
	Average duration of bid evaluation process (in business days)	-	-	-	4	-	-	-	-	-
	Value of all tenders conducted (contract awards in UAH)	3.8 mln	-	-	61 mln	42 mln	-	-	-	-

	Number of procurement complaints received	0	-	-	3	0	-	-	-	-
--	---	----------	---	---	----------	----------	---	---	---	---

* Number of tenders cancelled on the initiative of the customer due to objective circumstances

** Eurobidding – value of tender is above EURO 133 000

		Works (year 2016)			Goods (year 2016)			Services (year 2016)		
Agency		Open Tender	Negotiated Procedure	Competitive Dialogue	Open Tender	Negotiated Procedure	Competitive Dialogue	Open Tender	Negotiated Procedure	Competitive Dialogue
SSUFSCP	Number of tenders conducted	-	-	-	20	1	-	-	-	-
	Number of tenders cancelled	-	-	-	-	-	-	-	-	-
	Average number of bids per tender	-	-	-	2	1	-	-	-	-
	Average duration of tender process from tender announcement to contract award notification (in business days)	-	-	-	25	8	-	-	-	-
	Average bid preparation time allowed (in business days)	-	-	-	-	11	-	-	-	-
	Average bid preparation time allowed (in business days)	-	-	-	-	4	-	-	-	-
	Value of all tenders conducted (contract awards in UAH)	-	-	-	-	44,7 mln	41 mln	-	-	-

	Number of procurement complaints received	-	-	-	-	-	-	-	-	-
--	---	---	---	---	---	---	---	---	---	---

		Works (year 2017)			Goods (year 2017)			Services (year 2017)		
Agency		Open Tender	Negotiated Procedure	Competitive Dialogue	Open Tender	Negotiated Procedure	Competitive Dialogue	Open Tender	Negotiated Procedure	Competitive Dialogue
MAPF	Number of tenders conducted		-	-	12	4	-	6	2	-
	Average number of bids per tender	2	-	-	2	1	-	2	1	-
	Value of all tenders conducted (contract awards in UAH)	3.8 mln	-	-	3.3 mln	2.9 mln	-	0.375	0.668	-
	Number of procurement complaints received	0	-	-	3	0	-	1	0	-

		Works (year 2016)			Goods (year 2016)			Services (year 2016)		
Agency		Open Tender	Negotiated Procedure	Competitive Dialogue	Open Tender	Negotiated Procedure	Competitive Dialogue	Open Tender	Negotiated Procedure	Competitive Dialogue
MAPF	Number of tenders conducted	-	-	-	-	2	-	-	1	-
	Average number of bids per tender	-	-	-	-	1	-	-	1	-
	Value of all tenders conducted (contract awards in UAH)	-	-	-	-	0.880	-	-	0.380	-
	Number of procurement complaints received	-	-	-	-	0	-	-	0	-