Local Governance, Transparency and Anti-Corruption in Community-Driven Development in Vietnam

November 2005

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## Abbreviations

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<th>Abbreviation</th>
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<tr>
<td>CBRIP</td>
<td>Community Based Rural Infrastructure Project</td>
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<tr>
<td>CDB</td>
<td>Community Development Boards (NMPRP)</td>
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<td>CDBC</td>
<td>Community Development Budget Component (NMPRP)</td>
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<td>CDD</td>
<td>Community Driven Development</td>
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<td>CEM</td>
<td>Community for Ethnic Minority Affairs</td>
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<td>CPCC</td>
<td>Commune Project Coordinating Committee (CBRIP)</td>
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<td>CPMU</td>
<td>Central Project Management Unit</td>
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<td>DPMU</td>
<td>District Project Management Unit (NMPRP)</td>
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<td>DTSG</td>
<td>District Technical Support Group (CBRIP)</td>
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<td>GD</td>
<td>Grassroots Democracy</td>
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<td>HEPRP</td>
<td>Hunger Eradication and Poverty Reduction Program</td>
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<td>M&amp;E</td>
<td>Monitoring and Evaluation</td>
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<td>MDRP</td>
<td>Mountain Rural Development Program</td>
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<td>MPI</td>
<td>Ministry of Planning and Investment</td>
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<td>MOLISA</td>
<td>Ministry of Labor, Invalids and Social Affairs</td>
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<td>NCB</td>
<td>National Competitive Bidding</td>
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<td>NMPRP</td>
<td>Northern Mountains Poverty Reduction Project</td>
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<td>NTP-PR</td>
<td>National Target Program on Poverty Reduction</td>
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<td>P-CLIP</td>
<td>Poor Communities Livelihoods and Infrastructure Program</td>
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<td>PC</td>
<td>People's Committee</td>
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<td>PMB</td>
<td>Project Management Record</td>
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<td>PSB</td>
<td>Project Supervision Board</td>
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<td>PPMU</td>
<td>Province Project Management Unit</td>
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<td>RIDEF</td>
<td>Rural Infrastructure Development Fund</td>
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<td>SEDEMA</td>
<td>Swedish Agency for International Development Cooperation</td>
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<td>UNCDF</td>
<td>United Nations Capital Development Fund</td>
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<td>UNDP</td>
<td>United Nations Development Program</td>
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<td>VCP</td>
<td>Vietnam Communist Party</td>
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EXECUTIVE SUMMARY

Background
Small-scale programs at the community level are not immune to the corruption problems that plague most projects in Vietnam. While it is important not to be alarmist (since all countries suffer from some corruption), a number of signs point to a potentially important problem:

- Procurement and financial management reviews for major donor projects (where controls are presumed to be tighter than that for the government) have unearthed frequent examples of poor procurement practices and financial irregularities.
- Program evaluations and community-level reviews suggest that in a sizeable percentage of cases, project relationships built in for enhanced accountability – such as oversight boards – fail to function in the expected ways.
- Media and anecdotal reports of corruption in national anti-poverty programs are frequent. As usual with corruption, the fear is that reported incidents represent only the ‘tip of the iceberg’.

The existence of such corruption poses a real threat to the various nationally targeted, community-driven, small-scale infrastructure programs in a number of ways. Public confidence may be lost when flagship programs that are high on the rhetoric of community empowerment and transparency are found in practice to be undermined. And the move towards donor support for a Sector-Wide Approach in some national anti-poverty programs heightens the importance of demonstrating institutional integrity. The profound challenge facing Vietnam – like other large, diverse developing countries – is that safeguards against corruption must be adequate both where organizational and oversight capacities are high (as in the delta regions) and where they can be very low (as in remote, mountainous areas that are the target areas of anti-poverty investments).

Purpose
This paper explores and proposes approaches to reduce the corruption vulnerabilities specific to the investment planning and implementation process for small-scale community infrastructure at commune and village levels. Specifically, the paper seeks to answer the following two broad questions:

- What are the existing institutions and mechanisms that are in place to ensure transparency, accountability and anti-corruption in the context of subnational government structures and systems (particularly at local levels), and in the implementation procedures and regulations of the national targeted programs?
- What broad approaches and practical measures might be taken to reduce such corruption as efforts to redesign national anti-poverty programs for the period 2006-2010 move forward?

Approach
The paper is based on a rapid review of evaluations and studies across a range of projects in this sector, supplemented by consultations both in Hanoi and in two provinces which focused on one major government national target program (P-135) and one World Bank-supported project (the Community Based Rural Infrastructure Project - CBRIP).

Chapter two develops the idea that program vulnerability to corruption depends on two interrelated factors. The first is program design. Generic corruption risks in small-scale
infrastructure programs can be mapped through the project cycle, from scheme identification to the certification of completed works. The design parameters (such as who has access to project accounts at what level of government etc.) can have a great impact on the opportunity for corruption.

The second key factor is the institutional context in which programs are implemented. The overall governance characteristics of a country will help determine how local accountability relationships between actors (such as project contractors, villagers, supervisors, local managers etc.) are structured and how effectively they are enforced.

Our analysis thus looks at the intersection of program design and local institutional environments. The latter can be diverse even within the same country, making it important to examine how and why different program design parameters function given different local conditions.

**Linking corruption risks to Vietnam’s institutional context**

Chapter three examines the implications for the small-scale infrastructure sector of three characteristics of Vietnam’s governance system, together with and ongoing reform efforts in each area.

The first is bureaucratic centralism coupled with ongoing administrative decentralization reforms. Vietnamese administration is still significantly centralized, in part because central ministries and agencies still have significant incentives to maintain direct control of decision-making in many areas. Partly as a result, there is still considerable reluctance in some provinces and ministries to fully hand over scheme management responsibilities to lower levels, despite the decentralizing aim of almost all of the small-scale infrastructure program funds. At the same time, powerful fiscal decentralization trends are increasing disparities between better-off and better-managed localities, on the one hand, and poor, and poorly governed, localities on the other. The astonishing variations in local capacity and implementation conditions throughout Vietnam suggest that uniform rules for small-scale infrastructure schemes – for instance, concerning the appropriate division of labor between different management tiers – are likely to be difficult to develop, and actually undesirable.

The second governance characteristic examined in chapter 3 is executive dominance. In Vietnam, what might be broadly called the ‘executive’ in government is, paradoxically, both fragmented and overbearing. The intention behind the government’s high-profile Public Administration Reform (PAR) is broadly to ground all executive actions in a solid legal foundation, implying less frequent use of administrative decisions (such as implementation regulations) on important matters, and a more active role for overarching laws and decrees passed by the National Assembly and local People’s Councils. Increasing emphasis is also being given to the formal oversight function of the legislative branch and, more recently, the court system. All of these steps are highly consistent with the introduction of institutionalized oversight aimed at in the design of many small-scale infrastructure programs.

The PAR effort is also meant to reduce the potential for corruption in Vietnam’s administrative system. Executive dominance and fragmentation can be seen as key explanatory variables of corruption in any administrative system (not only Vietnam’s): dominance, in that there are insufficient rules and restraints from horizontal bodies; and fragmentation, in that a partially unreconstructed bureaucracy offers a proliferation of opportunities for corruption to take root. Yet current government approaches to combating corruption in Vietnam reveal some limitations. Anti-corruption efforts have to date defined lower levels of government as the primary source of the problem, rather than acknowledging corruption as systemic. And the focus has been on the elaboration of criminal definitions and penalties for corrupt activities, rather than on broader approaches to public transparency that might subvert the environment in which corruption thrives by changing a range of stakeholder incentives.

In an environment in which the executive is so dominant, oversight mechanisms specific to small-scale infrastructure projects are likely to be somewhat weak and ineffective particularly if based out of the People’s Councils or mass organizations. Several factors conspire to weaken
project oversight functions, including: poor information availability outside the executive, poor incentives to raise complaints given potential ‘conflict of interests’ of individuals moving between People’s Councils and Committees in succession, and the weak independence of non-executive actors once complaints are raised.

The final governance characteristic examined is state-centrism, in which the scope for the organization of advocacy activities outside government and Party-led structures is somewhat limited. To be sure, this has slowly been changing starting around the 1990s when the Government introduced a more facilitative framework for civil society activity that has allowed the proliferation of interest groups in the period since. The government’s prominent “Grassroots Democratization” initiative shows some promise in changing incentives for corruption activity at the local level; notably, it raises citizen expectations and, in some places, information availability regarding local government performance. The Prime Minister’s Decision No. 80 to empower community groups to monitor, demand information and submit proposals on local infrastructure works is a good example of how the government is promoting local accountability strategies as an approach to reducing waste and corruption. Yet implementing such strategies will be a challenge. The incentives of local executives to implement grassroots democratization are still weak, particularly where the level of social organization and interaction with local government is ineffective – as is notably the case in many poor, remote areas.

Linking corruption risks to program design parameters

Chapter 4 reviews various vulnerabilities to corruption throughout the project cycles of the small-scale infrastructure projects in nationally-implemented poverty alleviation programs. Several issues repeatedly emerged in both the review of project experiences and field-level discussions with the various local stakeholders in the P-135 and CBRIP project communities.

The field review found considerable variation in program design parameters of these two programs, despite the fact that they draw on similar precursor experiences, and have broadly similar target populations, areas of investment and objectives. These design parameters were associated with some differences in the level of corruption risk of each program. For instance, close monitoring of works by community members in the CBRIP helps reduce the risk to corruption in the monitoring stage as compared with arrangements found in P-135. In addition, we found that different localities implementing the same program (particularly in P-135) achieved different levels of functioning of their program designs and accountability relationships expressed therein. For instance, in localities in which the commune, not the district, was formally the project holder in P-135, we found information regarding program planning, contracting and monitoring mechanisms to be much more widely disseminated.

The review highlighted two specific factors heightening vulnerability to corruption in the various stages of small-scale works projects deserve further attention. One complexity. In the area of bidding contracting, current procedures are quite complex and at times difficult to navigate. In the case of CBRIP and other donor-assisted projects, that situation is further complicated by the fact that sub-national authorities have to implement projects in accordance with standards and procedures that are different from the Government regulations and practices.

Another factor heightening vulnerability to corruption is a set of weak incentives to use existing human and organizational capacities for the purpose of transparent project management. In many communities, capacity and training for physical and technical supervision, and for project accounting at the district and commune levels, are still inadequate. Some of this may be attributable to lower average educational attainment at lower levels of government (particularly in mountainous areas). But the experience of CBRIP suggests this constraint can be bridged with significant investments in training and a consistent approach to empowering the commune level as project owner.
Discussion platform

Chapter 5 presents some recommendations and issues for consideration in the design of future national target programs and donor support in the small-scale infrastructure sector. Each of these recommendations seeks, in some way, to strengthen one or more of three types of accountability relationships posited in the report:

- hierarchical or ‘vertical’ oversight (by higher levels of government);
- horizontal ‘checks and balances’ and quality control (often by same level People’s Councils and the State Inspectorate); and/or
- democratic accountability (in which villagers, empowered with information and rights, hold local officials, project managers and contractors accountable for high-quality project implementation).

A summary of some of the ‘micro recommendations’ specific to each stage in the project cycle involves the following:

Scheme Identification
- Developing dedicated ‘vertical’ monitoring mechanism to document how scheme selections unfold in practice—a recommendation we consider to be of relatively low difficulty to implement.

Such a mechanism would strengthen both hierarchical accountability (by ensuring more as table funding framework and fiscal transfers and, by fostering collective ownership at the local level), and; democratic accountability (through more inclusive local planning processes as well as better articulation of local preferences).

Scheme Design / Planning; and Bidding / Contracting
- Making commune-level project management boards responsible for the selection of the scheme design firms, preferably via more competitive bidding; Requiring design companies to be selected from lists independent of contractor lists; Giving villagers the right to select their respective investment the way it is currently done under CBRIP; Giving communes and villages the right to select contractors via open (or even limited) bidding with assistance of technical staff external to the government; Enforcing more robustly by the relevant authorities of the existing guidelines on bidding; and, Proving additional and more regularized training in contracting.

Although this set of recommendations may be moderately difficult in terms of adoption and implementability, they can be instituted if backed by the requisite political will. Collectively, these recommendations would strengthen both horizontal accountability (by improving the coordination of technical inputs and oversight to prevent collusion and ensure procedural compliance) as well as democratic accountability (by improving the monitoring of procedural compliance and, the better articulation of local preferences).

Management / Financial Reporting
- Giving commune management and supervision boards complete authority and responsibility in scheme management and decision-making; Assigning dedicated point persons at the district level to be main liaison with the commune and the district; and, Providing additional and more regularized training in contracting.

This set of recommendations—which are relatively easy to adopt and implement—would strengthen both hierarchical and horizontal accountability (by fortifying the implementation process across not only levels of government and implementing agencies, but also, cross-checks for procedural compliance).

Monitoring and Evaluation
- Allocating dedicated funds for both the monitoring and supervision work and for the technical support from either district technical staff or independent technical monitors; Diversifying avenues through which individuals can monitor the schemes; Institutionalizing regular training in monitoring and evaluation of sufficient depth and duration for commune and village authorities; Encouraging extensive use of public databases, perhaps posted on the internet or disseminated in other ways, on many aspects of project performance; Beefing up the role of the state inspectorate; and, Involving NGOs and mass organizations in the monitoring of scheme implementation in some localities (for instance, by amending Decision 80 of the Prime Minister to include a similar ‘right to information’ for NGOs not based in the village itself).

It should be noted that several elements of the approaches noted above build on Decision 80. They are meant to reinforce the impact of the decree by building the capacities to effectively supervise schemes and to enforce provisions.

This set of recommendations can be adopted and implemented relatively easily and would strengthen both vertical accountability (by improving the system of procedural compliance and technical monitoring and evaluation by district-level agencies) as well as democratic and horizontal accountability (by strengthening quality-of-work monitoring by representatives of end-users).

In practice, specific configurations of future programs emphasizing small-scale infrastructure will depend on many factors, and the report is far from exhaustive on relevant design elements. Much adaptation will continue to be necessary in Vietnam’s rapidly evolving institutional environment, and the broader question is how to ensure that such programs become learning-oriented and strong management support systems. Three broad questions deserve careful consideration.

1. How can flexibilities be built into the program parameters? This report emphasizes the wide variation in the degree of functioning of program features meant to support accountability arrangements at the grassroots level in Vietnam. The special implementation challenges faced by mountainous and very poor localities are also highlighted. An important implication is that program design should be ‘asymmetrical’; decentralization of management control and other program design features should depend on local contextual factors and readiness. The question is thus whether and how a few distinct packages of program designs can be introduced and applied to different clusters of localities. Those clusters could be based on geography, some specific diagnostic test (i.e. whether requisite capacities have been demonstrated) or past performance.

2. How can the program design help build in strong incentives for performance? Incentives drive governance outcomes to a large extent. How can incentives be improved for upper level executives, for instance, to provide consistent oversight while facilitating forms of democratic and horizontal checks on their own power? What design features can encourage local People’s Councils and mass organizations to reliably monitor contract implementation?

One way of influencing incentives is to create consequences for performance, so that that various stakeholders will feel a compelling reason to begin to rethink engrained behavioral patterns and to shake up bureaucratic inertia. This could be done is by linking long-term program funding allocations to progress made towards reaching key strategic objectives of the program. Funding for each level should not be supply driven (i.e. “we have x-amount of money to distribute over a certain number of rounds to y communes and villages”), but rather linked in a meaningful way to results.

3. What kinds of information systems are necessary? Strong information systems determine whether it is possible to have any kind of ‘asymmetrical’ program design and or to direct funding towards higher-performing localities. Information and its dissemination underlie the use of transparency to change incentives and behavior. Making information systems “intelligent” in this context implies a focus on several potential uses:
Promoting ‘yardstick competition’ between local governments and spreading innovations locally;

- Focusing the attention of different actors onto the corruption and transparency-related issues, thereby changing their incentives (positive and negative) for action; and

- Encouraging the involvement of civil society groups (even mass organizations in Vietnam, ambiguously positioned between state and society) in the monitoring and evaluation process.

The report concludes by noting that there are wide variations in local government and social capacities in Vietnam, creating special challenges for a Sector-Wide Approach in the context of decentralized, community-based programs. The success of a future SWAp will depend greatly on the learning orientation and management capacities Vietnam and its donor partners can jointly put into place in the coming years. As they do so, several tensions, which this report has only been able to hint at, will need to be negotiated.

One is the appropriate balance to strike between top-down controls and oversight as opposed to the reinforcement of accountability relationships from the ‘bottom-up’ through the ‘democratization’ strategy? Too great an emphasis on the former – which is already the case in Vietnam’s approach to anti-corruption, as analyzed in chapter three – may make it difficult to further institutionalize decentralization in Vietnam.

A second tension is that between the desire to maximize the poverty-reduction impact of national target programs and using them as a focal points for decentralization and institutional reform (including those reforms relating to transparency and anti-corruption). Both are again clearly necessary, but for the latter, significant investments in information systems and capacity building will be necessary. This is also related to the question of how aggressively to ‘push the envelope’ of existing institutional reforms in introducing capacity-intensive program design features, as opposed to staying broadly within the parameters of current Vietnamese administrative reforms. As future target programs move away from a predominant emphasis on infrastructure, the institutional reform agenda will become increasingly important.

Finally, donors must still navigate between direct support via the SWAp and significant parallel efforts and directed capacity building efforts. The local unevenness in the effective accountability arrangements explored in this paper supports the presumption that donor-assisted experiments are still in demand, even as the movement is towards increased integration with government systems.
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1. Introduction

Small-scale infrastructure investments play a major role in government and donor thinking regarding how to reduce poverty and balance regional development to Vietnam’s poorest areas. And as the idea that development often works better when control over decisions and resources are handed over to local communities takes root in both the Government and donor circles, such small-scale investments are increasingly being community-driven: a combination of commune authorities, villages and community-based organizations are taking the lead in selecting, planning and managing local area development schemes and activities. In Vietnam, community-based development efforts range from initiatives seeking the transfer of the small-scale investment ownership and financial control to the corresponding sub-national government level, to joint decision making and the encouragement of greater community participation. The general idea is to give communities greater authority and responsibility for deciding on and managing the local investment processes.

The general trend towards more “community-driven development” or (CDD) in Vietnam has been backed by significant funding. Program for Socio-Economic Development in Communes Faced with Extreme Difficulties (or P-135) has become one of the flagship government anti-poverty programs. Since 1997, it has involved the transfer of grants of approximately $35,000 to over 2,000 communes in Vietnam (over 20% of the total number of communes) for small-scale infrastructure investments. And a number of donors both before and during P-135 have experimented with community-driven development.

Corruption in Small-Scale Infrastructure Programs

It is widely acknowledged today that small-scale programs at the community level are not immune to the corruption problems that plague probably all projects in Vietnam. This is particularly the case for infrastructure projects. To date, no systematic survey of the likely magnitude of fund loss to corruption exists, and it is important not to be alarmist. There are many countries whose situation is worse that that of Vietnam, where wholesale fund theft appears to be very rare, and where there is increasing evidence to suggest that infrastructure being built is benefiting poor people.

However, there are signs that the problem of corruption may be serious:

- Procurement and financial management reviews for major donor projects (where controls are presumed to be tighter than that for the government) have unearthed frequent examples of poor procurement practices and financial irregularities.

- Program evaluations and community-level reviews suggest that in a sizeable percentage of cases, project relationships built in for enhanced accountability – such as oversight boards – fail to function in the expected ways. They also suggest that this problem is greatest in the poorest areas of the country – where these investments are in turn concentrated.

- Media and anecdotal reports of corruption in national anti-poverty programs are frequent. As usual with corruption, the fear is that reported incidents represent only the ‘tip of the iceberg’.

The existence of such corruption poses a real threat to the various nationally targeted, community-driven, small-scale infrastructure programs in a number of ways: First, anti-poverty effectiveness of the funds is weakened; second, the ‘good governance’ experimentation reflected in the program designs is undermined; and third, loss of public confidence, when flagship programs that are high on the rhetoric of community empowerment and transparency are found in practice to be undermined.
A Critical Juncture: The Sector Wide Approach

The Government of Vietnam is currently in the process of re-designing the main national poverty reduction targeted programs for the period 2006-2010. This includes the National Target Program for Poverty Reduction (NTP-PR) under MOLISA (leading on from the Hunger Eradication, Poverty Reduction and Job Creation Program), and the Socio-Economic Development Program for Ethnic Minority and Remote Areas (SEDEMA) under the Committee on Ethnic Minorities (leading on from Program 135). These programs are expected to be formally submitted to the Government for approval sometime in the latter half of 2005.

Donors are also in the process of designing their support for these efforts. An important aspect of the program redesign is that a number of large donors are moving rapidly towards a Sector-Wide Approach (SWA) in supporting the Government’s programs. In this approach, all funding supports a single sector policy and expenditure program, reducing the piecemeal pursuit of separately financed projects. The government leads the planning and implementation processes, and common—ideally government—management procedures are adopted by donors.

The re-designing of P-135, Vietnam’s main national poverty reduction targeted program for the period 2006-2010, is partly predicated on a calculated risk. Whereas a SWAp would strengthen government ownership as well as the ability to influence the overall institutional reforms, it would also open donors to potentially greater risks of fund misuse (since their ability to negotiate directly the parameters of individual projects would drop away). If donors cannot be reasonably confident that sound financial management principles are being implemented in such programs, the sustainability of support for the sector-wide approach itself could be undermined.

Purpose

There is a good opportunity to review the issues of corruption and accountability in small-scale infrastructure projects and build in “best practices” from a range of program experiences as the government redesigns this “next generation” of targeted programs:

- From the government’s own large-scale programs (135 and HEPR; which have completed about five years of implementation and have been formally evaluated);
- From the World Bank-supported parallel projects (CBRIP and NMPRP, which are ongoing and have a few years experience, and are just being evaluated now);
- And from a range of other (often well-documented) donor-supported pilot projects over the years that involve commune-level planning of small-scale infrastructure and service provision in the poorest parts of the countries.

Indeed, accountability and anti-corruption campaigns world-wide are increasingly focusing on small-scale infrastructure projects for various reasons:

- Many ‘targeted’ programs of central governments, particularly those aimed at poverty reduction are increasingly executed at the local level, where government is closest to communities;
- Part of the legitimacy of local officials depends on how transparent and accountable they are to those they serve;
- It is generally easier to find partners in the fight against corruption at the community level; and
- Many national-level politicians often begin their careers at the local level, thus instilling good practices while they are still at the local level can bode well for national initiatives at a later date.
Reports of specific cases of corruption in both large and small-scale public investments in Vietnam can be found in the popular press and financial reporting, but much less has been written on the issue of reducing the vulnerabilities of these programs to corruption. The continued commitment of both Government and its donor partners to small-scale, community infrastructure as well as to institutional reforms makes it imperative to take stock of corruption risks and of the program design parameters that might help reduce them in the Vietnamese context.

It is against this backdrop that this paper explores and proposes approaches to reduce the corruption vulnerabilities in the investment planning and implementation process for small-scale community infrastructure at the commune and village levels. Specifically, the paper seeks to answer the following two broad questions:

- What are the existing institutions and mechanisms that are in place to ensure transparency, accountability and anti-corruption in the context of local government structures and systems (particularly at local levels), and in the implementation procedures and regulations of the national targeted programs. More specifically, where are the vulnerabilities to corruption in the system at present for projects that transfer funding for small scale infrastructure in the poorest areas such as P-135, NMMP and CBRIP?

- And what broad approaches and practical measures might be taken to reduce such corruption as we move forward? In particular, what practical design elements, build as much as possible on existing institutions and mechanisms, and take into account the capacities and constraints that exist on local government in the remote rural areas, can be included in future programs to enhance transparency, local accountability and anti-corruption?

Methods
This report is a rapid assessment which took place over only a few weeks by a small team. Its main methods were:

- An assessment of existing institutional capacities (strengths, weaknesses and vulnerabilities) for ensuring transparent and accountable investment planning and implementation for small-scale infrastructure in national targeted programs. The analysis is grounded in an appreciation of the changing policy and institutional environment in Vietnam as a whole—a changing environment which inevitably impacts the institutional environments at various levels of the central-local as well as local-local relationships.

- Literature review and informant interviews in Hanoi concerning the implementation procedures and regulations of key national targeted programs. In particular, we reviewed (i) the bidding and procurement regulations and procedures used in government investment programs (particularly those used for small-scale investments at commune level such as under Program 135) and measures that could be introduced to enhance transparency, accountability and anti-corruption in these procedures; (ii) the direction and changes that are being introduced through the Program on Administration Reform (PAR) and its sub-programs; and (iii) other specific anti-corruption policies and measures being introduced by the Government, in terms of the ways they are interpreted and implemented at the local level.

- Exploratory field work in two districts of two provinces to compare the Community Based Rural Infrastructure Program (CBRIP) and the Program for Socio-Economic Development in Communes Faced with Extreme Difficulties (P-135) as a way of hypothesis testing, appreciating diversity of arrangements in practice and ‘reality testing’ some of the recommendations developed. (Details of methods applied in the field are provided in chapter four.)
**Overview**

The rest of the report is organized as follows:

Chapter 2 presents an analytical framework for diagnosing corruption risks. The basic point it makes is that corruption outcomes on the ground depend on a combination of two factors: the strengths and weakness of the institutional context; and program design features that seek to minimize vulnerability to corruption in the given sector. This framework structures the three remaining chapters:

Chapter 3 examines characteristics of Vietnam’s governance system as they affect configuration and effective enforcement of accountability relationships between different public and private entities.

Chapter 4 carries on this analysis in greater depth, with suggestions as to how diversities in local institutional environments and program design can affect outcomes. Two programs are selected for this more in-depth analysis – the government program that is slated for redesign (P-135) and one of the largest attempts to experiment in a donor-supported program with more sophisticated design features (CBRIP).

The closing chapter reviews attempts to outline broad choices for institutional reform and program redesign major approaches to lowering vulnerability and sets out a road map for changes and discussion questions.
2 - Analytical Approach

Corruption in public contracting distorts fair competition, and often also results in the unnecessary waste of scarce resources. In developing countries that combination can contribute to the neglect of basic needs and to increased poverty. Indeed, when corruption in public contracting is systemic, it can significantly add to the costs of government procurement and often results in inferior quality goods and services and uneconomic investments or unnecessary purchases.

This section sets out a framework for identifying and assessing corruption risks in localized or community infrastructure projects in Vietnam. Corruption and fund leakage are ever present possibilities, and the degree to which they occur will depend on the balance of several forces—those heightening vulnerability and those attempting to make the system ‘waterproof’. We adopt Kurt Lewin’s concept of ‘force field analysis’—a framework for looking at the factors (forces) that influence a situation, originally social situations.4

Our analytical approach built on the basic idea that forces—people, habits, customs, attitudes, program design, institutional setups, etc. —both drive and restrain change. Figure 2.1 can help us visualize that may work in favor and against understanding corruption in small-scale community investments in programs such as P-135. The figure represents the basic framework in a “force-field” diagram and helps us picture the ‘tug of war’ between forces around the issue of corruption in the community-level projects of large, nationally-targeted anti-poverty programs. The major driving forces are listed in the left column, and restraining forces in the right column. This way, we could better investigate the following:

- The balance of power involved on both sides of the issue (i.e., system vulnerabilities and capacities);
- Identify the most important players (stakeholders) and potential target groups for tackling this issue as well as opponents and allies; and
- Identify program design and institutional levers for possible reform efforts.

Our adopted force field analysis diagram has five elements (which jump around a bit in the diagram):

1. Generic corruption risks in small-scale infrastructure

We start with the general possibilities of fund loss inherent in small-scale infrastructure projects. These risks can be ‘mapped’ in a generic sense through the project cycle (see Table 2.1). Although the list is not intended to be exhaustive, generic corruption and ‘waste’ entry-points in the context of small-scale infrastructure projects include fund theft, elite capture, over-design and various forms of collusion. Note that whereas the focus here is on corruption, in a broader sense one could move along a continuum towards ‘waste’ in general as well.

2. Outcomes on the ground

Given those generic corruption risks, a key question then becomes what determines the degree to which corruption — taking a variety of forms within these categories — actually affects the sorts of government programs we are interested in? (see bottom of figure 2.1).

Such outcomes are likely to be diverse: A critical assumption of our framework is that the degree to which corruption affects projects is likely to be diverse and context-specific across a range of sectors and localities in Vietnam. This makes the country’s local governments and communities into natural experiments, if we can find out “what works.”

The outcomes are also likely to be very indirectly observed — so we cannot just ‘read’ the results off projects. Instead, we need to look at a range of evidence about the specific vulnerabilities and capacities for resilience in the environment that we think are related to corruption.
To explain outcomes, we look at both the institutional context and the specific program design features.

Figure 2.1: Force Field Framework

3. Institutional context and patterns of accountability
The institutional context includes how public organizations are arrayed between and within levels of government, and how they interact with non-state actors. A key part of this environment—one that greatly affects the ability of the system to prevent, detect and take action on corruption and waste in infrastructure projects—is in the configuration and effective enforcement of accountability relationships. Three broad categories of accountability relationships are critical—and they structure our analysis of the governance context as well as possibilities for reform:

Hierarchical accountability (i.e., vertical inter-governmental oversight and monitoring, particularly central government supervision of local administrations). Ideally, strong ‘vertical’ oversight and monitoring should involve upper levels of government setting minimum standards of service deliver and design processes so as to increase accountability and transparency and thereby minimize corruption risks. Under such arrangements, the upper levels of governments should not only have a good ability to monitor compliance of lower levels with sound procedures and practices, but should also be able to investigate where there are signs of fund misuse.

Horizontal accountability and coordination (i.e., the monitoring of local bureaucrats by local politicians, and of local government by local legislatures and courts). In the type of decentralized infrastructure projects that we are looking at, quality control, investigation and dispute resolution should ideally take place at both the commune and district levels. At the district level in particular, there should be good inter-agency monitoring—the state treasury, inspectorate and quality control in the sectoral agencies like transport and construction should all be working to make sure that funds were used for the right purpose and that the
quality of infrastructure works was up to standards. Effectively, these are ‘checks’ and oversight mechanism for project management, vested as it is in the executive function.

Horizontal coordination is another function within the executive, encompassing the efficient planning and coordination of various services, technical assistance, information flows. Ideally, districts should provide technical support to local levels to facilitate the latter’s own transparent and efficient implementation of the rules.

Democratic accountability (i.e., government responsiveness to citizens, especially as reflected in local communities’ participation in the monitoring of local projects). Ideally, the representatives of the people, through the People’s Councils and other user groups made up of non-officials, should have all the necessary information about what funds are being spent, and should be able to participate in ensuring that works are constructed to the agreed standards.

To analyze the institutional context, we look at the strengths and weaknesses of existing governance arrangements as they affect accountability patterns for small-scale infrastructure. In any context—but particularly in Vietnam—these relationships are undergoing changes all the time, so we also look at the institutional and policy reforms and opportunities, such as public administration reform and new anti-corruption decrees, and also on possible threats in the changing environment, on these institutional relationships.

4. Program design and strategy
Different infrastructure projects operating in the same general governance or institutional field can have very different design parameters (such as who has access to project accounts at what level of government etc.), and these can have a great impact on the opportunity for corruption. A second key determinant of whether corruption risks are ‘realized’ is thus specific design features of the program in question.

For instance, “community-driven development projects”—like the World Bank’s CBRIP—incorporate a number of features that are intended to help reduce corruption risks, such as competitive contracting and community-based monitoring of infrastructure works. To examine the impact of these design features, we examine lessons learned from a range of specific project efforts (including those from the government, the World Bank and other donors).

5. Program and policy learning
The fight against corruption is necessarily an adaptive one—the methods employed by those pilfering project funds adjust to changing circumstances—the ‘enemy’ is intelligent and highly motivated. The degree to which we can learn what is working is critical and use that to inform both general institutional reforms and program redesign.

The rest of this paper applies this framework to the situation in Vietnam. The next chapter elaborates on part three of the framework – the institutional strengths, weaknesses and opportunities as they influence corruption risks in the community-based, small-scale infrastructure programs. Chapter four goes into greater detail on points 1, 2 and 4 of the framework, showing how program design elements that specifically aim to reduce corruption risks produce different outcomes on the ground. The final chapter takes up the challenge of how to promote program and policy learning in moving forward.
Figure 2.2: Three Accountability Relationships Mediating Corruption Vulnerabilities in Small-Scale Infrastructure Projects

Central / provincial

District level 'government'

EXECUTIVE (People’s Com) → Legislative oversight

Technical agencies → Judicial oversight

Commune level 'government'

EXECUTIVE (People’s Com) → Legislative oversight

Monitoring / supervisory boards

Villagers

Legend:
- Horizontal oversight
- Horizontal coordination
- Hierarchical accountability (oversight)
- Democratic accountability (to endusers / local citizens)
3 - Linking Corruption Risks to Vietnam’s Institutional Context

Corruption goes undetected or unpunished when public accountability relationships mandated by laws and regulations fail. Whether such a failure is limited to isolated cases or is systematic depends fundamentally on the governance and institutional context in which programs are implemented.

This section examines characteristics of Vietnam’s governance system as they affect the configuration and effective enforcement of accountability relationships between different public and private entities. We examine three governance fields in which the Vietnamese system shows both some strengths and weaknesses, and which are the subject of active and as yet inconclusive reform efforts. The three fields are center-local relations, executive power, and state-society interaction. They broadly correspond to the three accountability relationships – hierarchical, horizontal and democratic – posited in the previous chapter as important factors underlying corruption risks in small-scale infrastructure. For each of these three sections, we present a situation analysis, describe reforms-in-progress, and assess the implications for small-scale infrastructure.

Center-local relations in a unitary state

Situation analysis: As a unitary state, Vietnam’s local tiers of government do not have constitutionally mandated resources, responsibilities and legal status, but exist as deconcentrated agents of the central government. Despite much talk of decentralization in recent years, Vietnamese administration is still significantly centralized. The Economist Intelligence Unit (EIU 2000) noted that:

> not only is bureaucracy pervasive, but little authority is delegated. In 1999 the prime minister’s office received 120,000 documents from ministries and local government agencies that required approval. Many of these documents were about minor items. For example, the prime minister had to give approval to allow a donation of clothes, worth US$400, to enter the country to help victims of floods in central Vietnam. Despite efforts to cut down on obsolete rules, new ones are introduced just as quickly, particularly by ministries where the mindset is one of control.\(^5\)

A syndrome of problems relating to centralization appears so often in the government’s own policy assessments as to be formulaic, almost shorthand for the administrative reform agenda. For example, local officials – often held in low regard by officials at higher levels – are said to suffer from the psychology of \(x\in\text{-cho}\) [“ask-give”] resource allocation, in which they either passively wait for upper level approval and resources or actively attempt to “game the system” by submitting requests for unrealistic levels of capital expenditure. Such problems are not purely “cultural”, however. Many ministries do not perceive a tangible interest in ‘letting go’ of many direct investment activities that have for years fed them much prized supplemental revenue and opportunities for economic ‘rents’.\(^6\)

Yet center-local relations are also dynamic and conflict-ridden. Traditions and habits of organizational centralism often change more slowly than policies, which can create tensions (for instance, over the appropriate role of ministries in the new environment). And local governments have considerable space in which to pursue particularistic interests. As a result, the degree of effective centralization (or more aptly, central coordination) should not be overestimated. The dynamics of administration in a large, heterogeneous country create much ‘de facto’ discretion for local leaders, particularly since information systems linking central and local levels are often weak. The whole advent of \(doi mot\) can be seen as stemming from local leaders ignoring or circumventing inappropriate central restrictions on private production, forcing change from the bottom-up (so-called ‘fence-breaking’).\(^7\) Vietnamese policy-making is typically portrayed as consensus-driven, with decision-making distributed among a diverse range of functional and geographical networks.\(^8\) One analyst suggests that the essential administrative structure in Vietnam is one of ‘organizational network’ decentralization, in which policies are formulated with deliberate ambiguity to preserve the
appearance of unity and to boost the importance of party insiders who may give definitive interpretations. This is said to lead to a constant “push and pull in center-local relations – i.e., powers being granted, then being undermined by provincial committees, this then countermanded by Hanoi’s edicts, and then round again.”

Emerging reforms. The attempt to achieve a more rational balance of responsibilities between the central and local government levels is a major theme of Vietnam’s fiscal and bureaucratic reforms for the past ten years at least. The two main vehicles for rationalizing center-local relations in Vietnam have been the government’s Public Administration Reform program and fiscal decentralization.

Public Administration Reform (PAR). The national-level master plan for PAR for the period 2001-2010 encompasses several reform areas relevant throughout this chapter, from reducing unnecessary procedures, rationalizing staffing levels and strengthening legislative and judicial capacity. One of the main areas of focus is the facilitation of administrative decentralization. Rhetorical emphasis on decentralization is common in the PAR, as expressed in the National Assembly resolution in 2000 to “review and adjust the division of specific responsibilities between administrative levels in each specific sector, beginning with the allocation between the central government and provincial governments; whatever can be allocated to local government should be decentralized immediately.” The PAR is discussed at greater length in the next section of this chapter.

Fiscal decentralization: Vietnam’s public finances are increasingly decentralized, with sub-national share of overall government expenditure rising from 26% in 1992 to 44% in 2004. A considerable share of fiscal redistribution to revenue-poor provinces has accompanied this decentralization. For example, some of the poorest provinces in the Northern Mountains region receive as much as 90% of total government expenditure (and over 30% of their total GDP) in the form of central government transfers, financed in large part by substantial transfers away from a few cities, notably Ho Chi Minh City, which has clamored both for increasing decision-making discretion and for retaining more own-level revenue. Fiscal decentralization is also occurring due to new regulations that formalize what has taken place in practice throughout the doi moi period: greater budget discretion to administrative and service delivery units, such as hospitals, schools and agricultural extension services, which raise a significant share of their own revenues.

The decentralization process has underlined the need to improve transparency and minimum service delivery standards, particularly in the poorest provinces, while creating new challenges. One challenge is that fiscal decentralization has primarily empowered the provincial tier of government. Intra-provincial revenue sharing and expenditure assignment vary greatly between provinces, in large part depending on provincial attitudes towards decentralization. A lack of transparency and stability in expenditure assignments below the provincial level has led to resource imbalances and limited transparency.

Another challenge is that fiscal decentralization fails at present to ensure minimum service standards, particularly in poor (and often remote) localities. Despite fiscal redistribution, levels of resources are found to be inadequate given the vastly higher per capita costs of service delivery in remote areas and the special challenges faced by these areas. And the effective level of expenditure discretion and incentives to be pro-active and creative are weaker for very poor provinces and districts, for two reasons:

- Funds are often tied to specific projects or national target programs, limiting the ability of provincial officials to transfer funds across line items, particularly when own-level revenue is sharply limited.

- Accountability for specific outputs and outcomes is limited by poor performance measurement systems. As a result, fiscal transfers tend to be ‘supply-driven’ rather than linked to the performance of provincial governments.

Finally, decentralization – both through government policy and through the effect of market reforms – is contributing to increased inequalities in Vietnam. This occurs as areas with greater natural and human resource advantages and more dynamic local administrations pull
ahead. Mountainous localities face particularly harsh constraints in competing in this environment. In mountainous areas, the combination of weakly developed civil society, social heterogeneity and latent conflict,15 inherently more difficult service delivery challenges, and weak fiscal and organizational capacity creates profound challenges for any distribution of center-local power.

Implications for small-scale infrastructure: The mixed story of center-local relations presented above – with significant centralization in administrative relationships accompanied by fiscal decentralization trends – has two implications for the small-scale infrastructure setting. They focus on the strength and possibilities for hierarchical accountability relationships to function effectively to reduce the risk of corruption.

The first concerns the extent to which resources and responsibilities for small-scale infrastructure programs are effectively devolved to local governments and communities. There is still considerable reluctance in many provinces to fully hand over scheme management responsibilities to lower levels, despite the decentralizing aim of almost all of the small-scale infrastructure program funds. Indeed, as of 2004, only 16% of the 2,362 poorest communes have had scheme management devolved to them in the government’s flagship program in this sector, 135 program.16

Box 3.1: The story of Hai Thuong commune (Tinh Gia district, Thanh Hoa province)

The imposing Nghi Son cement factory, a joint venture between a Japanese firm and a central ministry, was built in this sea-side commune from 1996 and put into operation by 2001, having been delayed by the Asian financial crisis. A huge ramp from which to offload cement produced in the plant juts a hundred meters into the bay. The plant is the source of considerable resentment locally, openly expressed by the People’s Committee officials: compensation for land clearance was “extremely low”; residents are certain that air quality has suffered, although a central Ministry environmental team found otherwise; and, with only 15 commune residents employed (as cleaners) in the plant, “it has not brought us any additional income or infrastructure,” notes the People’s Committee chairman of the commune, who adds wryly that “they did donate some free cement last year.” These officials note a 65-35% split of profits between the Japanese and Vietnamese side, respectively, with the central government claiming 20% and the provincial government 15% of the Vietnamese share. The World Bank-supported CBRIP project in this locality – “although modestly funded” – was said to have a much more positive impact on local development, “because we are able to decide on what types of infrastructure we need most and because the people are then directly involved in using that infrastructure.”

Source: Fieldwork in Thanh Hoa province

This reflects a broader difficulty. In a range of small-scale infrastructure programs, there is a tendency to transfer responsibilities for implementation and scheme management downward (e.g. to district and commune level) without also transferring decision-making power. As in any decentralization program, this mismatch may cause many problems, as local managers remain more passive and less accountable to their local constituencies than proponents of decentralization would hope.17 For example, responsibility for the approval of contractor selection still resides at the provincial level in the 135 scheme. While this may be pro forma in some provinces, the fact that provinces can and occasionally do intervene may lead local managers to change their behavior, e.g. to select state-owned contractors within the province; some examples of this distorting effect on local decision-making are given in the next chapter. As this and the example in box 3.1 suggests, higher levels may be reluctant to devolve authority both out of fears over insufficient local government capacity and because the interests of center and locality may diverge considerably.

This leads to the second implication of center-local relations for corruption risks. The astonishing variations in local capacity and implementation conditions throughout Vietnam suggest that uniform rules for small-scale infrastructure schemes – for instance, concerning the appropriate division of labor between different management tiers – are likely to be difficult to develop, and actually undesirable. Even when uniform rules are applied, extensive
variation in implementation practices and outcomes are in practice found. A point we further develop in the last chapter is the need for ‘asymmetrical’ program designs, incorporating differentiation in the rules, procedures and degrees of management decentralization in infrastructure schemes depending on different local capacities and conditions. Some of the poorest mountainous areas will require both increased technical assistance and different models of service delivery, something shown in the experience of the Rural Infrastructure Development Fund (box 3.2).

**Box 3.2: The RIDEF experiment stumbles in mountainous districts**

The Rural Infrastructure Development Fund (RIDEF) was supported by UNCDF and AusAid in all districts of Quang Nam province over the second half of the 1990s. The project devolved block grants for small-scale infrastructure according to a needs-based formula, and established procedures for participatory decision-making for funds allocated to communes. Two independent evaluations concluded the project had generally succeeded in piloting its institutions in the lowland districts of Quang Nam province, and the project was closely examined in the design of much larger government programs that followed. But in 2 of 14 districts of the province classified as “high mountainous, the project faced huge implementation challenges that were quite distinct from lowland areas. The primary reported obstacles were related to governance and institutions: corruption (always a problem in infrastructure projects) was reportedly higher; attitudes of district staff vis-à-vis the participatory methods more skeptical; the planning and budgeting norms proved to be difficult to apply in more remote localities with higher unit costs of implementation and lower population density; and monitoring and quality control by the project implementation unit (at the provincial level) proved difficult. Part of the relative failure of the project in these districts stemmed from the fact that in contrast to the generally positive learning orientation in the project mentioned above, no special adjustments to the process were designed for these areas.

*Source: adapted from Fritzen and Stanley, 2001: p. 17*

**Executive power, restraints and coordination**

**Situation analysis:** In Vietnam, what might be broadly called the ‘executive’ in government is, paradoxically, both fragmented and overbearing. The executive includes a large number of actors in the following broad categories:

- Coordinating executives, such as the managers of People’s Committees at various levels of sub-national government and the Office of the Government at central level.
- The Vietnamese Communist Party (VCP) apparatus, which in theory defines overall strategic directions, but in practice micro-manages a number of organizational processes to different degrees throughout the administrative system; and
- Bureaucratic agencies, including essentially ministries and their deconcentrated representatives at local government levels.

But what makes the executive fragmented is not the existence of multiple actors; such diversity is found in many systems. It is rather the extent to which executive authority in a multitude of bureaucratic settings has become relatively autonomous, capable of projecting particularistic interests and actively resisting encroachment and regulation from both other arms of the executive and from external oversight. The dominating nature of the executive is relative to non-executive forms of oversight and accountability, such as to the National Assembly or People’s Councils of various levels, and the court system or other forms of direct accountability (such as responsiveness to formal citizen complaints).

The executive is shaped by a number of historical legacies and contemporary developments arising from the reform process. One is the constitutional enshrinement of the Party as an uncontestable source of executive power is an abiding feature of Vietnamese governance. Traditional Vietnamese accounts of the country’s public administration system speak of three branches of state power: not the executive, judicial and legislative branches, but the Party, the government and mass organizations. These are seen to separate but “stemming from the
same source”, i.e. not by design intended to restrain each other.⁹ The touchstone principle of Vietnamese “democratic centralism” was that wide consultation would precede decision making by a small number of actors at the central level, after which dissent would not be tolerated, reinforcing further the lack of horizontal constraints on the executive.

Executive dominance and fragmentation is also the de facto result of weak authority relationships between elements within the executive and between the executive and non-executive actors. Fforde²¹ highlights three problems. The first is weak legislative and oversight roles played by the People’s Councils. While People’s Councils are powerful in terms of the constitution and existing laws, their role is very limited in practice. The Party’s own literature on administrative reform contains numerous articles deriding the relative passivity of local People’s Councils, even as others extol them for being the ultimate standard-bearers for Vietnamese democracy.

The second is the system of ‘dual subordination’. Local government executives – both technical in the line departments and coordinating in the leadership of the People’s Committees – report in theory both horizontally across to the local People’s Council and vertically up to the relevant sector ministry at central level. This has the effect of muddying accountability relationships, making technical executives more likely to remain generally unsupervised and successful in seeking rents. The fact that the same personnel are often sitting on People’s Councils and People’s Committees at different points in time further undermines the potential for the People’s Council to restrain, supervise or even influence the executive People’s Committee’s actions.

The third problem Fforde (with several others)²² highlights is that of interdepartmental coordination. The classic challenge of multisectoral, horizontal coordination may pose particularly difficulties in the Vietnamese transition context, particularly for the poorest provinces. Such difficulties are in part a legacy of ‘bureaucratic centralism’, mentioned above. Ministries and their representatives at different levels of government are heavily involved in productive activities or rent extraction. Their particularistic interests have been fueled by the potential for rents inherent in a rapidly transforming transition economy, in which a market-facilitating legal framework is still being laboriously constructed. This result is particularly evident in the weak management of complex, multi-departmental national programs on poverty alleviation, which are often ‘coordinated’ by line ministry with little legal authority over the others.²³ The combined result of these pressures is an increase in executive fragmentation, even as central level ‘coordinating’ executives attempt to reign in the bureaucracy.

Emerging reforms: The relative political autonomy (or, put differently, the limited accountability) of a fragmented state bureaucracy is given different labels in Vietnam’s political vernacular. These terms include ‘departmentalism’, ‘mandarinism’ or ‘bossism’, with corruption, alienation from the masses, and abuse of power seen to be their main manifestations.²⁴ A number of reforms – some contradictory – fall under the broad heading of Vietnam’s high-profile Public Administration Reform (PAR) program. They are best seen as an attempt to rebuild authority relations and overcome the “increasing fragmentation of the state bureaucracy which has developed in the era of doi moi.”²⁵ In addition to the decentralization reforms noted in the previous sections, PAR as expressed in the government’s master plan for the period 2001-2010, prominently includes the attempt to enhance rules and restraints on executive action that are so weak in the Vietnamese system, and to introduce stricter anti-corruption controls.

Restraining the executive: Several reform initiatives to strengthen horizontal oversight and ensure greater accountability deserve attention. Much effort of PAR has been directed towards the construction of a “state ruled by laws” [nha nuoc phap quyen], a concept gaining increasing local currency over the 1990s. The intention is broadly to clarify the role of the VCP, with again many Vietnamese observers calling within the context of public administration reform for the Party to focus on overall ‘steering functions’ rather than actively intervening (as appears to be the norm) in administrative matters. It is also to ground all executive actions in a solid legal foundation, implying less frequent use of administrative decisions (such as implementation regulations) on important matters, and a more active role for overarching laws and decrees passed by the National Assembly and local People’s
Councils. Increasing emphasis is also being given to the formal oversight function of the legislative branch and, more recently, the court system. Although still limited, the National Assembly in particular is playing a much more proactive role in reviewing legislation and questioning policy makers.

**Anti-corruption efforts:** Executive dominance and fragmentation can be seen as twin causes of corruption: dominance, in that there are insufficient rules and restraints from horizontal bodies; and fragmentation, in that a partially unreconstructed bureaucracy offers a proliferation of opportunities for corruption to take root. As in other countries with non-competitive governance systems, the issue is highly sensitive in Vietnam; allegations of systemic corruption could represent a potentially persuasive rationale for systemic political change. Rural unrest in several delta provinces in the late 1990s over the issue of local corruption and abuse of power motivated an acceleration in the government’s anti-corruption rhetoric and legal reform agenda. A number of ordinances to prevent and prosecute corruption have been instituted over the past five years; they are listed and described in some detail in appendix 3.1.

An analysis of both the popular discourse surrounding anti-corruption and of these laws and ordinances, including the draft of the Anti-Corruption Law (2005), reveals several characteristics. First, anti-corruption efforts have to date defined lower levels of government as the primary source of the problem, rather than acknowledging corruption as systemic. Grassroots democratization efforts (covered in the next section) are a prime example of this. Second, the focus has been on the elaboration of criminal definitions and penalties for corrupt activities. Third, many high-profile efforts have concentrated on date on administrative controls and restraints – those within the executive over the executive, or of the Party over the government. These include efforts to institutionalize asset disclosure requirements on officials, and a sensitive debate on whether and to what extent government officials and Party members should be allowed to engage in business activities.

While legal development in this area has been impressive, executive dominance and fragmentation has the effect of undermining their effectiveness. If corruption is systemic, then defining the problem as one of “bad apples” at lower government levels will have severe limitations. Criminalization of corruption may be a necessary step, but it is unlikely to deter corruption seriously once it has reached systemic proportions. Likewise, asset disclosure requirements for public officials may give the appearance of upholding accountability; they have rarely if ever been effective in settings without strong independent investigator and judiciary – which have barely reached the agenda setting stage in Vietnam. The ancient Latin phrase *quae custodiet ipsoo custodes* (who then guards the guardians?) captures the dilemma: administrative controls are unlikely to promote strong forms of accountability, because they still involve the executive policing itself to a greater or less degree. Difficulties in making the complaint registration process work is a prime example of a transparency and democracy-based approach that has been severely limited in its effectiveness by executive dominance (see box 3.3). Where relative independence from the *quae custodiet* problem can be instituted, chances of meaningful reform are enhanced, as with procurement reforms described in the next section.

**Implications for small-scale infrastructure:** Some analysts have assessed executive dominance in Vietnam from a positive angle. In theory, a strong state insulates the bureaucracy (or rather the Party-leadership) from social pressures to some degree, allowing for a high degree of flexibility and rapidity in policy-making. If, as one prominent theorist writes, Vietnam enjoys an unusually high ability of state leaders “to use the agencies of the state to get people in society to do what they want them to do”[28], this might bode well for sustained policy initiatives in the area of economic development or poverty reduction. Notwithstanding the incentives problem noted above, administrative capacities for vertical oversight for anticorruption may be substantial once the Party has concretely defined its objectives in a high-priority, sensitive area.

But a better argument can be made that the over-dominant executive is more a liability than asset for transparency in Vietnam’s small scale infrastructure programs. A weak judiciary limits the scope for holding administrators accountable for delivering public goods – such as infrastructure – in a transparent and participatory manner as prescribed by regulations on
Box 3.3: The Law on Complaints and Denunciations: Limitations of a legalistic approach

The 1992 Constitution confirms the right of citizens to “complain and accuse a State owned enterprise or economic or social organization, a people’s armed force unit or any individual of their illegal activities to the state agency with jurisdiction. The complaints and accusations must be considered and settled with in the regulated time-limit by the state agencies.” (Article 74). The Vietnamese press has made much of this right as a mechanism to hold officials accountable for their actions. However, a number of problems have emerged over more than 13 years of implementation, even after a major clarification of the Law on Complaints and Denunciations in 1998.

The first problem concerning implementation is that the appropriate body for receiving the complaint is, in the first instance, the leader of the administrative agency which are the subject of a complaint. This acts as a powerful deterrent to raising complaints. In fact, rather than enshrining protection against whistleblowers, the Constitution emphasizes that “it is strictly forbidden to use the making of complaints or accusations as a means of revenge or by exploiting provisions made for complaint and accusations to slander or complain falsely.”

The second concerns the inability of the State Inspectorate to effectively resolve complaints; it acts mainly as an advisor for the leaders of the same level of government to settle complaints, and final decisions on complaint resolution are made by the People’s Committee executives of the same or higher level.

The complaint resolution process at present thus presents a prime example of an approach to legal accountability that is partly undermined by executive dominance. However, its legal and policy framework is still in flux. The stated policy of the Communist Party regarding complaints is increasingly to transfer authority regarding administrative complaints to the court system, which might place a somewhat greater distance between the subjects of investigation and the adjudicating system.

State-society interactions

Situation analysis: The Vietnamese system has traditionally been highly state-centric, described in one well-known formulation as “mono-organizational socialism”, in which “there is little scope for the organization of activity independent of the party-led command structures.”

State-centrism is reinforced by several factors. One is ideological. Civil society and, to a lesser extent, a dynamic and deregulated private sector are both concepts / governance categories that sit uneasily with Vietnamese political culture. As put by a team from the National Academy of Public Administration at an earlier stage in the transition, “The state is the representative of the people, delegated authority by the people to manage and control every facet of social life.” In addition, the characteristics of bureaucratic centralism and executive dominance described above reinforce state-centrism, since both tend to preclude expression of alternative centers of decision-making power beyond the Party-state executive apparatus.

State-centrism does not, however, imply some form of totalitarianism. Some theorists of state-society relations in Vietnam emphasize the strength of societal pressures relative to the state: “...due to insufficient resources and other inadequacies, the state’s capacity to coordinate programs and implement policies is considerably less than what a dominating state...interpretation would lead one to believe”. As a result, active negotiation over the
substance and enforcement patterns of policies is said to take place regularly between central and local authorities, and between state and various quarters of society. Other theorists stress that even when the negotiation table is far from level, substantial two-way flows of information between state organs and social groups are maintained. In this so-called “mobilizational corporatism” view of the Vietnamese system, the state dominates society through various organizations (typically one for each sector), but “invite[s] popular involvement under its supervision without much fear that things will get out of control...”  

Each interpretation of relative state or society strength is probably accurate for particular sectors and regions in Vietnam.

The special situation of minority groups living in remote mountainous areas warrants attention in this context, particularly since they are an important target group of small-scale infrastructure programs. These groups traditionally enjoyed a substantial degree of autonomy from the state, and as a result enjoyed strong traditional systems of self-mobilization for community infrastructure and conflict resolution. This situation has been rapidly changing for some communities over the doi moi period. The state’s presence in the form of supporting services and infrastructure has grown tremendously, and so too has the presence of immigrants from the majority Kinh group. Complex economic, political and social interactions have led to “a dramatic acceleration in the disparities these localized communities face.”

Emerging reforms: The doi moi period has marked a decided departure away from the extreme form of mono-organizational socialism described above, in at least three ways. First, the private sector has been legitimated both in the 1992 Constitution and in a legal edifice which continue be developed.  

Second, “civil society” (xa hoi dan su), while still sitting uneasily in local political terms of reference, has gained ground, supported by factors such as:

- An improved legal infrastructure supporting civil society activities;
- A veritable explosion in the range and sources of information widely available (particularly to urban residents) through travel opportunities, increased numbers of international visitors and workers from diverse countries, and a rapidly expanded and at times more critical (though constrained) media (newspapers, journals, books);
- A rapid increase in the number of interest group organizations, many of which are more appropriately categorized as ‘private interest groups’, such as mutual assistance associations among farming households.

Rhetorically, the concept of civil society itself has yet to gain widespread acceptance in Vietnamese discourse, but the concept of “socialization” [xa hoi hoa] has been advanced across the entire spectrum of Party pronouncements, laws and Vietnamese academic writing for a number of years. ‘Socialization’ has a number of connotations, but most center around the idea that the Vietnamese state must share responsibility for service provision and financing with non-state actors – communities, end users and the private sector. This certainly is miles away from the “dream of the socialist state as mass provider” that the historian David Marr saw as still dominant in early 1990s.

The range for independent political action within civil society is still very limited. In 1994, Marr was writing of the “decline of the mass organizations” and “an explosion in the number of informal organizations concerned with welfare, education, professional advancement, revival of traditions, arts and culture, science and technology, and much more”, and openly wondered how quickly the such informal groups would engage in “serious, sustained politics.” Since then, National Assembly's role has expanded and several collective expressions of grievances not controlled by the state have occurred. The latter have been
followed variously by suppression (in the Central Highlands) or a high-profile rectification campaign of the Party (in Thai Binh) or a studied official ‘non-response’ (medium scale demonstrations in Hanoi during the 2004 National Assembly). But Marr’s ‘serious, sustained politics’ remains absent from this scene.

A third reform area concerns the ‘grassroots democratization’ (GD) decree of 1998 and its supporting implementation guidelines. Expressed in several directives issued from 1997 on, the policy mandates that local governments take all necessary steps to ensure that procedural democracy is respected at the local government level. Particular attention is given to ensuring that all government investments at the grassroots, and all taxes and labor contributions, are implemented equitably and transparently. The decree and accompanying implementation guidelines are an attempt to set clearer local governance standards in areas of great practical concern to villagers. Party-led efforts to institutionalize the decree for various spheres of local government activity are ongoing in all provinces. Meanwhile, GD has become the idiom of choice for donors, the government and the state media for the importance of downward or democratic accountability over the past several years.

Implications for small-scale infrastructure: The concerns and spirit of the GD decree have also affected implementation guidelines in a range of activities – including small-scale infrastructure. The Prime Minister’s Decision No. 80 of April, 2005 on “Promulgating a Mechanism for Community-Based Investment Supervision” lays out the specific roles and rights of community supervisory boards, to be elected from among villagers under the auspices of mass organizations. These boards are essentially given an advisory and watchdog role; they have the right to request information and demand explanations from both contractors and local authorities on issues pertaining to the management and impact of small-scale infrastructural schemes. They may also submit proposals to the local People’s Committee and the district Department for Planning and Investment for the redress of their concerns.

Decision 80 is clearly an example of a specific step towards concretizing the mechanisms underpinning democratic accountability as a strategy for anti-corruption in small-scale infrastructure programs. What implications do the legacies of state-centrism in Vietnam juxtaposed with the trends described above have for this and other elements of a democratic approach to anti-corruption? To what extent will design elements of infrastructure programs that emphasize community participation and public accountability mechanisms at the commune level work to reduce corruption risks in Vietnam’s governance context?

One way to explore this question is to review some of the initial evidence regarding the implementation of the Grassroots Democratization decree. It originally sprang from the specific context of making such programs more transparent and participatory and thus has particular relevance to this question. The evidence on GD implementation to date is mixed. A 2004 review of participation in national programs, including 135, found “very limited improvement in financial transparency” due to the GD decree across most localities, and noted that participation is “least pronounced in the poorest, often upland communities” and for women. But, echoing another review (see box 3.4), the study also found citizen engagement across a range of programs to be strongest in infrastructure projects, particularly P-135 (discussed in some detail in the next chapter), due to the decentralized nature of such projects.
An important reason for different local outcomes and assessments of GD lies in the conflicting incentives for local government actors in small-scale infrastructure projects. The GD attempts to create positive incentives for local government officials to feel a stronger sense of accountability from below, and for communities to hold local governments accountable. Such positive incentives as expressed in figure 3.1 are borne out by the experience of many communities cited as successful models of GD. This includes evidence presented later in this report regarding community supervision of investments in ways very much consistent with the spirit of Decision 20.

**Figure 3.1: Modeling stakeholder incentives as implied by grassroots democratization**

On the other hand, a range of incentives facing both local government agencies and communities potentially mitigate against implementation of the GD as intended; some of these are shown in table 3.1. Technical agencies and People’s Committee executives have strong incentives, built into the system as well as stemming from long engrained patterns of
organizational culture, to monopolize information and decision-making authority and to avoid states of interdependence with other organizations.

The scope of Decision 20, for example, is largely restricted to enabling community groups under the auspices of the Fatherland Front to request information and forward proposals. As such, such mechanisms will be subject to some of the same limitations affecting the ‘complaint and denunciation’ procedures explored in box 3.3 above; specifically, it will be difficult to use these mechanisms to enforce accountability in those localities where a culture of non-transparency generally prevails.

Thus, powerful forces are working both for and against public accountability strategies, and there will be much local variation in the effectiveness of institutional arrangements supporting public accountability. As Shanks and his colleagues point out, "it is important to avoid making general conclusions or assumptions" regarding the net effect of such conflicting incentives on local leaders, on whom much depends. Instead, the analytical and practical challenge is to help find out and draw lessons from what program designs maximize the likelihood of positive outcomes in specific types of socioeconomic, topographical and administrative settings. In that sense, programs that seek to find practical ways of making accountability work locally in small-scale infrastructure programs can have an important impact on broader institutional reforms, and will be watched closely by the political authorities.

**Summary**

This section has explored, in broad terms, how general governance characteristics in Vietnam may affect corruption risks in small-scale infrastructure programs. The net effect of all the characteristics described is to reinforce a system in which accountability is primarily directed upwards (towards higher levels of government) and is, at the same time, somewhat blurred by overlapping spheres of authority and habits of intervention. This may mitigate against the shifting of power from more to less powerful actors and levels of government, since meaningful decentralization of any kind rarely happens (or remains precarious, as at present in Vietnam) except when backed by enforceable recourse to the rule of law.
### Table 3.1: Potential incentive problems inherent in Grassroots Democracy as a public accountability mechanism

<table>
<thead>
<tr>
<th>Stakeholder</th>
<th>Potential incentive problems</th>
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| Technical agencies (district level)              | • Greater transparency and local participation may imply decreased decision making discretion and weaker relative autonomy.  
  • An organization-wide preference for quantifiable inputs that are centrally planned rather than process-oriented and decentralized initiative, due to:  
    - distrust of lower-level capacities;  
    - fear over misuse of funds;  
    - ambiguous accountability due to ‘dual subordination’ discussed earlier;  
    - limited accountability for outcomes as opposed to inputs; and  
    - limited training in participatory methods mandated under the GD. |
| People’s committees executives at provincial / district level | • Weak accountability for GD process due to poorly articulated success indicators.  
  • Wish to avoid open competition among their constituents for resources they may or may not control with discretion.  
  • In some cases, potential personal or political benefit from non-transparent resource allocation;  
  ➔ Preference for non-transparent resource allocation criteria and restricted access to information about entitlements. |
| People’s committees executives at commune level   | • Few mechanisms with which to hold line agencies or upper levels accountable for delivering inputs to which they are entitled (e.g. national program allocations) ➔ accept whatever goods come their way.  
  • Exercise influence as gatekeepers between external resources and community members in ways that strengthen their prestige among commune elites.  
  • Self-perception as the natural interpreters of community needs and aspirations, thus questioning GD requirements for an ‘excessive’ participatory planning process.  
  • Few or no extra resources allocated to implement GD; few guidelines specific enough to apply to particular programs. |
| Villagers                                         | • Inadequate information regarding administrative procedures, particularly constraining in more remote localities where population density and literacy are lower, and distance to administrative centers and ethnic diversity higher.  
  • Non-participatory previous experiences, such as labor mobilization as a form of local tax, may increase villager skepticism with regard to state calls for ‘participation’.  
  • Low levels of non-state-based social organization may constrain the expression of demands for greater administrative accountability, particularly in rural areas. |

However, we have also seen that substantial room exists for local discretion and flexibility in practice, and that a great deal of variation exists in local institutional arrangements. The problem from the point of view of corruption risks is that both vertical oversight systems and societal pressures for accountability, while relatively strong in some places are also likely to be systematically weakest where needed most: in poor, remote, ethnically diverse communes. The next section draws on fieldwork and the growing literature from various project reports to examine in greater depth the small-scale infrastructure setting for these accountability relationships.
4 - Linking Program Design and Corruption Risks

This section describes and begins to assess how diversities in local institutional environments as well as in program designs can affect program outcomes. These variations can help us link program design features to corruption risks – and set the stage for the next chapter, which outlines major reform approaches.

Two programs are selected for this more in-depth analysis – the government program that is slated for redesign (P-135) and one of the largest attempts to experiment in a donor-supported program with more sophisticated design features (CBRIP). Both programs are not only fairly well documented, but have in fact, recently been extensively evaluated in preparation for follow-on 2006-2010 period of the National Targeted Program for Poverty Alleviation (or NTP-PR 2006-2010).

Our team held various discussions with various stakeholders at the provincial, district and local levels in two northern provinces, Thanh Hoa and Nghe An, primarily focusing on assessing two issues:

- the existing institutions and mechanisms in place to ensure transparency, accountability and anti-corruption in the context of local government structures and systems (particularly at province, district and commune levels); and
- the implementation procedures and regulations of the national targeted programs as borne out at the local level.

We visited six communes in the two provinces, Thanh Hoa and Nghe An, and made special effort to include communes that managed different types of projects (two communes managed Program 135 only, one managed CBRIP only, and three managed both). (Annex 4.3a and 4.3b detail the field sites). Thanh Hoa and Nghe An provinces were selected because they are perceived to operate quite differently. Thanh Hoa tends to manage itself more liberally whereas Nghe An, is considered more conservative in that it sticks more closely with the government political ideals. Additionally, with regards to Program 135, Thanh Hoa has decentralized the process to the commune level, whereas in Nghe An the district level is still the project holder and therefore the program is managed in a more top down manner.

The field review sought to address how diversities in local institutional environments and program design can affect program vulnerability to corruption, in this case, of P-135 and CBRIP projects.

- How, for example, do the overall strengths and weaknesses of the local government systems of planning, screening and approval, supervision and monitoring of investment projects made at commune level affect vulnerability to corruption?
- How do various linkages and interactions between the people's committees, people's councils, functional departments, the state treasury, inspectorates, and other concerned agencies at different levels affect vulnerability to corruption?
- Are such vulnerabilities the same or different in the various 'stages' of the small-scale infrastructure investments in programs such as P-135 and CBRIP?

It is important to point out that the fieldwork – like this report more generally – was meant to be diagnostic and exploratory, not comprehensive and definitive. It did not attempt to establish actual corruption levels affecting projects (which would require forensic investigation), and it is not intended to be a formal evaluation of the program case studies examined, which would require a much broader approach and more sustained fieldwork.

Below we briefly outline some of the key findings from the field. The focus is primarily on how program design parameters have been said to affect the risks of corruption. Because corruption in the small-scale schemes of programs such as P-135 and CBRIP is intimately tied to implementation mechanisms and local capacity for scheme management and supervision,
we briefly review the literature focusing on issues related to both those issues. The reviews, particularly those for P-135, helped our team develop a better understanding of the performance of both NTPs prior to going to the field.

We also highlight the experiences of some other donor-supported projects including, the World Bank-supported Northern Mountains Poverty Reduction Program (or NMPR) as well as a few pre-P135 projects, ranging from very small programs to larger ones encompassing dozens of districts across one or more provinces. These vary in their focus on small-scale infrastructure — for some, this was not a major element. What they had in common however, was a concern with piloting participatory processes at the grassroots, and, for many, attempting to institutionalize these into regular planning processes of local governments.

The setting: small-scale infrastructure projects in Vietnam

Small-scale infrastructure programs targeted onto the poorest communes in the country have become one of the most prominent instruments in the Government and donor toolkit in fighting poverty for a number of reasons. First, they are considered good starting points for redressing the growing socioeconomic disparities between regions. Second, such programs facilitate the expansion of social services (e.g. by building schools) in areas that are considered to be lagging behind national standards. Third, such programs usually focus on the types of infrastructure that can promote both social and economic integration, and can be seen as preconditions for other types of investments.

A wide range of programs have been active in this sector. A central (though not exclusive) focus of the work is typically small-scale infrastructure that is selected and built with some local government and community participation.

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**Box 4.1: Factors Influencing P-135 Sub-Project Outcomes**

The ways in which rural communities in Vietnam organize themselves around community development projects and as well as the factors that influence the outcomes in such projects in different institutional and socio-economic contexts have been the subject of some recent work (see, for example, Shanks et. al. 2003, *Community Driven Development in Vietnam: A Review and Discussion Platform*). Of particular interest to this report, their study examined the experience of P-135, particularly the way in which the guidelines on the exercise of local democracy are interpreted and operationalized at the community level in Program 135 implementation. Based on data from Tuyen Quang Province, the Shanks report concluded that the delegation of both decision-making powers and resources to the commune level had not reached the extent originally envisioned in the program, due in large measure to the trade-offs between increasing local capacity and participation on the one hand, and improving the speed and efficiency of investment planning on the other.

The report also examined the experience of selected donor and NGO-supported projects, particularly on the financing and procurement mechanisms, community participation, and management of commune and village infrastructure. Among other things, it found that there was a strong ‘centralizing influence’ in the application of many regulations (including those of the World Bank) which seemed to work against effective introduction of commune-managed and supervised projects. The centralizing influence was due to several factors, including the general inclination at the various levels of government to prioritize external and upward (as opposed to horizontal and/or downward) accountability mechanisms. The report tied this tendency to the often erroneous assumption by many upper-level officials that commune and village-level officials, particularly in the poor areas, are incapable of assuming full responsibility for planning, implementing and managing small-scale infrastructure works and development activities due to low capacity.

**Program 135**: Developed in 1998 to boost socio-economic development in Vietnam’s extremely difficult communes, P-135 is perhaps the most prominent poverty-reduction targeted program of the Government. It combines several key mechanisms: fiscal transfers from the national budget to support geographically-targeted, disadvantaged areas implement multi-component small-scale infrastructure programs using locally specified planning
processes. The program not only adopts an area-based and decentralized planning and management approach, but also, one in which active participation of local communities in the selection, supervision and management of small-scale infrastructure schemes are at the forefront. P-135 also relates directly to some of the major objectives of the Government concerning local democracy, i.e., promoting greater community participation in the commune planning, the supervision of local projects, and the use of local people’s contributions. Under P-135, for example, Commune People’s Committees are, at least ideally, the investment owner with responsibility for procuring and managing small-scale infrastructure works.

It is P-135 that is essentially being redesigned for the next phase – 2006-2010. (The other key program serving as an input for the Government’s redesigned program is the Hunger Eradication, Poverty Reduction and Job Creation Program under MOLISA).

(Annex 4.1 summarize in the form of a figure, P-135’s key institutional arrangements with an emphasis on the ‘vertical’ arrangements).

**CBRIP**: Began in 2002, CBRIP is a large World Bank-supported project aimed at reducing poverty in poor rural communes by (i) increasing the capacity of communes for decentralized and participatory planning and management of development activities; (ii) providing essential small-scale, community-based infrastructure; and (iii) generating direct income for the poor through the provision of construction employment. The project area includes some 6111 communes in 98 districts in 13 provinces of the Central Region from Thanh Hoa Province in the north to Binh Thuan in the south. The underlying principles of CBRIP are four-fold:

- wide-scale impact;
- implementation linked to capacity-building;
- decentralized management;
- and participatory planning, supervision, ownership and management processes.

(Annexes 4.2a and 4.2b summarize in the form of a figure, CBRIP’s key institutional arrangements including, in case of the former, various management levels, fund flows and investment ownership).

Under CBRIP guidelines, the commune is always the investment project owner, with subprojects selected by villages. The Commune Project Coordination Committee (CPPP) typically consists of a CPC leader, representatives of mass organizations and two persons from each commune. Two thirds of the CPCC are village representatives. The CPCC not only votes to select the various subprojects proposed by villages, but also acts the investment owner by supervising and making a maintenance plan with respective villages.

CBRIP guidelines require that at least 80 percent of the households (with 50% of that, women) must attend village meetings to select infrastructure works. All voting steps and meeting minutes have to be well documented. The daily supervision of subprojects in communes and villages (i.e., on quantity, types of building materials, losses, etc.) is the responsibility of commune Supervision Boards.

**Corruption Risks in the Project Cycle: Findings from Two Case Studies**

As corrupt activity is potentially present in stages of the small-scale investment projects, ‘unpacking’ the project cycle can reveal a great deal of where and how opportunities for routine corruption arise as well as for a more tractable understanding of broader transparency and accountability issues. Figure 4.1 below summarizes the various stages of small-scale infrastructure schemes in both 135 and in CBRIP.
Figure 4.1: Schematicization of the project cycle in both P-135 and CBRIP

Such a schematization allows for the unraveling the basic relationships in the system at the local level, particular in the project cycles (identification, design and planning, approval, supervision and monitoring) of the various small-scale investment projects made at the provincial, district, commune, and village levels. The breakdown into the various parts of the project cycle also allows us to better identifying the linkages and interactions between the people’s committees, people’s councils, functional departments, the state treasury, inspectoretes, representatives of mass organizations, and other concerned agencies at different levels in both P-135 and CBRIP programs.

Table 4.1 below is an illustrative summary of the potential corruption and leakage risks at the various stages of the project cycle in the small-scale infrastructure programs like P-135 and CBRIP.

<table>
<thead>
<tr>
<th>Stage in project cycle</th>
<th>General corruption risk</th>
<th>Example</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scheme (project) identification</td>
<td>• Elite capture</td>
<td>• Identified schemes benefit small number of local elites and not the poor</td>
</tr>
<tr>
<td>Scheme (project) design</td>
<td>• Over-design</td>
<td>• Collusion (or negligent supervision/approval process) resulting in unnecessarily high-cost design</td>
</tr>
<tr>
<td>Project bidding / contracting</td>
<td>• Rigged pre-approved list</td>
<td>• Contractors excluded from consideration because they do not have links (institutional and/or personal) to decision makers</td>
</tr>
<tr>
<td></td>
<td>• Collusion / kickbacks</td>
<td>• Contractors collude with each other to defeat competitive purpose of tender; and/or collude with contracting decision-maker(s) for kickbacks</td>
</tr>
<tr>
<td>Project management and financial reporting</td>
<td>• Fund theft</td>
<td>• Fund loss before, during or after commitment of funds to infrastructure investment</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Collusion to misrepresent planning/administrative/monitoring/evaluation/technical service expenses at various transfer points</td>
</tr>
<tr>
<td>Project monitoring and evaluation</td>
<td>• Collusion / kickbacks to supervisors or oversight personnel</td>
<td>• Contractor delivers sub-standard product; supervision, quality control or complaint resolution mechanisms are either negligent or complicit with contractors</td>
</tr>
<tr>
<td>Project completion, hand-over / certification</td>
<td>• Collusion</td>
<td>• Contractor colludes with certifying engineers or other supervisory authority although product is sub-standard.</td>
</tr>
</tbody>
</table>

What follows below is a summary of our findings from the field, supplemented by analysis drawn from the project literature, broken down into the major generic stages of the project cycle.
A – Scheme Identification

Elite capture poses some of the greatest potential for corruption (and waste) during the scheme identification stage of community-driven, small-scale works in programs such as CBRIP and P-135. Various local elites can potentially identify infrastructure works that end up benefiting only a small number of people in the community and not necessarily the poor for whom the schemes are primarily meant. Among other things, the potential for elite capture is intimately related to how participatory the scheme identification and selection process is.

Desk Review of Scheme Identification in CPRIP and P-135:

Scheme identification in P-135 differs from that in CPRIP. Wide variations also exist within the P-135 depending on whether a district or commune was the investment holder. In general, we found that the CBRIP subproject selection seemed more participatory at the village level that in comparable P-135 schemes.

The ‘typical’ scheme selection process in P-135 communes unfolds along the following lines:

"The district is the owner of the 135 program. They consulted us about the type of investment for example school or irrigation. However, they decided how many rooms should be there in the school or how high the dam should be, etc." – Communal authority commented about the selection process of a P-135 subproject in Phu Son commune, Tan Ky district.

"The leaders decided to build a market because it is the inter-commune center for several communes. It is in line with the objective of the inter-commune investment program. The management board (PMB). The commune PMB sends the investment proposal to the district, then to province for approval. There are no direct consultations at the village level although targeted scheme beneficiaries are supposed to contribute 10 percent of the project budget either financially or physically.

The CBRIP explicitly aims to link the selection process for infrastructure works with the spirit of the Government’s grassroots democracy with other targeted programs such as P-135. A recent review of CBRIP’s institutional framework has suggested among other things, that: (i) local people in are generally more interested in CBRIP project activities and subprojects than in several other local government projects, in part because of the higher sense of ownership engendered by participating in local decision-making; (ii) mass organizations’ dissemination and feedback roles, as well as people’s councils’ monitoring of both subproject selection and the impacts of construction, are stronger than that observed in other local projects; and (iii) local staff capacities are further strengthened by the more stringent requirements in organizing meetings for subproject selection and planning.

Local governments in areas with CPRIP projects were found to have changed views about participation of communes and local communities in the development and management of the respective small-scale subprojects. In the same way, commune and village cadres in CBRIP areas were found to have shifted from passive to more pro-active planning while at the same time getting familiarized with investment project preparation.

The ‘typical’ scheme selection process in CBRIP communes unfolds along the following lines: The village head organizes a village meeting to discuss the needs and select the priority investment for the village by voting. Village priorities for investments are then discussed and prioritized by the commune PMB before members cast deciding votes. Community participation is highly encouraged, particularly by women, and in fact, women are given opportunity for deciding tie-breakers if necessary.
Vulnerability to corruption (and potential for waste):
In theory, vulnerability to corruption in both projects would appear low at this stage. For P-135, the main check on corruption appears to be the vertical one, in which districts and even provinces may serve as a check on ‘inappropriate’ selection of local schemes; yet this is clearly an incomplete check, in that information about how the distributional benefits of local schemes is likely to be limited. In fact, during some of our consultations with localities, concerns were raised regarding the appropriateness and representativeness of some of the P-135 schemes that had been selected for investment.

CBRIP’s checks on elite capture emphasize the democratic accountability mechanism. Where community members are well informed regarding the project and its potential benefits for the community and are unafraid to speak out in their interests, the vulnerability to corruption is likely to be very low in this stage; and in fact that is how we found the situation in the localities visited. However, this condition is not likely to always hold. In addition, the level of consultation with local people is thought to generally decline after the initial scheme selection stage in CBRIP.

B – Scheme Design and Planning

Field experience reveals that the scheme design and planning stages (together with the next stage – bidding and contracting) are particularly prone to the risk of systematic corruption. Scheme design and planning involves ‘cost estimation’ wherein much inflated ‘estimates’, rigged contractor approved lists, collusion and kickbacks, all lay the groundwork for a corrupt distribution of resources among key project stakeholders. Indeed, in virtually all the communes visited, it was this phase in the project cycle that both commune authorities and villagers know the least about, particularly how companies are selected and how the scheme design work is actually done. There is a general lack of technical capacity and skills from among commune and village personnel to support and understand detailed design aspects, particularly for first-timers. Local officials at the commune level thus need technical assistance from district staff for the proper execution of scheme design and planning, even though there are binding resource constraints (financial and human) on district staff for effective support.

Before heading out to the field sites, we knew about the differences and similarities on paper in scheme design and planning under both P-135 and CBRIP, but wanted to both ascertain them and learn more about they actually played themselves out in the different localities we visited. An obvious but very significant similarity in both P-135 and CBRIP programs is that when the investment scheme has been selected either by villagers in CBRIP projects or by either the commune or the district project management board (PMB) in P-135, a company is selected from a list provided by the province to do the designing and cost estimation work.

Several other issues complicate this stage of the project cycle. First, often times there are logistical difficulties in surveying and designing small-scale schemes in geographically out-of-the-way locales. Second, it is often the case that few technical supervision consultants of good-enough quality can be recruited to work in such locales, especially given the related transaction and opportunity costs.
Box 4.2: Project identification in the RIDEF

The UNCDF’s Rural Infrastructure Development Fund distributed funds among targeted communes in a way that marked a significant departure from government planning norms for small-scale infrastructure in the mid-1990s. Based on the total investment funds available, an Indicative Planning Figure (IPF) was calculated based on an index combining three commune-level indicators – population, average income per capita and an ‘index of infrastructure need’ for each commune (based on the current state and availability of basic infrastructure). The IPF method had a mixed reception. It was hailed as a move towards transparent, formula-based block grant allocations to the community level, and thus much appreciated by the province and local levels of government, and evaluations found that community members tended to perceive a high degree of ‘ownership’ over the funds allocated in this manner. On the other hand, the relatively complex calculation of the formula and the difficulty of precisely measuring income per capita and infrastructure need led alternately to some bewilderment and contention at the grassroots level.

Once the indicative planning figure had been calculated, Planning and Technical Support Groups (PSG/TSG) from the district, comprised of a small number of personnel from technical line agencies based at the district level who have been trained in the project methodology, would facilitate a planning process at the commune level. This was one of the first attempts to systematically outline a process for option-generation and decision-making that would be aggregated (beginning from all villages before proceeding to the commune level), inclusive (e.g. specifying required proportions of female representation present at the meetings), and criteria-based (leading from a general discussion of local priorities to rankings of how particular options ‘scored’ in terms of those priorities). Evaluations of the local planning process concluded that the methodology was largely successful in fostering local ownership over decision-making, but that the finer, more qualitative aspects of the selection process – such as the inclusiveness of the process – varied widely in actual implementation, not least because the district-based officers facilitating the planning showed differing levels of commitment to such qualities.

Desk Review of Scheme Design and Planning under CPRIP and P-135:
On paper as well as in practice, there is a Project Management Board (PMB) that selects a company from a pre-approved list from the province to carry out the designated scheme’s design and cost estimation. Most, if not all of the time, this process necessitates the technical expertise of various consultants from the concerned functional departments at the province before approval by the respective People’s Committee (PC).

Vulnerability to corruption (and potential for waste): In general, we (as well as most of the local stakeholders we interviewed) believed that the vulnerability to corruption at this stage was quite high. This is primarily due to the potential over-estimation of investment scheme costs as well as the increased possibility of collusion between scheme design companies, potential contractors and local officials. Indeed, the vulnerability to corruption is further intensified by the twin facts that (a) there a general lack of knowledge at the local level about the more ‘technical’ aspects of the schemes; and (b) there is often little transparency in this phase (especially in comparison to similar projects funded under CPRIP).

“The cost estimation was much higher than the actual cost. The budget for a kindergarten was 125 million VND. If we built the construction ourselves, the cost might be only 70 to 80 million VND max. I believe that if local contractor was hired, we could save about one third of the cost.” – Village head, Giai Xuan

Scheme design and planning for projects funded under CBRIP typically follows along the following lines: Following the selection of a scheme as outlined above, the commune PMB produces an investment proposal to submit to the district for approval. The proposal is then sent to provincial PMB to prepare an investment agreement. After the signing of investment agreement, the commune PMB hires technical consultant to develop an investment report which is then submit to both the district and province for approval. Following approval of
investment report, the province signs a legal funding agreement permitting the commune coordination board to hire a company to design and estimate costs in detail for the construction.

Generally speaking, we concluded from our discussions with local stakeholders as well as from our subsequent assessment that whereas the level of transparency at this stage is generally higher in CBIP projects than it is in P-135, the vulnerability to corruption does exits, albeit in a more diminished way. Again, such vulnerability is mostly due to either (or a combination of) one of the following: the potential over-estimation of costs; possible collusion between design companies and potential contractors, and gaps in stakeholders’ technical knowledge at the local level.

Some of the local stakeholders we spoke to complained about long delays in bureaucracy with respect to project approval.

Likewise, some district staff grumbled about delays involving their having to deal with ‘local’ versus ‘donor’ guidelines for approval of projects.

In general however, scheme design and selection under the CBIP program seems simpler than it is under P-135. In particular, under CBIP, the commune accountant estimates the budget for the scheme only after the community chooses an investment scheme. He then hires a designer to estimate the cost of the projects and before forwarding his report to the district level for final approval. But even then, we found that the accountant seemed to be the only person involved in scheme design and planning at the commune level. Accountants are elected at the commune level by the people’s committee and approved by the district level. They work very closely with the financial department at the district level.50

C – Scheme Bidding and Contracting

As stated above, field experience from projects the world over reveals that bidding and contracting presents some of the greatest opportunities for corruption, indeed, perhaps even more so than during the design and planning phase. A combination of bogus contractor approval processes, collusion and kickbacks sets the stage for corruption potentially to thrive.

Whereas there are standard guidelines for government bidding and procurement for small works, there are more differences than similarities on the ground in the bidding and contracting stage of subprojects under P-135 and CBIP—differences which have significant implications for vulnerabilities to both corruption and waste in the respective programs.

Desk Review of Scheme Bidding and Contracting under CBIP and P-135: Procurement methods and thresholds for infrastructure construction under P-135 are quite straightforward and have three main characteristics: (i) limited Competitive Bidding is required for contracts above VND 1 billion with price quotations; (ii) direct Contracting is required for contracts up to VND 1 billion with no requirement for competitive bidding; and (iii) community participation contracts are applied in a few provinces under P-135 as well as in most projects involving irrigation canal concretization works. (See Box 4.3 for a summary of Government guidelines on procurement and bidding for small works which also cover P-135).51.
The project is implemented in the commune, for the commune, and commune has to monitor the work of the contractor. However, we are not invited to select the contractor.” – Communal authority in Phu Son commune, Tan Ky district.

“If we had the right to select the contractor, we could do the bidding. I believe that this process would make the contractor respect the commune PMB and PSB more and follow our suggestions to improve their work. At the moment, the contractor just listens to district and provincial authorities as they hold the decision-making power. We at commune level only have the right to propose changes.” – Communal official, Phu Son commune, Tinh Gia district.

“Our top priority was the quality of the construction. If the quality had been poor, we would all have suffered. Therefore, we had to look for consensus within various levels. Sometimes our lobby was successful, at

As in the case of P-135, procurement methods and thresholds for infrastructure construction under CBRIP are quite straightforward and have three main characteristics: (i) National Competitive Bidding (NCB) is prescribed for larger and inter-commune works valued over USD 50,000; (ii) Small Works (SW) with 3 quotations is what is used for the majority of commune and village infrastructure valued under USD 50,000; (iii) Community Participation Contracts are used in instances of small-scale village works owned by the communes and procured locally.

In general, we found that whereas the vulnerability to corruption cannot be excluded (mostly due to potential collusion), it is not as high as it is in P-135 schemes. Whereas CBRIP procurement guidelines were seen as more onerous in terms of time, they were preferred by more local stakeholders as they were considered not only to be more ‘strict’, but also generally encouraging of more competition.

In some of the CBRIP communes visited, there is often only limited information exchange between commune officials, the districts and other stakeholder agencies in the evaluation and selection of contractors. This may in part be due to the limited capacity of the communes to evaluate bids, but non-transparent contractor selection at higher levels creates obvious opportunities for collusion.
D – Scheme Management and Financial Reporting

This is another stage in the project cycle which presents particular vulnerabilities to corruption. One risk at this stage is outright fund theft before, during and/or after commitment of resources to infrastructure investment. Another risk at this stage involves collusion to misrepresent planning, administrative, monitoring, evaluation, and/or technical service expenses at various transfer points.

Considerable differentiation in financial reporting was noted between P-135 and CBRIP projects due to the official guidelines of both programs, we were surprised by the level of differentiation in within P-135 schemes above and beyond that attributable to a differentiation based on whether the project owner is the district or commune.

A 2004 evaluation of P-135 (along with its precursor, the Hunger Eradication and Poverty Reduction Program or P-133) entitled Taking Stock, Planning Ahead, was carried out under the auspices of a UNDP and published jointly with MOLISA, aimed to assess both programs' performance and effectiveness in reducing poverty in Vietnam as well as draw lessons for designing the NTP-PR for the period 2006-2010. The evaluation focused on the key aspects of both programs such as impact, efficiency, decentralization, targeting, and most important for this study, participation, and management. One of the most relevant findings of the report for this study concerns financial management of P-135. The report points to greatest potential for 'leakage' of funds, particularly in the procurement process for the various public capital works at the commune level. The report identifies three key vulnerabilities:

- limited involvement of local people in critical parts of the commune investment schemes;
- generally poor accountability and financial documentation mechanisms; and
- weaknesses in local infrastructure scheme monitoring and supervision.

In addition, various local and international consultants have recently been involved in evaluation efforts of various aspects of P-135 under the aegis of the seven ‘Technical Design Working Groups’ (TDWGs) set up in 2004 to support the technical design process of the NTP-PR (2006-10). In general, the findings of these reports corroborate the findings from the Taking Stock report as well as other earlier findings that pointed to local capacity constraints in monitoring and supervision, flawed procurement practices, as well as public participation challenges in critical phases of the local project cycles.

Our team thus went into the field with the general hypothesis that the institutional arrangements for P-135 had several vulnerabilities for corruption in small-scale infrastructure subprojects.

Desk Review of Scheme Management and Financial Reporting under CPRIP and P-135:
(a) Scheme Management: In instances where the commune is the project holder there is a Project Management Board (PMB), made up of a chairman or deputy chairman of commune People's Committee, an accountant, and a technical person. Separately, there is also a Project Supervision Board (PSB), which includes the chairman or deputy chairman of the People’s Council, representatives from mass organizations. In theory, the PSB is supposed to be independent from PMB, even though in practice the two work almost hand in hand. Likewise, the commune PMB works closely with district People’s Committee and other functional departments in the management of the project.

We found great consensus among commune officials, villagers and the majority of district authorities about the advantage of commune ownership of investment schemes, if only to “ensure better quality and progress of the scheme” as quoted by a communal official in Phu Son commune, Tinh Gia district. “The district is too far away and their monitoring is loose and irregular.”

(b) Financial Reporting: The budget of program 135 is largely managed by the district office of the central government’s treasury system. Most of the local authorities as well as the villagers informed us that they were quite familiar with the budget allocation mechanisms for P-135. Each commune receives 500 million VND per year regardless of the total population,
or the number of poor families that reside in the commune. P-135 allows commune to combine the budget of two or three year to invest in a bigger projects, should they so desire.

The district treasury is involved in the project cycle after the design of the planned investment has been approved and the contractor has been selected. A complete set of project documents is sent to the investment management arm of district treasury for financial monitoring and management. The treasury then maintains close communication with the PMB about the progress of the project. All necessary documents needed for fund disbursement are sent to treasury. It is important to note that by law, the treasury is not required to check the actual work but only the completion of the financial reporting documents. However, when there is some “abnormal” request regarding fund disbursement, the treasury can check the fieldwork should it so choose.

**Vulnerability to corruption (and potential for waste):**
Vulnerability to corruption in this stage is quite high due in part to a combination of factors:

- the limited transparency in financial matters;
- a disparity between ownership of projects and all financial matters; and
- a general lack of real independence from the technical companies hired by the PMB to monitor the critical stages of construction.

"They need some more years to get used to the infrastructure management and build up their capacity." – District authority in charge of P-135, Tan Ky district.

"If the capacity of the commune officials is weak, give more training to them; increase the support from district technical staff and allow villagers to participate." – Communal authority, Phu Son commune, Tinh Gia district (in response to district concerns of local capacity.

"It takes so long for the district to approve our year two investment plan. We have submitted our proposal for more than one month but no work has been done though it should have taken only 10 to 15 days by law. When we asked the..."

Because the financial management and reporting of P-135 schemes are highly dependent on skills of the local accountant, whose numbers are rarely checked or questioned, there is additional susceptibility to corruption.

Furthermore, the closeness of individuals from schemes’ PMB and PSB often negates the ‘independence’ that exists between them on paper.

(a) Scheme Management: A provincial PMB managed all the CBRIP projects we visited. Under CPRIP, the PMB has four components: a management office, finance and accounting, monitoring and evaluation, and community trainers. There is no PMB at the district level but a technical support group that provides technical training to communal level together with provincial community trainers. At the communal level, a management board (PMB) is established with the representation of communal authorities and two elected villagers from each village; the board acts as project owner. This management board elects a separate project supervision board (PSB) to provide daily monitoring of the construction.
Several dedicated Government decrees on bidding and procurement delineate the regulations and procedures used in Government investment programs for small-scale investments at commune level (such as under P-135). The key document is the Procurement Regulation Decree (No. 88/1999/ND-CP) whose purpose was “to enforce a uniform management of procurements of consultants, goods, works, and selection of investors for implementation of projects or parts of projects” in Vietnam. Article 1 of the decree lays out the spirit of regulation by emphasizing among other things that (a) the purpose of procurement works should be to select appropriate bidders through a “competitive, fair and transparent process to ensure economy and efficiency of the project;” and (b) any procurement cycle should include the following steps: “pre-bid preparation, bidding, bid evaluation, review and approval, announcement of award, negotiation and finalization of contract and contract signing.”

Chapter V of that decree specifically deals with the procurement of “small packages” (i.e., goods or works less than VND 2.0 billion in value) and lays down four general principles. First, only enterprises that are located in the concerned province or cities under central management are eligible to bid for any of the small works (The only exception is for state corporations (or ‘general’ corporations) and their subsidiaries). Second, when the number of such qualified potential bidders is less than 3, bidders from outside of the province are invited. Third, if a package is technically complex, then central government corporations (referred to as ‘general’ corporations or their subsidiaries are invited). And fourth, all bids have to follow a single envelope bidding process as summarized below.

1. **Bidding Procedures**: The procuring entity for a particular work (or consultants hired for the purpose) are responsible for (a) the preparation of the bidding documents; (b) the direct invitation for bids or advertising invitation for bids; and (b) the receiving, opening, evaluating and ranking of the bids. Subsequent reviews of the bids and contract signing, may or may not necessarily be done by the procuring entity, consultants.

2. **Bid Documentation**: Bidding documents prepared by procuring entity are required to not only be simple and clear, but should also include the following: (a) a letter of invitation for the bid; (b) the technical specifications and instructions and implementation schedule (if the bid is for the procurement of goods) or, the technical design with approved bills of quantity, technical instructions and implementation schedule (if the bid is for civil works); (c) the bid evaluation criteria in technical terms; and (d) the type of bid and performance security.

3. **Bids**: Bidders are required shall ensure correctness and feasibility and all bids have to include (a) a bid form, copy of business licenses, bid security; (b) a technical proposal and implementation schedule; and (c) the bid price.

4. **Bid Evaluation**: The only bids evaluated are those that are determined to not only fulfill the provisions in (3) above, but are also deemed to be generally error-free. Furthermore, a bid is ineligible for evaluation if its price exceeds an approved estimated price. The bidder whose bid is responsive to technical requirements specified in the bidding documents and has lowest evaluated price (after any error correction and adjustment of deviations in accordance with bidding documents), is recommended for contract award.

5. **Bidding results**: The decree requires that all bid results be subjected to review and approval by competent person or authority and, that the successful bidder be invited by the procuring entity for negotiation of contract finalization and signing.

6. **Bid and performance securities**: For those awarded the contract, the requirement is that bid and performance securities should be equivalent to 1% of bid price and 3% of contract price respectively and the procuring entity may request these securities in a fixed amount.
Box 4.4: Practice of and Views on Limited Bidding and Contractor Selection

In CBRIP projects, the commune PMB is responsible for the selection of the contractor and the process usually unfolds this way:

About 3 to 5 contractors are invited to submit bids for each investment scheme. The actual contractor selection takes place at a communal hall with the participation of the majority of villagers in the respective commune, including members of the commune management board. Based on a combination of the capital capacity, planned implementation duration, commitment to quality and cost expressed in the bids, the coordination board then selects the most appropriate company for the work.

Village heads in Tinh Gia district that the team talked to are very happy with the selection process as one said:

“We prefer bidding to direct appointment of contractor. The contractor appointment has so many risks to corruption. You could give the contract to your relatives, your friends, your colleagues, your ‘umbrella’ or just your ‘relationships’. Bidding, even selected bidding, is more democratic and more transparent which enhances the trust of the villagers and increases their participation in the implementation of the project.”

Several others disagreed with such positive sentiments however and specifically took issue with the fact that the selection of the contractors within CBRIP is subject to approval by the district level. Said one representative:

“In fact, I have to say frankly that the normal way of choosing contractor is under signal from above, we chose 2 or 3 out of 5 and the final decision from district. There is no reason why the commune level ought not to be given a direct hand at deciding which contractor to do the job.”

Indeed, one of the challenges that communal PMBs face in contractor selection in both P-135 and CBRIP projects, is a lack of information about the capabilities of bidding companies. Almost all of the bidding companies are located at the provincial and district centers and PMBs very often don’t have much access to information about contractor capabilities and/or history. Thus, commune PMBs usually have no other choice but to judge the capacity of the various contractors indirectly by inquiring about their “reputation” (Does the company have experience in building similar schemes elsewhere? Do it have a good record with regards to quality? Do they look good in their profile on record? Do they have enough financial capacity to carry out the work without advance payments? Sometimes, the communal PMB will even visit a construction project built by a prospective company.

According to most PMBs, if two companies have the same capabilities they would favor the local company. This practice does not follow national guidelines, but is entirely ‘local policy’ by commune authorities as it eases local authorities’ influence if something bad happened.

One commune authority in Tan Ky district referred to limited bidding as a learning process:

“The only information we have about the contractors is the list of eligible companies provided by province. In the first year, we selected rather randomly by looking at their experience and profile. We gave the contract to build a school to company that has built a lot of schools. By limited bidding, we could save 4-5% of total cost of the construction. Now, we are more confident in the process of limited bidding. I am sure that contractor appointment is vulnerable to risks – tiểu cực.”
Box 4.5: Financial Reporting for a P-135 Project in Tinh Gia District

According to the director of Tinh Gia district treasury, the district has a better capacity to prepare the documentation for fund disbursement than the communes do for the financial reporting under P-135. In his opinion, whenever the ownership of the P-135 programs was transferred to commune level, the treasury has to spend more time assisting the respective commune PMB to complete the necessary documentation. He estimated that about 70% of the requests he handles are returned for supplemental documentation—something that in his unnecessary paperwork. He pointed out that the quality of construction in any P-135 investment scheme largely depends on the monitoring by villagers and the respective commune PSB rather than on the paper work his office handles. He thus thought that it is better to transfer the ownership of P-135 to communes given the local accountability that the PMB, PSB and villagers exercise, and which in turn, can help reduce fund leakage.

For its part, the commune PMB found no difficulty in working with the district treasury, and in fact, expressed only appreciation for the support they receive from the treasury, particularly in documentation for payment, fund disbursements, and so on.

(b) Financial Reporting: The fund allocation mechanism under CBRIP is different from that in P-135. First, the amount that any commune receives depends on the total population of the commune and can even be divided up according to villages at the discretion of the commune management board. Second, CBRIP guidelines do not allow for annual funds to be combined into larger pots to invest in bigger schemes that exceed their annually allocated funds. Almost all the commune authorities we met complained about this rigidity. The box to the right gives a flavor of the sort of typical complaint we heard.

All funding for CBRIP projects goes through a separate CBRIP accountant at the commune level. First, the accountant has his numbers checked at the district office of the State Treasury before getting the necessary documents approved. Then the Treasury authorizes the transfer of funds to the commune account from where it can then be transferred to contractors. Whereas the process is relatively straightforward, it is longer and more complicated than the comparable process in P-135.

As is the case with P-135 schemes, we also found that the vulnerability to corruption at this stage of CBRIP projects is quite high, mostly due to potential collusion. For example, the ‘independent’ technical companies hired by the PMB of the various CBRIP subprojects to monitor the critical stages of the construction in are a show a potential vulnerability to corruption, to the extent that such technical companies may not really be independent from the contractors or other interested parties. Furthermore, the management and financial process are highly dependent on skills of local accountant—an official whose numbers are rarely checked or questioned. Elsewhere, the technical monitors in the CBRIP subprojects also represent potential waste in that they often are not provided enough financial incentives to actually
carry out their duties in a timely and efficient manner—something that can result in delays and poor construction.

E – Monitoring and Evaluation

Under P-135, ‘independent’ consultants monitor the technical aspect of individual schemes. The technical consultants come from district functional department (for example, the Industry and Commerce department in Tinh Gia district and the Infrastructure and Technical department in Tan Ky district). In cases where the consultants were members of the district PMB as in Tan Ky, they got an allowance from the 135 management budget, although the we were informed that there seemed to be an inadequate supply of such consultants considering they were very rarely present at the project scene and often had to be coaxed to come.

In the case of CBRIP, some 2 percent of scheme funds are dedicated to the ‘technical’ supervision of the various infrastructure schemes—an proportion that we were informed is generally enough even in large communes with large population that are not easily accessible by road. As is the case under P-135 however, there are no dedicated ‘community’ supervision funds under CBRIP. The capacity, determination, and sense of duty to community are instead the key motivators for the community monitoring. Because what determines these qualities is unclear, there is wide variation in the nature and quality of community supervision. (See Annex 4.4 for a summary of differences in the management and monitoring financial incentives under P-135 and CBRIP).

In general, district technical staff supervise all construction works. Additional supervision is carried out by the Commune Supervision Boards and, in instances of ‘technical’ issues, by technical supervision contractors. Typically, commune and district officials have responsibility for final checks and approval of the various works before delivery by contractors. As such, effective technical supervision is one of the main determinants of any vulnerability to corruption at this stage in the project cycle.

All project communes have Supervision Boards at the commune level who have undergone various levels of training. There was keen and active local participation in almost all communes we visited, perhaps because community supervision responsibilities seem to confer social status in the communities visited.

While this stage is in general less vulnerable to corruption than are the other stages previously described, there are both similarities as well as some significant differences in the monitoring and evaluation of community schemes under the two programs.

Desk Review of Scheme Monitoring and Evaluation under CPRIP and P-135:
As stated above, we found much local experimentation in monitoring mechanisms under P-135 than one would expect. (See Box 4.8, for example). A critical factor was whether the district or commune was the project holder: in the latter cases, there was greater local involvement, particularly by village heads and even ordinary residents. The team registered greater community dissatisfaction with the monitoring and evaluation process when the district was the project holder. Where the district was the project owner, community leaders pointed to difficulties in close monitoring of project implementation and thus, quality. Incentives for close monitoring by villagers may be weak where the ability to lodge complaints effectively at the local level is limited (see box 4.7 for a case in point).

In CBRIP projects, the district and provincial training units of CBRIP train village headmen on the reporting procedures to their respective villages including on the design and cost estimation of the community infrastructure investment. On average, there are about 3-7 village meetings held throughout the life cycle of various CBRIP projects we visited. Under CBRIP guidelines, villagers have the right to monitor the contractor’s work throughout project implementation (e.g., checking the quality and quantity of materials such as soil, sand, cement, height and depth etc). At times villagers will elect two or more people to monitor the work regularly on everyone’s behalf.
Box 4.6: Project Management and Monitoring in the Mountain Rural Development Program

The difficulties encountered in the introduction of village-level participatory planning and monitoring and evaluation in SIDA’s Mountain Rural Development Program is instructive. An extensive review (Jorgensen et al., 2001) emphasizes (as did chapter three above) the salience of governance and institutional constraints:

“The VDB [Village Development Budget scheme] was ambitious in its intentions considering the administrative culture in which it was set in motion. Accordingly, a number of obstacles emerge from the very outset. First, it was difficult to get information across to middle levels about the new purpose of the scheme and it was seen as more or less ‘business as usual’ or at best as a technically change more than a scheme with a democratic component. Neither was the villagers properly informed about their rights to decide about the new village plan. Often they did not know that they were to make decisions let alone knowing what to decide about. Marginalized groups, particularly poor households and women, were particularly neglected. The reasons should be found in a double-sided distrust between villagers and higher levels. Villagers and local institutions tend to see the traditional role of village meetings as top-down institution for transfer of information and the ensuing popular lack of trust in village meetings. Commune and higher-level officials have on their part difficulties trusting the villager’s ability to make decisions. This is even the case with natural resources management, where communities in the research area were known for their traditionally sustainable management of water and forest resources. During the period of implementation, subsidies were purchased and distributed much the same way as they had been before, i.e. mainly at district level. In practice it appeared to be administratively difficult to purchase cross breed seeds, trees, and fertilizer at a village level. The construction work was the area where villagers could have more influence and also contribute with work force and other inputs. Even here, the higher levels interfered and wrested the initiative from the villagers and the Village Management Groups. No systematic local monitoring was carried out.”

The authors note achievements as well, notably that “there is a growing awareness of people’s rights and they voice their demands more than before.”

After contractor selection, the commune coordination board elects a monitoring board. Together with PMB, PSB everyone is then trained in the management and technical aspects of the project. The monitors also receive a small allowance of approximately 10,000VND per day or 500,000 VND per construction, taken out the 1.7 percent project management fee as we found in Giai Xuan commune. According to villagers in Phu Son commune, Tan Ky district, the election of PSB by villagers was very significant as it was the first monitoring board that had been elected directly by villagers.

Nghe An provincial authorities believe that up to 50 percent of the success of CBRIP is attributable to the training given to communal PMB and PSB, even though the actual costs for such training accounted for only 5.7 percent of the total project costs. In particular, commune authorities were more conversant with investment proposal preparation, and in basic finance and budget management.

Vulnerability to corruption (and potential for waste):
There are relatively low corruption risks in this stage in both P-135 and CPRIP infrastructure subprojects in comparison with other stages. The basic problem seems to be a lack of real incentives for local people and lower level political officials to spend the time and effort required to properly oversee these local schemes. That contractors can potentially pay ‘technical’ supervisors for their signature without a real inspection cannot also not be ruled out completely.

Summary
This chapter has presented several stages in the program cycle. Several conclusions stand out from our examination of the program literature surrounding two project case studies – P-135 and CBRIP – together with exploratory field analysis in two provinces, Thanh Hoa and Nghe An.
First, the two programs have significantly different designs in some areas; the project cycle unfolds in different ways for each project. This is despite the fact that they draw on similar precursor experiences, and have broadly similar target populations, areas of investment and objectives. Some of the design differences highlighted in this chapter are summarized in the first two columns of table 4.2).

As noted in column three of the table, each stage in the project cycle ‘tests’ multiple types of accountability relationships posited in our framework – hierarchical (or upward, to higher levels of government), horizontal and democratic (or downward, to the people). The second finding is that program design differences matter in that they help structure how vulnerable each project is to corruption. For example, the close monitoring of works by community members is a helps reduce the risk to corruption in the monitoring stage – i.e. for meeting the test in column three - as compared with arrangements found in P- 135.

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**Box 4.7: Monitoring and Complaints Mechanisms in a P-135 Community Project**

In a P-135 project in Tinh Gia district’s Tan Truong commune, villagers elected three members to form a village-monitoring group to supervise the construction along with members of commune People’s Supervision Board (PSB). Each member of the village monitoring group receives 15,000 VND as a daily allowance for their work. The commune People’s Committee (PC) approved the village monitoring board and authorized the board suspend the implementation of the work for a day if they determined that something was wrong. The contractor was informed about the nature of the village monitoring group before work on the community scheme commenced. As part of their job, the village monitoring had a copy of the work design as well as some simple indicators to monitor the work of the contractor. The monitoring group were to report to the commune PSB, the PMB, and the contractor about any misuse of materials should they have spotted any. Any complaint filed against the contractor would, at least in theory, compel the commune PMB to take appropriate actions after consultation with PSB.

Individual monitoring was also encouraged and mobilized in some cases. Before the start of the project, the village head convened a village meeting to present the project design, cost estimation, and purpose. Afterwards, any villagers interested in the work were free to visit the field during project implementation.

In theory, any concerned villagers about the project could report to the village monitoring group. However, in reality there have been virtually no such reports in this (as well as any of the other village or commune we visited) – a finding that can be interpreted in a variety of ways.

There is much difference between official and unofficial practice when it comes to dealing with complaints from members of the community. A villager is required to make his or her complaint in writing and anonymous complaints are not followed upon. After the written complaint has filed, the commune management board convenes to discuss the problem and decide if they are authorized to solve the problem. If they decide that they are not or cannot resolve the problem with whoever is complaining, then the complaint is supposed to be passed on to the district level. However, political and social considerations seem to prevent any villagers from complaining in such a formal manner, thus giving a false skewed picture about complaints.
<table>
<thead>
<tr>
<th>Stage</th>
<th>Program design characteristics</th>
<th>The Test: Accountability relationships tested</th>
<th>Findings: Corruption risk levels</th>
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<tr>
<td><strong>Project identification</strong></td>
<td>- Differentiation between district and commune as project owner</td>
<td>Hierarchical: Stable funding framework and fiscal transfers; fostering collective ownership at the local level</td>
<td>Low, but heavily dependent on degree of community participation in design.</td>
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<td>- No direct consultations at the village level</td>
<td>Democratic: Inclusive local planning process</td>
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<td>- Beneficiaries are supposed to contribute 10% of the project budget either financially or physically.</td>
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<td><strong>Design and planning</strong></td>
<td>- Reliance on pre-approved lists of scheme design and planning firms and 'technical' consultants from province.</td>
<td>Horizontal: Coordination of technical inputs and oversight to prevent collusion and ensure procedural compliance</td>
<td>Relatively high, particularly where district remains project holder. Higher in P-135 than in CBRIP.</td>
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<td></td>
<td>- Reliance on district functional departments for scheme design and cost estimation before approval by People’s Committee (PC).</td>
<td>Democratic: Monitoring procedural compliance, articulation of local preferences</td>
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<td><strong>Bidding and contracting</strong></td>
<td>- In schemes where commune is the project holder, the commune PMB will select three contractors to propose to the district PC.</td>
<td>- Commune PMB prepares documents inviting 3-5 construction firms to join the limited bidding list.</td>
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<td>- District PC then selects one of the contractors to send to the provincial PC for approval.</td>
<td>- Commune PMB then selects contractor</td>
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<td>- In schemes where the district is the project holder, contractor appointed directly by the district PMB.</td>
<td>- Commune PMB gets approval from district PC before sending an official offer letter to the selected contractor.</td>
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<td><strong>Management and financial reporting</strong></td>
<td>- Where commune is the project holder, commune project management board works closely with district authorities in the management of investment scheme</td>
<td>- Provincial PMB manages key CBRIP processes (management, finance and accounting, monitoring and evaluation, and community trainers).</td>
<td>Moderately high, due to high complexity and limited transparency in financial matters; and disjunction between responsibility as project holder and decision-making authority (still at higher levels).</td>
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<td>- Project supervision board (commune PSB) supervises scheme implementation and oversees district technical staff.</td>
<td>- Technical support group that provides technical training to commune level together with provincial community trainers.</td>
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<td>- Where district is project owner, district level PMB establishes and works together with a commune level PSB.</td>
<td>- At the commune level is a management board, PMB, established with representation of commune authorities, and two elected villagers from each village and they act as project owner.</td>
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<td>- Budget of P-135 managed by central-level district treasury officer 'independent' from the district PC.</td>
<td>- Commune management board elects a separate project supervision board to provide daily monitoring of the construction.</td>
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<td>- Provincial finance department transfers annually all earmarked P-135 funds to the provincial treasury, after which monies are transferred to the district treasury.</td>
<td>- All CBRIP project funds administered by separate CBRIP accountant at the commune level, supervised by district Treasury officer.</td>
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<td><strong>Monitoring and evaluation (M&amp;E)</strong></td>
<td>- Some funds set aside for program management but amount at discretion of scheme PMB</td>
<td>Hierarchical / horizontal: Coordination of implementation process across levels of government and implementing agencies; cross-checks for procedural compliance</td>
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<td>- No dedicated funds for either 'technical' or 'community' monitoring.</td>
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<td></td>
<td>- Regardless of whether the district or commune is the project holder, commune-level PSB supervises scheme implementation as well as overseeing district technical staff.</td>
<td>All villagers typically have the right to monitor the technical aspects of contractor's work and routinely do.</td>
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<td>- Village heads, usually part of the commune PSB, play critical role in scheme implementation supervision, particularly in daily monitoring of equipment and materials.</td>
<td>- Villagers also elect two persons to monitor the work regularly on behalf of the entire village.</td>
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<td>- 'Technical' supervision of the investment scheme carried out by 'independent' consultants.</td>
<td>- After the contractor selection, commune coordination board elects PSB, which, together with PMB, is trained on management and technical aspects of the project.</td>
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<td>- 'Technical' aspects of the schemes monitored by trained 'independent' consultants.</td>
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Table 4.2 Descriptive Summary of Fieldwork Findings
Third, we found that different localities implementing the same program (particularly in P-135) achieved different levels of functioning of their program designs and accountability relationships expressed therein. This emphasizes that the ‘test’ noted above is for how the accountability relationships work in practice, not just on paper. This opens up the possibility that formal rules and design features will differ from actual implementation.

Box 4.8: Monitoring of Technical Aspects of P-135 and CBRIP Projects

Whereas community monitoring focuses mainly on daily monitoring of equipment and materials, the monitoring of the more ‘technical’ aspects of the projects focuses on engineering and safety quality. In both P-135 and CBRIP projects, such ‘technical’ monitoring is done by “independent,” trained consultants.

In P135 program, the technical consultants come from district functional departments such as the Industry and Commerce departments (as was the case in Tinh Gia district), or the Infrastructure and Technical department (as was the case in Tan Ky district). In Tan Ky, there are only 3 technical staff responsible for all state management responsibilities and technical support to P-135 projects in the entire district. As the result, their work sometimes did not meet the requirements of the program and the expectation of commune people.

In CBRIP, 2 percent of the total cost of a project is used to hire an independent consultant to monitor the technical aspects of the works. The consultants visit the field at critical stages of the work. More often than not, the consultants are not local but from the district—something that does not sit well with local communities. Furthermore, because these technical or design companies are normally located far away from the actual construction their representative very often only show up only at the beginning and end of a project.

Fourth, two specific factors heightening vulnerability to corruption in the various stages of small-scale works projects deserve further attention. In the area of bidding contracting, current procedures are quite complex and at times difficult to navigate. In the case of CBRIP and other donor-assisted projects, that situation is further complicated by the fact that sub-national authorities have to implement projects in accordance with standards and procedures that are different from the Government regulations and practices.

Another is limited capacity and weak incentives to use existing capacity. In many communities, capacity and training for physical and technical supervision, and for project accounting at the district and commune levels, are still inadequate. Some of this may be attributable to lower average educational attainment at lower levels of government (particularly in mountainous areas). But the experience of CBRIP suggests this constraint can be bridged with significant investments in training and a consistent approach to empowering the commune level as project owner.
5 – Conclusions and Discussion Platform

Various specific mechanisms as well as broader institutional approaches have been put forward to combat and prevent corruption in public infrastructure schemes, whether small or large. The perception has long been that the only way to counteract corrupt practices is through stricter law enforcement and higher penalties, both imposed through improved ‘vertical’ control of local implementation. However necessary this approach is, it is often unable on its own to address systemic corruption, and arrives late, after too much damage has been caused. It is important to think of ways of preventing corrupt behavior by giving actors the opportunity, the incentives and the sense of urgency to combat it.

Systems and procedures drawing on the principle of transparency can be among the most effective mechanisms for preventing corruption in small-scale infrastructure programs. Transparent systems and procedures promote accountability, facilitate oversight and citizen participation and bring legitimacy to local government decisions. In that sense, transparency enables accountability mechanisms of all types – hierarchical, horizontal and democratic – to function more effectively.

This section brings together some of the main implications arising out of our analysis for the further strengthening of transparency and anti-corruption mechanisms in small-scale infrastructure programs. The implications of our analysis go beyond the issue of corruption itself, largely because it is impossible to separate out corruption concerns from more general program design issues. The chapter is divided into two sections: the first examining recommendations specific to each stage in the project cycle, and the second looking at broader issues of overall program strategy and management capacities. The discussion in the second part revolves around the current design efforts surrounding the Program for Socio-Economic Development in Mountainous Areas (SEDEMA). The SEDEMA is a national target program that will follow-up on the P-135 for the period 2006–2010, and which is meant to draw on a range of program experiences to date. The recommendations discussed have relevance for future program efforts in small-scale infrastructure and community-driven development more generally.

A - Project Design: Issues and Options

Chapter 4 reviewed various vulnerabilities to corruption throughout the project cycles of the small-scale infrastructure projects in nationally-implemented poverty alleviation programs. Several issues repeatedly emerged in both the review of project experiences and field-level discussions with the various local stakeholders in the P-135 and CBRIP project communities. Below is a brief set of possible project stage-based recommendations. Table 5.1 summarizes the recommendations below along with potential constraints and possible level of difficulty.

**Scheme identification**

- Developing some simple and dedicated ‘vertical’ monitoring mechanism to document and check how scheme selections are actually carried out would vastly strengthen existing ‘vertical’ accountability mechanism. For instance, simple ‘to do’ books could be introduced, such as the one routinely used for the commune supervision boards in the CBRIP projects we visited, where one person (approved by others) can check off or make simple recordings of village meetings that took place, the number of votes of each proposed investment project, the number of beneficiaries, and alternatives that were discussed.

- Special effort should be put into not allowing such a mechanism to develop into (or is seen as) an unwarranted addition to the paper chase—something that should not be difficult.

**Scheme design and planning:**
▪ Giving commune-level project management boards the responsibility for the selection of the scheme design firms, preferably via more competitive bidding (however limited). This would strengthen the independence between designers and contractors. Along the same lines, design companies should be selected from lists independent of contractor lists, which is currently not always the case.

▪ To increase democratic accountability at this stage of the small-scale projects, villagers should be given the right to select their respective investments the way it is currently done under CBRIP. Likewise, design firms should be encouraged to work with villagers if only to take into account grassroots preferences in scheme design. Decision 80 of the Prime Minister on community supervision of investment projects should more specifically outline community participation mechanisms in the selection and design of projects rather than its present focus on implementation and handover supervision.

- For both the suggestions above, there is a possibility of opposition from district and provincial authorities. However, such opposition is probably not that high.

Bidding/Contracting:

Bidding and procurement for small and large works always presents significant risks for corruption, collusion and fraud because they involve the administration of complex contractual relations among different entities. In general, the likelihood of unethical practice is increased the larger the value of the intended procurement. Procurement regimes the world over resort to a variety of mechanisms and policy instruments to curb such corrupt practices.

Today, most procurement specialists agree that competitive public bidding greatly reduces the risk of corruption to a great extent. In general however, competitive bidding is most useful in high value—low volume procurement tenders as it normally entails long gestation periods particularly when it comes to publicity the media and the contracting process. It is mostly for this reason that competition is often waived for procurement for small [value] works. Likewise, the procurement of goods and services is sometimes limited to a small number of suppliers and contractors with a much shorter procurement cycle and normally involving less stringent guidelines compared to higher-value works.

Thus, specifically targeting this segment of the project cycle and institutionalizing a significantly higher level of scrutiny and oversight, particularly with cost estimation and contractor selection, can go far in preventing institutionalized corruption in small-scale infrastructure programs.

▪ To increase both ‘vertical’ and ‘downward’ accountability, communes and villages (as opposed to districts and/or provinces) should be given the right to select contractors via open (or even limited) bidding. To ensure that this is done effectively, assistance from technical staff external to the government could be instituted if only to assist commune in the first few years of conducting such bidding.

▪ Likewise, a more robust enforcement by the relevant authorities of the existing guidelines on bidding would advance both ‘vertical’ and ‘horizontal’ accountability.

▪ Greater transparency in contractor list compilation at the provincial level would greatly reduce collusive bidding. For example, we know that even though the individual contracts in the P-135 investment schemes are decided based on limited bidding, an open and competitive local “qualification selection exercise” could be instituted say, once in year to generate a sufficiently large vendor base which would offers a wider range of choices in vendor selection. Such an arrangement is an essential ingredient in combating the sort of local cartel formation and collusive bidding observed in some of the small-scale infrastructure projects in Vietnam. Such collusive behavior in a given region can be partly overcome by selecting a different panel of contractors each time or, by increasing the number of selected vendors to include contractor belonging to say, different communes. Such a contractor
qualification selection arrangement could be called for at least once annually and must be well advertised throughout the province so as to give sufficient time for interested firms to participate. The selection from among interested parties should be done according to the required financial/technical capability but on a pass/fail basis (as opposed to say, a merit point basis) so as not to favor those contractors with past community infrastructure experience. The overall idea is to prevent the contractor registration arrangements at the provincial level from ossifying into a barrier to entry of prospective firms.

- A clear and unambiguous debarment policy for defaulting contractors or the contractors engaged in related unethical practices. For example, deterrence for collusion or corruption could result in debarment for at least one year from all community infrastructure projects. Care should be taken such that the debarment is not merely restricted to a particular firm’s legal entity but also all its ‘sister’ concerns. Identification of sister companies is possible only if the list of registered/approved contractors kept at the provincial or district level has full details about the contractor (e.g., firm name, full postal address, names of the owner/proprietor/directors etc). In addition, detailed lists of registered contractors should, at the very least, be displayed prominently outside the provincial offices and updated every say, 3-6 months intervals. That information should also be made available to both district and commune authorities as it updated. It is when the commune authorities as well as villagers notice the details of names of the owners that they can identify the sister concerns and make the necessary reports, when required.

- Again, there is a relatively high possibility for opposition from district and provincial authorities for any or all the suggestions above.

- While short listing for a particular project/sub-project, the number of contractors should not be restricted to just three if more eligible contractors are available on the registered list at the province. Collusive bids appear when the same panels of contractors get invitation to bid, project after project after which they can very easily tacitly agree among themselves to fix rates above the actual market rates. Changing the mix of these panels and including new comers (preferably from different parts of the province) can help deter such maneuvers and re-establish the market benchmark rates. Even cartels try to develop later on; they would face considerable trouble in fixing prices as the combination of expanded vendor panels and bid rotations would minimize the risk of collusive bidding.

- Another simple but potentially effective transparency measure across the ‘vertical,’ ‘horizontal,’ and ‘democratic’ accountability dimensions would involve prominently displaying at major access locations (district office and/or community bulletin boards/PMU offices, etc.) the salient information related to a particular scheme award (including the names of the unsuccessful bidding firms) within several working days of awarding a contract. This is consistent with Prime Minister Decision No. 80, but would put the onus to a greater extent on the contractors and managers of schemes to make information regularly available in predictable ways before being requested to do so.

- One of the most important aspects of developing an anti-corruption framework in small-scale community infrastructure projects is to create motivational deterrents against perpetrators of corruption. Although there is a currently a formal system of complaints and denunciations theoretically operable at the local level, developing an independent, centralized system of complaint handling where all activities related with complaints (complaint registration, complaint processing and investigation, etc). Such a system should be staffed by entities independent from the procurement and project administrative chain.

- Additional and more regularized training and retraining is needed for the various commune project management boards. Not only do these management boards have differing levels of capacity, but they typically also have high personnel turnover and
hence a higher need for retraining. Indeed under CBRIP and NMPPR, there are training courses in various topics essential for management work, including: community facilitation skills; capital investment and procurement procedures; financial management and accounting; community supervision; operations and maintenance of infrastructure; and agriculture extension that have been successfully developed.\textsuperscript{57}

- There are several possible constraints to the four suggestions above: the complexity of the bureaucratic coordination necessary to achieve them, coupled with limited resources. However, save for the suggestion to streamline the system of handling complaints, none of the suggestions above should be that difficult to implement.

Management and financial reporting

- Opportunities to increase the actual authority, rights and resources of commune management and supervision boards should be progressively explored and institutionalized. Greater decentralization should ideally be linked to an asymmetrical program design, with localities ‘earning’ the right for further devolution by fulfilling predetermined capacity or implementation performance criteria (explored further below).

- Such an arrangement could however, be face possible resistance from both district and provincial authorities for obvious reasons.

- Assigning a dedicated point person at the district level to be main contact person between the commune and the district would correct a seemingly small, but quite significant flaw in the current institutional set-up for community, small-scale works, particularly in P-135.

- Training in budget matters of sufficient depth and duration should be provided for commune and village authorities. Typically, these authorities have differing levels of capacity on budget matters. As indicated above, under CBRIP and NMPPR, there are training courses in various financial management and accounting topics that have been successfully developed.\textsuperscript{58} Indeed, the training provided by the CPRIP projects was generally considered to be of very good quality and was said to go a long way in improving significantly the technical and management capacities for communes and district personnel.

- The latter two recommendations would be relatively easy to implement as they would probably entail few constraints.

Monitoring and evaluation

Recommendations in this area are intended to strengthen Prime Minister’s Decision No. 80 on community supervision of investment projects. As noted earlier, this decision essentially empowers elected community supervisory boards to request certain kinds of information from both contractors and project managers, and to propose adjustments (including, in the extreme, suspension of schemes) when projects are inefficient or negatively impact on villagers. Strengthening such mechanisms requires measures to increase the capacity of community members to effectively supervise local schemes, and more effective enforcement mechanisms.

- Allocating a small percentage of project budgets for both monitoring and supervision work at community level and for the technical support from either district technical staff or independent technical monitors would strengthen existing ‘horizontal’ and ‘democratic’ accountability mechanisms. The desire to build in a token sum dedicated to monitoring and supervision work repeatedly came up in field consultations.

- The only possible constraints to this recommendation is limited resources, but otherwise, it is would not be difficult to implement.
• Approaches are needed to encourage greater participation by women on supervision boards; the current gender imbalance on many boards reflects a more serious one in local government itself.

• Likewise, consideration should be made for the creation of an elected position on the supervisory board for a villager or commune leader to act as a more formal liaison point between contractors and technical inspectors as well as to ensure that inspections are regular and comprehensive. Election may confer greater respect for the individual and his or her role, as is currently the case for village heads, leading to better incentives for performance in that role.

• Again, regular training in monitoring and evaluation of sufficient depth and duration should be provided for commune and village authorities, especially as these authorities usually have low levels of capacity in this area. CBRIP and NMRRP currently conduct the sorts of training programs that could provide lessons for any follow on program for P-135.

• Extensive public databases, perhaps posted on the internet or disseminated in other ways, on many aspects of project performance, would help facilitate access to information and increase the ability of communities and other ‘official’ monitors (like the State Inspectorate) to monitor the respective schemes.

  - This recommendation is obviously subject resource and capacity constraints.

• More efforts should be made to beef up and/or supplement in some fashion the role of the State Inspectorate, particularly at the district level, in monitoring the various small-scale infrastructure schemes. At present, their role appears to be negligible, perhaps largely because the average size of the projects is so small and thus flies under the radar of the Inspectorate.

  - A possible constraint on this recommendation would be indifference from local government officials.

• Consider introducing mechanisms to involve national and/or international NGOs in the monitoring of scheme implementation in some localities (for instance, by amending Decision 80 of the Prime Minister to include a similar ‘right to information’ for NGOs not based in the village itself). Note that this is frequently done in Indonesia and several other countries around the region in the context of World Bank-supported projects, including very large ones such as the Indonesia Kecamatan Development Project (KDP).

  - A potential constraint on this recommendation would be institutional reluctance.

**B - Broader strategic parameters**

In practice, specific configurations of program features in SEDEMA and other future programs emphasizing small-scale infrastructure will depend on many factors, and we have been far from exhaustive above. Much adaptation will continue to be necessary in Vietnam’s rapidly evolving institutional environment, and the broader question is how to ensure that the SEDEMA program is learning-oriented and strong management support systems. Three broad questions deserve careful consideration as the SEDEMA continues to be formulated.

1. **How can flexibilities be built into the program parameters?** This paper has emphasized the wide range in the degree of functioning of program features meant to support accountability arrangements at the grassroots level in Vietnam. The special implementation challenges faced by mountainous and very poor localities have also been highlighted. An important implication is that program design should be ‘asymmetrical’, decentralization of
management control and other program design features should depend on local contextual factors and readiness. This asymmetry could potentially extend to most of the recommendations noted above. As shown in Table 5.1 recommendations in each stage of the project vary in terms of how much and what type of local capacity is necessary to make accountability mechanisms functional. And many of these features can be introduced in incrementally.

The question is thus whether and how a few distinct packages of program designs can be introduced and applied to different clusters of localities. Those clusters could be based on geography, some specific diagnostic test (i.e. whether requisite capacities have been demonstrated) or past performance.

2. How can the program design help build in strong incentives for performance? A key lesson of this paper has been that incentives drive governance outcomes to a large extent. How can incentives be improved for upper level executives, for instance, to provide consistent oversight while facilitating forms of democratic and horizontal checks on their own power? What design features can encourage local People’s Councils and mass organizations to reliably monitor contract implementation?

One way of influencing incentives is to create consequences for performance, so that that various stakeholders will feel a compelling reason to begin to rethink engrained behavioral patterns and to shake up bureaucratic inertia. There are two ways of doing so in the context of local development funds like P-135 and SEDEMA that have not been extensively trialed through the various donor experiments and government programs to date.59

The first is to engineer mechanisms for local levels to hold higher levels accountable for the transfer of agreed-upon resources and facilitative technical assistance and services. This involves encouraging a subtle but extremely important conceptual shift. Many, perhaps most, of the investments a local development fund would seek to make must be provided in partnership with upper level (typically district) technical line agencies and/or private contractors. How responsive are these parties going to be to local demands? This will depend on the set of incentives facing these higher-level service providers. Incentives in this regard are likely to follow the funds transfer and performance indicators under the program. Effective ways of linking these should be explored further.
### Table 5.1: Summary of Project Redesign Recommendations

<table>
<thead>
<tr>
<th>Main recommendations by project cycle</th>
<th>Anticipated constraints</th>
<th>Difficulty</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Project identification</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Developing dedicated ‘vertical’ monitoring mechanism to document how scheme selections unfold in practice</td>
<td>- Could be seen as an unwarranted addition to the paper chase</td>
<td>- Low</td>
</tr>
<tr>
<td><strong>Scheme Design / planning</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Make commune-level project management boards responsible for the selection of the scheme design firms, preferably via more competitive bidding</td>
<td>- Possible opposition from district and provincial authorities</td>
<td>- Medium / high</td>
</tr>
<tr>
<td>- Design companies should be selected from lists independent of contractor lists.</td>
<td>- Possible opposition from district and provincial authorities</td>
<td>- Medium / high</td>
</tr>
<tr>
<td>- Villagers should be given the right to select their respective investment the way it is currently done under CBRIP.</td>
<td>- Possible opposition from district and provincial authorities</td>
<td>- Medium / high</td>
</tr>
<tr>
<td><strong>Bidding / Contracting</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Give communes and villages the right to select contractors via open (or even limited) bidding with assistance of technical staff external to the government.</td>
<td>- Possible opposition from district and provincial authorities</td>
<td>- Medium / high</td>
</tr>
<tr>
<td>- Institute mechanism to generate larger vendor base at the provincial level and regularly update that list</td>
<td>- Possible opposition from provincial authorities</td>
<td>- Medium / high</td>
</tr>
<tr>
<td>- Institute explicit debarment policy for firms implicated in collusive behavior</td>
<td>- Possible opposition from provincial authorities</td>
<td>- Medium/high</td>
</tr>
<tr>
<td>- Streamlining present system of handling complaints</td>
<td>- Bureaucratic coordination</td>
<td>- Medium/high</td>
</tr>
<tr>
<td>- More robust enforcement by the relevant authorities of the existing guidelines on bidding.</td>
<td>- Bureaucratic coordination</td>
<td>- Low / medium</td>
</tr>
<tr>
<td>- Additional and more regularized training in contracting</td>
<td>- Limited resources</td>
<td>- Low / medium</td>
</tr>
<tr>
<td><strong>Management / Financial Reporting</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Give commune management and supervision boards complete authority and responsibility in scheme management and decision-making.</td>
<td>- Possible opposition from district and provincial authorities</td>
<td>- medium / high</td>
</tr>
<tr>
<td>- Assign dedicated point person at the district level to be main liaison with the commune and the district.</td>
<td>- Few constraints</td>
<td>-Low</td>
</tr>
<tr>
<td>- Additional and more regularized training in contracting</td>
<td>- Limited resources</td>
<td>Low / medium</td>
</tr>
<tr>
<td><strong>Monitoring/ Evaluation</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Allocate dedicated funds for both the monitoring and supervision work and for the technical support from either district technical staff or independent technical monitors</td>
<td>- Limited resources</td>
<td>- Low / medium</td>
</tr>
<tr>
<td>- Create an elected position for a villager or commune leader to act as liaison</td>
<td>- Institutional reluctance</td>
<td>- Medium / High</td>
</tr>
<tr>
<td>- Diversify scheme monitoring avenues</td>
<td>- Relatively few constraints</td>
<td>- Low</td>
</tr>
<tr>
<td>- Institutionalize regular training in monitoring and evaluation of sufficient depth and duration for commune and village authorities.</td>
<td>- Relatively few constraints</td>
<td>- Low</td>
</tr>
<tr>
<td>- Encourage extensive use of public databases on many aspects of project performance</td>
<td>- Limited capacity / resource constraints</td>
<td>- Medium / High</td>
</tr>
<tr>
<td>- Beef up role of the state inspectorate</td>
<td>- Local official indifference</td>
<td>- Low / Medium</td>
</tr>
<tr>
<td>- NGOs to monitor implementation</td>
<td>- Institutional reluctance</td>
<td>- Medium / High</td>
</tr>
</tbody>
</table>
A second point is to link long-term program funding allocations to progress made towards reaching key strategic objectives of the program. Funding for each level should not be supply driven (i.e., “we have x-amount of money to distribute over a certain number of rounds to y communes and villages”), but rather linked in a meaningful way to results. This was a key factor behind the design at the macro-level of some rural development programs seen as innovative, such as Korea’s ‘New Community Movement’ (see box 5.1), and is routinely applied to the micro-level in areas such as rural finance, where additional funding is often linked to repayment rates in a pilot period. Doing this provides real incentives for localities to meet agreed upon objectives and standards of transparency and fund accountability.

**Box 5.1: Lessons from Korea’s ‘New Community Movement’**

One of the fundamental practical difficulties associated with decentralized poverty alleviation investments is how to value or reward successful poverty alleviation efforts planned and implemented by local cadres and communities. Some relevant lessons may be learned from the Korean Saemaul Undong (New Community Movement), a rural development program initiated in South Korea in 1971, when South Korea faced several rural development challenges similar in some ways to those facing Vietnam at present. The government initially distributed about 340 bags of cement to each of the country’s (approximately 35,000) villages. Villages were then evaluated on results, and in the next year, the government selected the 50% of these villages who had achieved the best results with their cement, and increased the gift to 500 bags of cement and one ton of steel rods. Each year, the size of government funding increased—but it was highly competitive, and rigorously evaluated. The Saemaul movement emphasized four key principles: 1) rewarding the best work, 2) categorizing villages by quality of work, 3) learning by doing, and 4) matching funds—the government only donated funds to villages that provided at least 50% of total resources (land, labor, money). This movement had the additional benefit of recognizing (through experience) the need for high quality villager leaders, and led to the establishment of leadership training institutes.

*Source: Fritzen and Nachuk, 2003*

One way the issue of incentives has been discussed to date is in terms of a possible “negative feedback loop between successful poverty reduction performance and future funding allocations [that] will create perverse incentives.” One suggestion to avoid this negative effect is to allow for greater flexibilities in program fund use in later years for those provinces that have more quickly reduced poverty; another is to link the promotion of provincial or district People’s Committee executives (rather than program funding) to poverty reduction outcomes. These appear to be promising approaches. The effect that we advocate above – making future rounds of provincial or district funding contingent to some degree on several key indicators (including some process-related indicators such as transparency, not just poverty reduction) – is likely to have even stronger effects on incentives.

**3. What kinds of information systems are necessary?** Strong information systems determine whether it is possible to have any kind of ‘asymmetrical’ program design and or to direct funding towards higher-performing localities. Information and its dissemination underlie the use of transparency to change incentives and behavior. The focus here is on how to develop indicators and identify reliable sources of information concerning the extent of program vulnerability to corruption and waste. As Transparency International has noted, “without systematic methods for measuring corruption in place, it becomes extraordinarily difficult either to assess areas of particular difficulty or to ascertain whether reform programs are, in practice, having a positive effect.”

The development of monitoring and information systems for large national programs has been recently analyzed in a comprehensive UNDP report, and it goes beyond the scope of this report to examine a potential M&E system for corruption and transparency – which face a number of special challenges in any detail. But in a 2004 report for the World Bank in Indonesia, we concluded that information systems of the World Bank as well as the Government of Indonesia were largely inadequate for assessing corruption risks, and that both substantial investments and experimentation in information systems development would be necessary to bridge the gap. The situation appears to be very much the same in Vietnam and for the national target programs.
Box 5.2: Experimental approaches that measure corruption directly: An example from Indonesia

A two-year, ongoing research project uses controlled, randomized experiments to examine the level of corruption affecting the World Bank-supported Kecamatan Development Project (KDP) in its road building projects and the effectiveness of certain anti-corruption interventions in reducing corruption.

The overall strategy for measuring corruption is to obtain an independent estimate of the amount actually spent on a project and compare it to reported expenditures. The study will do this by conducting a detailed, on-site engineering survey of the 600 of KDP villages that constructed village roads with a relatively uniform design. Engineers take 10 measurements of the depth and volume of each of the road’s various layers, estimate the volume of materials actually used in the project, multiply this by standard price estimates, and compare it to an estimate of the cost and quality of road materials obtained with no construction (in a controlled setting). From this information, fund leakage or a ‘loss ratio’ can be estimated.

Measuring corruption in this way is both expensive and only possible for some types of (highly comparable) project investments. However, the measure obtained can be considered a direct estimate of loss to corruption, more accurate than other available indirect measures. It can also be compared with measures of corruption that are more cheaply obtained (such as presence of complaints in a sub-project, or cost per unit km of road built) to determine how highly these measures are correlated.

Three measures are examined to see if they result in better complaints handling and more transparent decision-making: enhancing community participation and the availability of anonymous complaints boxes, and raising the likelihood of an audit. By adopting an experimental design – varying the likelihood of a project board experiencing an audit to 100% in some villages, for instance – an estimate of the marginal contribution of increasing investments in specific interventions can be obtained. These estimates promise tangible measurements of “what works” to reduce corruption that can be used to justify and to calibrate anti-corruption investments in similar projects.

Source: Sea-Change Partners, 2004

As the World Bank and other stakeholders consider what kind of monitoring and evaluation framework is necessary for corruption and process-related issues such as transparency in the SEDEMA, some general principles are worth considering. First, the system should build in multiple sources of information, some of which have not been systematically featured in Vietnam to date. Three potential sources of information will need to be tapped. The first is that generated through the routine audit, financial management and project assessment cycles; it tends to generate much information that is often not well synthesized to analyze potential corruption risks and early warning signs.

The second is information derived from participatory processes, such as citizen ‘report card’ type surveys and participatory monitoring and evaluation, which will naturally include issues related to program processes and local transparency. The suggestion to “establish a centrally-based process monitoring team to do a rolling sample survey of how provinces are addressing issues of transparency, participation, targeting and fiduciary risk” is an excellent one fitting this category. One might only note that such teams should most usefully be operationally established at the provincial level for districts as well.

The third source includes information derived from in-depth case studies and surveys specific to the transparency and corruption issue. Studies as that profiled in box 5.2 above promise the ability to track changes in corruption levels affecting a given project across time. They may, however, be quite costly to organize, and are also sensitive to design parameters and execution, both of which must be carefully considered and documented if meaningful conclusions are to be reached.

Table 5.2 below provides some examples of indicators drawing on the three categories of information sources that might be applied to small-scale infrastructure projects. It is only meant to be indicative; further work in this area is needed.
<table>
<thead>
<tr>
<th>Element of anti-corruption strategy</th>
<th>Potential leading indicators</th>
</tr>
</thead>
<tbody>
<tr>
<td>Enhanced disclosure of information</td>
<td>1. % of target group with knowledge of project information designated as critical</td>
</tr>
<tr>
<td>Civil society oversight</td>
<td>2. Stakeholders rating project transparency and accountability as improved over previous period</td>
</tr>
<tr>
<td>Complaints handling systems, sanctions and remedies</td>
<td>3. # and type of complaints received, by source 4. Response times for complaint resolution 5. % of significant audit findings in which there is substantial managerial action within six months</td>
</tr>
<tr>
<td>Policies to mitigate collusion</td>
<td>6. % of procurements meeting all best practice benchmark indicators 7. Average unit costs (e.g. VND / km built) per project, in relation to World Bank estimated regional benchmarks 8. Degree of variance between ‘owner’s estimates’ and winning bid amount</td>
</tr>
<tr>
<td>Enhanced financial management controls</td>
<td>9. # of audit irregularities listed as ‘significant’</td>
</tr>
<tr>
<td>Outcomes and impacts: Cost, quality, governance impact</td>
<td>10. “Loss ratios” assessed through special-purpose surveys and audits 11. Perceptions of quality of infrastructure / services provided by project, from range of beneficiaries, over time 12. Improvements in governance quality index relating to anti-corruption in local governments.</td>
</tr>
</tbody>
</table>

Collecting data and organizing it into such indicators would imply a considerable investment of human and financial resources. But it is arguably essential if meaningful learning about “what works” to reduce corruption in the Vietnamese context is to be gained. Making such a system “intelligent” implies a focus on several potential uses:

- Promoting ‘yardstick competition’ between local governments and spreading innovations locally;
- Focusing the attention of different actors onto the corruption and transparency-related issues, thereby changing their incentives (positive and negative) for action; and
- Encouraging the involvement of civil society groups (even mass organizations in Vietnam, ambiguously positioned between state and society) in the monitoring and evaluation process.

Summary

Figure 5.1 provides one way of schematically closing our discussion on the links between accountability relationships, government capacities and overall program design. It stylizes first the different levels of capacity to implement accountability relationships in the three areas that are central to this paper. Any particular local government could fall at different levels on any of these continua, although they are to some extent likely to develop roughly in tandem. In general, local governments that can be assessed as further along this continuum can be expected to implement more capacity-intensive reforms identified in table 5.1 above. One can further fine-tune this statement by saying that different reforms are capacity-intensive in different areas.

The bottom continuum, in turn, brings the donor perspective motivating the present paper back in. In institutional environments that show weak capacities for accountability, donors will in general attempt to maintain a high degree of control over their own activities and investments. In environments judged to be more developed, sector-wide approaches – implying as they do greater reliance on government systems and controls, in turn become feasible. With some donors moving towards a SWAp for the small-scale infrastructure sector, it is thought that Vietnam is perhaps ready for such an approach. While this may be true ‘on average’, in fact local government capacities in Vietnam are all over the spectrum, making a
SWAp in the context of decentralized, community-based programs challenging to say the least, and possibly problematic.

The success of a future SWAp will depend greatly on the learning orientation and management capacities Vietnam and its donor partners can jointly put into place in the coming years. As they do so, several tensions, which this paper has only been able to hint at, will need to be negotiated.

One is the appropriate balance to strike between top-down controls and oversight as opposed to the reinforcement of accountability relationships from the 'bottom-up' through the 'democratization' strategy? Too great an emphasis on the former – which is already the case in Vietnam’s approach to anti-corruption, as analyzed in chapter three – may make it impossible to further institutionalize decentralization in Vietnam.

A second tension is that between the desire to maximize the poverty-reduction impact of the SEDEMA and similar programs and using it as an experiment in decentralization and institutional reform (including those reforms relating to transparency and anti-corruption). Both are again clearly necessary, but for the latter, significant investments in information systems and capacity building will be necessary. This is also related to the question of how aggressively to ‘push the envelope’ of existing institutional reforms in introducing capacity-intensive program design features, as opposed to staying broadly within the parameters of current Vietnamese administrative reforms. As the SEDEMA moves away from a predominant emphasis on infrastructure, the institutional reform agenda will become increasingly important.

Finally, donors must still navigate between direct support via the SWAp and significant parallel efforts and directed capacity building efforts. The local unevenness in the effective accountability arrangements explored in this paper supports the presumption that donor-assisted experiments are still in demand, even as the movement is towards increased integration with government systems.
Figure 5.1 Governance capacities for effective accountability relationships, and donor support, assessed along continua (illustrative)

**Hierarchical Accountability Capacities**
- Weak oversight and fiduciary controls; little meaningful accountability for process-related indicators or results
- Incipient administrative decentralization; some accountability upwards for meeting administrative targets; more professionalism
- Strong 'results-based management' and fiduciary controls; predictable and transparent resource mobilization to meet local goals

**Horizontal Accountability Capacities**
- No effective checks on executive discretion; poor coordination of program inputs
- Improved policy environment for 'rule of law'; increased horizontal monitoring of programs, but erratic enforcement
- Improved enforcement and predictability of horizontal checks on executive; improved coordination

**Democratic Accountability Capacities**
- Politically authoritarian and state-centric; limited 'voice'; participation as social mobilization behind decisions already made
- Greater participation in decision-making and two-way flows of information; some effective expression of local preferences into official decisions
- Civil society strong and capable of entering meaningful partnerships with local authorities

**Donor Support Modality / Level of Control**
- Small-scale projects not linked to broader administrative systems; high control exercised in separate systems of fiduciary controls
- Mixed donor-government 'pilot projects', including projects of significant scale; some separate fiduciary controls maintained
- Sector-Wide Approaches with much greater reliance on government systems and negotiated standards in fiduciary systems
I. Current anti-corruption laws and regulations

Current anti-corruption laws and regulations in Vietnam are mainly defined in the following documents:

- Criminal Code 1999;
- Revised Ordinance on cadres and civil servants 2003; Ordinance on Anti-Corruption 1998 and Revised version 2000;
- Decree 117/2003 on guiding the implementation of the Ordinance on Cadres and Civil Servants; Circular 09/2004 on guiding the implementation of the Decree 117; Decree 64/1998/ND-CP on defining details and guidelines for implementation of the Ordinance on Anti-Corruption; Circular 14/1999/TT-CDTQG dated 22nd September 1999 of the National Reserves General Department on guiding the implementation of the Decree 64/1998/ND-CP of the Government.

1. Criminal Code 1999

In the Criminal Code, Part A (corruption crimes) of Chapter XX (title-related crimes) defines acts of corruption which are regarded as crimes. Crimes defined as corruption under the Criminal Code fall into 7 categories: embezzlement of assets (Article 278); taking bribes (Article 279); abuse of position or authority to deprive individuals of assets (Article 280); in-service taking advantage of position or authority (Article 281); in-service abuse of power (Article 282); taking advantage of position or authority to harm others in order to make profit (Article 283); and use of false personal details at work (Article 284).

In the 1999 Criminal Code, the criterion for distinguishing cases designated as ‘crimes of corruption’, as opposed to those designated ‘violations of regulations’ for cadres was changed from the 1985 Criminal Code. The 1999 Criminal Code lowers the ceiling on acts considered as corruption from those which involve misappropriation of funds or materials in excess of VND 5 million in value in the 1985 code, to cases which involve sums in excess of VND 500,000 in value. Under the 1999 code, acts involving the misappropriation of funds in excess of VND 500,000 in value and even less in some cases are regarded as crimes rather than regulation violations (which means they are to "be regarded as crime and be settled as prescribed in the Criminal Codes"). This change reflects the increasingly strict policy of the State of Vietnam towards crimes of corruption.

2. Revised Ordinance on cadres and civil servants 1998 and Revised Ordinance on anti-corruption 2000

The Ordinance on cadres and civil servants and Ordinance on anti-corruption comprehensively define measures to fight against corruption by cadres and civil servants by clearly defining proscribed actions for cadres and civil servants. These regulations aim to ensure cadres and civil servants act in accordance with laws and state management principles while undertaking their duties, and at the same time prevent corruption.

* Adapted from Nguyen Tuan Minh, 2005; used with permission.
a. Ordinance on cadres and civil servants 1998
This Ordinance stipulates proscribed actions for cadres and civil servants. It covers aspects of personal conduct in the course of undertaking duties, paying special attention to ethical conduct and nepotism. The Ordinance defines 4 categories of proscribed action applicable to all categories of cadres and civil servants (Articles 15, 16, 17 and 18). It also defines two types of proscribed action for cadres and civil servants in leadership positions (Article 19 and 20). Article 19 delineates prudential limits on the actions of the spouse of the Head or Deputy Head of a state agency. His or her spouse is not entitled to invest in enterprises in sectors which are managed by the said person. Article 20 stipulates that of a state agency or organization must not appoint his or her spouse, father, mother, children, blood brothers and sisters to leading positions of functional departments such as the personnel department, accounting, financial affairs, cashier and storekeeper in the same agency or organization. Further prohibitions are placed on allowing his/her family members to purchase goods or sign business contracts with the same agency or organization. These regulations aim to prevent corruption resulting from nepotism amongst the Heads and Deputy Heads of agencies and organizations.

b. Ordinance on anti-corruption
Whereas the Ordinance on cadres and civil servants only defines the prohibited conduct of cadres and civil servants, the Ordinance on anti-corruption also defines practical measures to prevent and combat against corruption.
Article 3 of the Ordinance on anti-corruption clearly defines acts which are regarded as corruption:

1. Asset embezzlement;
2. Bribery taking;
3. Abuse of position and authority to gain assets;
4. In-service taking advantage of position and authority to make profits;
5. In-service abuse of power to make profits;
6. Taking advantage of titles and authorities to harm others for personal benefit;
7. Use of false personal information at work for personal benefit

With the objective of effectively combating corruption, it is necessary to combine strict punitive measures for corruption with preventive measures to limit the opportunity for corruption and define a code of conduct. The Ordinance prescribes preventive measures as follows:

1. The definition of prohibited conduct for people in positions of leadership and authority in order to prevent opportunities and pre-conditions for corruption arising. For Heads and Deputy Heads of agencies and organizations, apart from the general prohibitions on conduct, they are also prohibited from engaging in any conduct which may compromise their ability to make management decisions objectively (Article 13)
2. The definition of principles for the valuation of the property and assets of cadres. In the short term, the valuation of assets either of high value or belonging to cadres in high positions of authority as stipulated in Directive 10/CT of the Politburo is required. This Directive was actually implemented with Decree 64/1998 of the Government which defines individuals subject to this legislation, types of asset and valuation procedures at specific time (specifically defined at Chapter II of Decree 64/1998). These regulations aim to ensure that the legislation can actually be implemented in practical contexts, ensuring that the Ordinance is enforceable in practice. This is intended to avoid disorder or uncertainty in the implementation of the ordinance (Article 14).
3. Requiring the compulsory publication of administrative procedures in all areas related to citizens, agencies and organizations. Administrative procedures are also required to be
straight forward and simple, thus avoiding difficult procedures which give opportunities for officials to collect illegal fees and charges (Article 15).

4. Defining the responsibilities of the Heads of agencies and organizations in taking measures to prevent corruption; establishing the liability of the person in charge who allows acts of corruption to take place; establishing the liability of people who do not fulfill their responsibilities and mandates resulting in crime of corruption by others (Article 16 and 17).

5. Defining the obligations of all citizens to detect corruption; agencies and organizations are responsible for ensuring the interests and safety of ‘whistle blowers’; provision is also made for the protection of the rights of individuals in cases where malicious and defamatory allegations of corruption are made without grounds (Article 18 and 19).

The Ordinance also defines punitive measures for corruption (Articles 21-30). This was also implemented in Chapter IV of Decree 64/1998. The Ordinance states that in principle, any corruption act will be strictly and clearly settled by punitive measures and prosecution where criminal liability is found. Assets gained through corrupt practices will be returned; assets which are gained as a result of bribery will be confiscated and the perpetrators will be responsible for indemnity; People who commit acts of bribery which fall beyond the scope of criminal liability will be treated, depending on the nature and seriousness of their acts, by punitive measures (i.e. reprimand, warning, lowered salary level, lowered scale and dismissal).

Article 23 of the Ordinance also makes provision for the consideration of both exacerbating and mitigating factors in the determination of punitive measures to be taken against perpetrators. Mitigating factors include pro-active confession, any attempts made to ameliorate the consequences of corruption, pro-active return of assets gained by corruption etc. Factors which are considered to exacerbate acts of corruption include refusal to follow instructions on asset revocation, intentional concealment of corruption, obstruction of agencies and organizations investigations into corruption.

Apart from being punished, perpetrators are also responsible for returning assets derived from corruption or provide indemnity in recompense for acts of corruption.

Article 24 of the Ordinance stipulates that people who are found to have committed acts of corruption and have been forced to leave their job will not be eligible to become cadres or civil servants of state agencies and organizations for 3-5 years.

The Ordinance also stipulates that State inspectorates are entitled to take necessary measures, as prescribed in the Ordinance, on inspection to limit damages to state assets. These measures include asset valuation, freezing the assets of perpetrators, requesting temporary suspension of work for individuals being investigated for corruption, etc.

In addition, the Ordinance stipulates that state inspectorates are responsible for checking and supervising the Heads of State agencies and organizations in their exercise of disciplinary actions and the reclamation of assets from perpetrators.

In the course of the settlement of crimes, the Ordinance stipulates that inspection agencies, prosecutors and courts are responsible for investigating and prosecuting, as rapidly as possible and by strict implementation of the law acts of corruption no matter what the position of the individuals involved. For those cases which fall beyond the scope of criminal proceedings, prosecutors must transfer the files and request agencies and organizations to take disciplinary actions.
In addition the Ordinance also stipulates the responsibility of the state agencies in the fight against corruption (from Article 31 to 36)

These regulations aim to clarify the responsibilities of the agencies in preventing and dealing with corruption, specifically:

- Stipulating the responsibilities of the People’s Prosecutor to monitor the execution of law during the investigation, prosecution and judgment of crimes of corruption; to synthesize and submit regular and ad hoc reports to the Standing Committee of the National Assembly, in the mean time, to inform the Prime Minister.
- Stipulating the responsibilities of the state inspectorate bodies in inspecting, monitoring, giving general support to the administrative agencies during the process of applying the measures to prevent, detect and punish corrupt acts. The General state inspectorate synthesizes and submits regular or ad hoc reports to the government and the Prime Minister on the anti-corruption activities in the whole country.
- Stipulating that the Prime Minister should direct ministries, ministerial agencies, Government affiliated agencies and provincial People’s Committees to implement measures to prevent and deal with corruption and report to the National Assembly, the Standing Committee of the National Assembly and the President on the fight against corruption nationwide. The General state inspectorate executes anti-corruption legislation and cooperates with the Minister for National Security, Minister for National Defense, and other leaders of the related agencies to support Government in organizing and directing the fight against corruption, and punishing corruption in the whole country.
- Stipulating that the Standing Committee of the National Assembly, Commission for Ethnics Nationalities, Commissions of the National Assembly, and representatives of the National Assembly should monitor the implementation of measures to prevent and deal with the inspection, investigation, prosecution and judgment of corrupt acts.
- Stipulating that the responsibilities of the People’s Council at all levels in monitoring the implementation of the measures to prevent and deal with the inspection, investigation, prosecution, judgment of corrupt acts in the local area.
- Stipulating the responsibilities of the People’s Committee, The People’s tribunal president and the People’s Prosecutor to report to the People’s Council at the same level, and keep the Father Front at the same level informed about the fight against corruption in the local area.
- According to the Ordinance, a specialized anti-corruption body is not established. Fighting against corruption is the responsibility of the whole Party and the nation. The organization and steering of this fight are primarily undertaken by the collective Party executive committee at all levels and leaders of sectors and level. In addition, the fight against corruption relates to all sectors and levels and all aspects of social life, therefore no definition of state management in this area is developed. However, in the facilitation of monitoring and research on corruption, it is stated in the Ordinance that the two focal bodies are the Supreme People’s Prosecutor and the Government, which is directly the state Inspectorate. The Supreme People’s Prosecutor takes the responsibility for monitoring acts of corruption dealt with under the criminal code. From an administrative perspective, the state inspectorate has responsibility for research and recommendations regarding measures for the prevention of and fighting against corruption nationwide.

3. Other legal documents
Aside from the documents already discussed there are several other legal documents relating to corruption:
The 1998 Ordinance on Thrift practice and anti-waste, Decree 38-1998 of the execution of this Ordinance; Instruction of the Minister of Ministry of Finance No 04/2004/CT-BTC on 06/4/2004 on strengthening the thrift practice and anti-waste in the financial sector. These documents stipulate the responsibilities of agencies and civil servants as regards thrift practice and anti-waste and stipulate punishment in the case where regulations are contravened.

Instruction of the Prime Minister No 48/2004/CT-TTg on 24/12/2004 on the organization the Tet festival of the Year of the Rooster 2005.

This document stated some specific regulations for ministers, leaders of ministerial agencies, government affiliated agencies and chairmen of provincial People’s Committees:

- Organizing Tet celebration at agencies without extravagant expenditure; no flowers and presents are brought to the private residence of leaders so that more time can be spent with family and relatives.
- Abusing the occasion of Tet and other festivals to party lavishly is prohibited; and so is using public funds or resources, or sponsors to give presents to individuals or organizations of any kind which are not allowed by the state regulations. The agencies which have the right to reward individuals and units on their merit must publicize the rewarding list and grade. Public cars are not allowed to be used for private purposes before, during and after Tet.

II. Possible future changes in anti-corruption laws of Vietnam

1. Overarching Anti-corruption Law (currently in draft form)

Tackling corruption is an urgent issue for the Vietnamese Government. The Government is directing authorized agencies to prepare a draft anti-corruption law. The Government Inspectorate has been asked to prepare the seminar resolution on anti-corruption, thrift practice and anti-waste to submit to the Government in February 2005. The Government Inspectorate also has responsibility to prepare the draft law on Anti-corruption for National Assembly’s comments at the mid-term meeting sessions and for approval at the end of 2005. The main themes are to be preventing and fighting corruption, the development of more transparent procedures and a cleaner and stronger contingent of civil servants.

In the basic contents of the draft anti-corruption law which is being prepared, there are several new points:

- **Civil servants who receive presents more than 50USD have to report them**

  In the Article ‘Don’ts and Dos of civil servants’ the conditions under which giving presents is acceptable are stipulated. The article states that the giving and receiving presents have to be relevant to the tradition and customs of the nation, and that the senders as well as the receivers are not allowed to abuse the occasion of giving by receiving or mediating bribes. The article will stipulate limitations on the value of the present for differing grades of official and occasions upon which presents can be given.

  On the receipt of the presents over the stipulated maximum value, the civil servants have the obligation to report in a timely manner and in sufficient detail. The receivers of presents have to publicize the payment of income tax if the total received property on one occasion reaches or surpasses the duty-free limit according to the Ordinance on Income Tax for high income. The
receivers are encouraged to return the presents which are over the limit or make a donation in lieu to the public fund.

Civil servants have to report presents from foreign individuals or organizations valued more than 50 USD. The authorized person will decide whether the civil servants are allowed to accept the present or whether it should be confiscated and placed in a public fund. They can accept presents of a value below 50 USD, any presents of a value greater than 50 USD will be confiscated, or if they which to keep the present the balance in excess of 50 USD must be donated to public funds.

The draft also presents sanctions to punish civil servants who violate regulations on presents. Civil servants found to be guilty of corruption will be penalized under the administrative procedures depending on the level of corruption. If the perpetrator is not a civil servant, they will also be punished under administrative procedures or according to the regulations of the organization in which they work.

b. Further detailing of ‘corrupt acts’

Apart from the 7 corrupt acts as defined in the Ordinance on Anti-corruption and Criminal Codes, the draft includes 8 additional acts which are to be regarded as corruption:

- Giving bribes
- Mediating bribes
- Abuse of power to seek benefits
- Embezzlement of property in the private sector
- Bribery in the private sector
- Bribery amongst foreign civil servants or employees of the international public organizations
- Intimidation or obstruction of witnesses, complainant or the persons who are in charge of detecting and dealing with corruption or the collaborators of the bodies for detecting and dealing with corruption.
- No declaration or deceitful declaration in property valuation (no explanation for the undeclared property or the legal origin of the holdings)

c. Position which are susceptible to corruption have to be rotated every 3 to 5 years

According to the draft Anti-corruption Law, civil servants in positions susceptible to corruption have to be rotated every 3 to 5 years to other positions not in the list. The list of positions susceptible to corruption are in the following areas: customs, tax, public property procurement, business registration, market management, police, court, prosecution, planning and investment, inspection, audit, infrastructure construction, land management, and in anti-corruption bodies.

2. The draft Decree on Civil Servant Performance Inspection

The Ministry of Home Affairs has been ordered to prepare the draft Decree on Civil Servant Performance Inspection to submit to the Government in the regular meeting session on February 2005. According to the Decree, the Civil Servant Performance Inspection body will be established. The civil servants who work for this body will disguise themselves as citizens having transactions with the government agencies, if behavior of harassment or bureaucracy are detected, they will report the abuse to the authorized agencies. The promulgation of this Decree is also an important monitoring mechanism to ensure the accountability and responsibility of the civil servants. This legislation is designed to deter corruption and harassment from civil servants.
Annex B: Key Institutional Relationships in Program 135 and CBRIP

Program 135

Prime Minister
(Chairman)

CEC MOARD MOF

CEM director
(Standing Vice-Chairman)

MPI MOLISA

More than 1B
MOF + MPI

Contractor

DOF + DDI

Included into Annual Amount of Fund

(Budget as separate column)

PPC
[Chairman or vice chairman] (Head)

DOARD DOR

ED (Chairman)
Standing Commissioner

DPI DOLISA

DPC Chairman

135 Standing office

135 Standing office

135 Monitoring Board

DPC Chairman

135 Management Board

Monitoring Board

Inspection Board

COMMUNAL SUPERVISION BOARD

135 Management Board

Monitoring Board

Supervision Board

VILLAGE MEETING

135 Management Board Elites

Communal Elites

Contractors
Key ‘Vertical’ Institutional Arrangements for CBRIP

Key ‘Horizontal’ and ‘Vertical’ Institutional Arrangements under NMPRP

- Central
  - WB + MPI
  - CIBRIP Standing Office
  - DPI
  - CIBRIP Standing Office
  - CBRIP Management Office
  - CBRIP Management Board
    - Monitoring
    - Priorities
    - Supervision
    - Contractors
    - Villages voting

- Province
  - Bank
  - Treasury

- District
  - Bank
  - Treasury

- Commune
  - Bank
  - Treasury

- Village
  - Chief Accountant
Institutional Arrangements for CBRIP

World Bank

CPMU Special Account

Overall coordination & support for capacity building by CPMU

MPI Central Project Management Unit (CPMU)

NMPRP:
Management levels, fund flow and investment ownership

6 Province Special Accounts

PPC/DPI Province Project Management Unit (PPMU)

Provinces the Investment owner for larger schemes (NCB)

DPC District Technical Support Group (DTSG)

District Second Generation Accounts in Commercial Bank

Districts the investment owner for a majority of small works

Commune Project Coordinating Committee (and Commune Supervision Boards)

Communes the investment owner for Commune Development Budget Component (15% project funds)

Province Special Accounts

## Annex C: Fieldwork Sites

**Thanh Hoa Province, Tinh Gia District**

<table>
<thead>
<tr>
<th>Commune/village</th>
<th>P 135 or CBRIP</th>
<th>Project Holder</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Phu Son Commune</td>
<td>P 135</td>
<td>Commune</td>
</tr>
<tr>
<td>2 Tan Truong Commune</td>
<td>P 135</td>
<td>Commune</td>
</tr>
<tr>
<td></td>
<td>Dong Lach village</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Tam Son village</td>
<td></td>
</tr>
<tr>
<td>3 Hai Thuong Commune</td>
<td>CBRIP</td>
<td>Commune</td>
</tr>
<tr>
<td></td>
<td>Lien Trung village</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Lien Son village</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Nam Hai village</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Lien Dinh village</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Lien Hai village</td>
<td></td>
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<tr>
<td></td>
<td>Cao Lu village</td>
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</tbody>
</table>

**Nghe An Province, Tan Ky District**

<table>
<thead>
<tr>
<th>Commune/village</th>
<th>135 or CBRIP</th>
<th>Project Holder</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Giai Xuan Commune</td>
<td>P 135</td>
<td>District</td>
</tr>
<tr>
<td></td>
<td>CBRIP</td>
<td>Commune</td>
</tr>
<tr>
<td></td>
<td>Quyet Tam village</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Nuoc Xanh village</td>
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<tr>
<td></td>
<td>Dong Tho village</td>
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<tr>
<td></td>
<td>Van Xuan village</td>
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<td></td>
<td>Van Long village</td>
<td></td>
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<tr>
<td></td>
<td>Xuan Tien village</td>
<td></td>
</tr>
<tr>
<td>2 Phu Son Commune</td>
<td>P 135</td>
<td>District</td>
</tr>
<tr>
<td></td>
<td>CBRIP</td>
<td>Commune</td>
</tr>
<tr>
<td>3 Tien Ky Commune</td>
<td>P 135</td>
<td>District</td>
</tr>
<tr>
<td></td>
<td>CBRIP</td>
<td>Commune</td>
</tr>
<tr>
<td></td>
<td>Meeting in Village 5</td>
<td></td>
</tr>
</tbody>
</table>
# Annex D: Summary of Key Features of Selected Programs

<table>
<thead>
<tr>
<th>Program</th>
<th>Source / Focal point</th>
<th>Timeframe</th>
<th>Scale</th>
<th>Funding</th>
<th>Investment emphasis</th>
<th>Key design features</th>
</tr>
</thead>
</table>
| 135 (Program to Assist the Poorest Communes) | Government of Vietnam / CEMMA and others | 1998-2005 | 2300 communes in whole country | VND400 million per commune per year x 6 years of support for each commune | Small-scale infrastructure | • Area-based and decentralized planning and management  
• Encouragement of local community participation in selection, supervision and management of schemes  
• Use of local community contributions |
| NMPRP (Northern Mountains Poverty Reduction Program) | IDA (World Bank) and local communities | 2002-2007 | 368 upland communes in 44 districts in 6 provinces of the Northern Mountains Region. (96% of project communes included in Program 135). | USD 132.5 million (USD 110m IDA loan + 12m counterpart funds + 10.5m co-financing from DFID for capacity building). | Small-scale infrastructure and livelihood services | • Capacity building and training  
• Emphasis on local project planning and management  
• Key emphasis on district level  
• Use of local community contributions |
| CBRIP (Community-based Rural Infrastructure Project) | IDA (World Bank) and local communities | 2002-2007 | 611 communes in 98 districts in 13 provinces of the Central Region from Thanh Hoa Province in the north to Binh Thuan in the south (68% of project communes included in Program 135). | USD 123.4 million (USD 102.8m IDA loan + 20.6m counterpart funds and local contributions) | Small-scale infrastructure | • Highly participatory in planning and management of development activities  
• Use of technical support from deconcentrated project management team as well as district team  
• Local capacity training in key aspects of project management  
• Key emphasis on commune and village level  
• Use of local community contributions |
| RIDEF (Rural Infrastructure Development Fund) | UNCDF/ UNDP; Quang Nam province | 1995-2001 | 122 communes in Quang Nam province | VND166.5 billion | Small-scale infrastructure | • Use of indicative planning figure  
• Extensive local planning process  
• Technical support from district team |
| MRDP (Mountain Rural Development Program) | SIDA / Ministry of Agriculture and Rural Development | 1996-2001 | 64 communes in five provinces | VND~10.5 billion total | Livelihood services, natural resource management, infrastructure, training | • Village Development Budgets directly managed at village level to fund activities in integrated village plan  
• Training in participatory process |
### Annex E: Management and Monitoring Financial Incentives in CBRIP and Program 135

#### CBRIP

<table>
<thead>
<tr>
<th>Management</th>
<th>1.7% budgeted</th>
<th>-Used at the PMB’s discretion. Project holder could be given to community monitors but not required. In Giai Xuan commune for example, villagers were elected and paid from this fund to serve on the community monitoring board. It worked to increase the seriousness of the position to the holders and villager interest in the position was high.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monitoring</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Community</td>
<td>0% budgeted</td>
<td>-The capacity, determination, and sense of duty to community are the incentives for the community monitors. What determines these qualities is unclear and varies by commune.</td>
</tr>
<tr>
<td>Technical</td>
<td>2% budgeted</td>
<td>-This amount seems to be enough in communes with large population in low-lying easily accessible areas and not enough in all others.</td>
</tr>
</tbody>
</table>

#### Program 135

<table>
<thead>
<tr>
<th>Management</th>
<th>Yes, budgeted – amount unclear</th>
<th>-Used at the PMB’s discretion. Project holder could be given to community monitors but not required.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monitoring</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Community</td>
<td>0% budgeted</td>
<td>-&quot;Independent&quot; consultants monitor the technical aspect. The technical consultants come from district functional department such as the Industry and Commerce department in Tinh Gia district or Infrastructure and Technical department in Tan Ky district. If they are members of the district PMB as in Tan Ky they get an allowance from the 135 management budget, but it does not seem to be enough considering they are very rarely present at the project scene and often have to be requested many times to come.</td>
</tr>
<tr>
<td>Technical</td>
<td>0% budgeted</td>
<td></td>
</tr>
</tbody>
</table>
References


Endnotes

1 See Pham Hai et al. 2005 for a frank, in-depth Vietnamese-language assessment of “corruption and leakage” risks in infrastructure projects (from a high-powered Ministry of Planning and Investment research team).

2 Although there are several definitions of the term ‘corruption,’ we generally use it to refer to behavior on the part of officials in the public sector, whether politicians or civil servants, in which they improperly and unlawfully enrich themselves, or those close to them, by the misuse of the power entrusted to them, (i.e., the Asian Development Bank definition). Some examples of types of corruption include: (a) illicit payments of ‘speed money’ or ‘grease’ to officials for the timely delivery of goods and services to which the public is rightfully entitled, such as permits and licenses; (b) illicit payments to officials to facilitate access to goods, services, and/or information to which the public is not entitled; (c) the theft or embezzlement of public property and monies; (d) extortion and the abuse of public office, such as using the threat of a tax audit or legal sanctions to extract personal favors; (e) the sale of official posts, positions, or promotions; nepotism; or other actions that undermine the creation of a professional, meritocratic civil service; (f) illicit payments to prevent the application of rules and regulations in a fair and consistent manner, particularly in areas such as public safety, law enforcement or revenue collection; (g) the design or selection of uneconomic projects because of opportunities for financial kickbacks or political patronage; (h) procurement fraud, including, kickbacks, collusion, overcharging, misrepresentation, the delivery of substandard goods and services.

3 As part of the preparation for the re-design of the main national poverty reduction targeted programs for the period 2006-2010, the World Bank has been invited by the Ministry of Planning and Investment (MPI) on behalf of the Government to consider support for a follow-on operation to help finance and add value to these re-designed national targeted programs (NTPs). The proposed operation is referred to as the Poor Communes Livelihoods and Infrastructure Program (P-CLIP). It is proposed to align the proposed Bank-supported operation as closely as possible to the re-designed SEDEMA program in particular. The objectives of the proposed P-CLIP would be to reduce poverty and foster secure and sustainable livelihoods for those living in the country’s poorest and most marginal communes. In particular, it would enhance performance of the Government’s targeted programs with respect to local-level empowerment, transparency and accountability; poverty targeting; and monitoring and evaluation.

4 See, in this regard, Cartwright, D. (1951). Forward to the 1951 Edition; and Lewin K. (1943). Force field analysis is useful when looking at the variables involved in planning and implementing a change program and is often used in team building projects, when attempting to overcome resistance to change. Force field analysts assume that in any situation there are both driving and restraining forces that influence any change that may occur. Driving forces are those forces that affect a situation by pushing in a particular direction. They tend to initiate a change and keep it going. Restraining forces on the other hand, are forces acting to restrain or decrease the driving forces. Equilibrium is reached when the sum of the driving forces equals the sum of the restraining forces. In our example, equilibrium represents the present level of productivity, as shown below.

5 Economist Intelligence Unit, 2000
6 Van Arkadie, 1993
7 Fforde, 1996
8 Koh, 2004
9 Wescott, 2004
10 Cited in “Tinh hình thực hien nghi quyet cua Quoc Hoi ve cai cach hanh chinh trong nam 2000” (no author specified), To Chuc Nha Nuoc [State Organization], 11/2000, p. 20.
11 World Bank, 2004: 82
12 World Bank, 2004: 84
13 Notably, decree 10/2002/ND-CP.
14 Fritzen, 2000(a)
See Hardy, 2003 for an excellent historical discussion of the main flash-point region in this regard, the Central Highlands.

Neefjes, 2004

Neefjes, 2004

Koh, 2004

For some purposes, administrative and service delivery units (hospitals and clinics, schools and universities, cultural units, research institutes etc.) and some of the larger State-Owned Enterprises could be considered part of the executive broadly defined. They occupy mixed public-private sector spaces and may take decisions based on administrative (not legal) authority with relatively little oversight or accountability to actors outside the executive. In addition, where officials of mass organizations primarily implement government directives rather than engage in their second role of representing the interests of their functional group constituencies, these two can be seen as part of an ‘extended executive.’

Marr, 1994

This section draws both on Fforde, 2004 and Vasavakul, 2002

Van Arkadie, 1993; Fritzen, 2000(a); Neefjes, 2004

Nguyen The Dzung, 1996

Vasavakul, 2002: 2

Vasavakul, 2002: 1

Nguyen Minh Tuan, 2005

Koh, 2004


Quoted in Marr, 1994: 9

Kerkvliet, 2003: 244.

Turley, 1993

Poiraudoeau, 2000

Taylor, 2004: 17

Webster, 1999

Heng, R.H.K. et al., 2002

Heng, 2004

Marr, 1994

Marr, 1994


Vasavakul, 2002

Neefjes, 2004

Adapted from Fritzen, 2005

See Fritzen, 2000(b) for a more in-depth discussion of the incentives problem in grassroots democratization.

Shanks et al., 2003: 33

Program credit from the World Bank totals US$123 million.

For our purposes, we also used the ‘stages’ model of the small-scale schemes under P-135 and CBRIP to highlight two interrelated but slightly different issues: vulnerabilities to corruption and potential waste. We chose to separate these two issues, i.e., vulnerability to corruption and potential waste, because the existence and severity of each varies at each stage of a typical small infrastructure works scheme.

Project holder refers to the level of government that is the principle manager of the investment project. This level disburses payment to contractors.

See, “Participation mechanisms and reaching target poor groups;” unpublished presentation at the National Workshop on Lessons and Experiences from Community-Based Poverty Reduction Projects Funded by the World Bank, Hanoi, June 6, 2005.
The accountant for P-135 schemes was absent from every field meeting and therefore his role in the design phase is unclear.

To be sure, there are several other laws, regulations, ordinances, decrees, and decisions that collectively constitute the legal framework for public procurement and use of public funds in Vietnam. Some of the most significant ones include: Circular 04/2000/TT-BKH, issued May 2000 by the Ministry of Planning and Investment, Guideline on the implementation of Regulation on Bidding; Decree 14/2000/ND-CP, issued 05 May 2000 by the Government which amends a number of articles in Regulation on Bidding attached; Decision 1037/2000/QD-BLDBTXH, issued October 2000 by the Ministry of Labor, War Invalids, and Social Affairs on Regulations on salary of consultant and Vietnamese workers working in contract with foreign bidders; and Circulars 121/TT-BTC issued December 2000 and 94/2001/TT-BTC issued November 2001 by the Ministry of Finance which provide a Guideline on the implementation of procurement of goods, equipment, and working facilities for state agencies, military forces, organizations and State Owned Enterprises (SOE). Circular 50/2001/TT-BNN- XDCB, issued 03 May 2001 by the Ministry of Agriculture and Rural Development (MARD) which offer a guideline on the implementation of Regulation on Bidding on investment projects of MARD. Decree 66/2003/ND-CP, issued 12 June 2003 by the Government which amends a number of articles in Regulation on Bidding attached; Circular 01/2004/TT-BKH, issued 02 February 2004 by the Ministry of Planning and Investment Guideline on the implementation of Decree No 66. Other decrees and circulars with provisions on public procurement and use of public funds include (a) Decree No. 52CP of July 1999 on the Regulation on the Management of Investment and Construction and Decree 17CP of May 2001 on the regulation on Management and use of Official Development Aid. Elsewhere, other laws like the 1997 Commercial Law partly deal with bidding and prequalification procedures.


See also Fforde, 2003.

The Prime Minister’s recent Decision No. 80 on regulation of community supervision of investment, dated 18 April, 2005, addresses several of the areas in which we make recommendations. The question of how to translate Decision No. 80 into credible and concrete actions on the ground via specific policies, implementation guidelines and resource sources needs further attention.

Having a sister company is by itself not illegal, but limiting the bidding opportunity to a company and its sister concerns virtually reduces the Limited Tender to direct contracting exercise as these firms are not likely to compete among themselves.

See PAC/MPI, 2005.

Ibid.

Fritzen and Nachuk, 2003

Davies, 2004: 5

Ibid.

World Bank, 1994


Special difficulties in developing information on corruption levels and trends affecting projects include the following: (i) Corrupt behavior is illegal, and therefore not amenable to direct observation in most cases. Those engaged in corrupt activities obviously have every incentive to avoid detection. (ii) Since corruption stigmatizes by association, and since accusations of corruption can lead to serious negative consequences affecting external relations (such as with donors), even agency officials who are themselves not corrupt are likely to have strong incentives to distort information regarding the true prevalence of corruption around them. (iii) Endemically corrupt institutional contexts are typically characterized by a huge gulf between formal rules and actual practices. Those working within such contexts may not perceive ways in which existing practices transgress against formal rules. (iv) The range of factors influencing what people perceive to be corrupt behavior and how willing they are to accurately reflect these perceptions to outsiders is subject to change over time in ways difficult to predict and adjust for. Such changes bias any perception-based measures of corruption. For example, establishment of better reporting mechanisms for corruption may lead to an increase in reported cases even if the absolute incidence of corrupt behavior has not changed.

Sea-Change Partners, 2004

Davies, 2004: 3