URUGUAY ROAD REHABILITATION AND MAINTENANCE PROGRAM
Fiduciary Assessment

October 12, 2012
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Annex 1: Modifications to TOCAF (June 2012)


Annex 3 : PFM Assessment for the Ministry of Transport and Public Works

Annex 4: Fiduciary assessment of CVU – Corporación Vial del Uruguay S.A.
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### Acronyms and abbreviations

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>AGESIC</td>
<td>Agency of Access to Information and e-Government</td>
</tr>
<tr>
<td>AIN</td>
<td>Auditoria Interna de la Nacion - Internal Audit Office</td>
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<tr>
<td>BBVA</td>
<td>Banco Bilbao Vizcaya Argentaria</td>
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<td>BCU</td>
<td>Banco Central del Uruguay - Uruguay Central Bank</td>
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<tr>
<td>BROU</td>
<td>Banco de la República Oriental del Uruguay - Bank of the Oriental Republic of Uruguay</td>
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<tr>
<td>CGN</td>
<td>Contaduría General de la Nación – National Audit Office</td>
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<tr>
<td>CND</td>
<td>Corporación Nacional de Desarrollo - National Development Corporation</td>
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<tr>
<td>CPS</td>
<td>Country Partnership Strategy</td>
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<tr>
<td>CREMA</td>
<td>Contratos de Rehabilitación y Mantenimiento – Road rehabilitation and maintenance performance-based contracts</td>
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<tr>
<td>CUT</td>
<td>Cuenta Única del Tesoro - Single Treasury Account</td>
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<tr>
<td>CVU</td>
<td>Corporación Vial del Uruguay – Uruguay Road Corporation</td>
</tr>
<tr>
<td>DINAMA</td>
<td>Dirección Nacional de Medio Ambiente – Environmental Department (MVOTA)</td>
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<td>DLI</td>
<td>Disbursement-Linked Indicator</td>
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<tr>
<td>DNTop</td>
<td>Dirección nacional de Topografía – Topographic Surveying Department</td>
</tr>
<tr>
<td>DNV</td>
<td>Dirección Nacional de Vialidad – Road Department</td>
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<tr>
<td>EIA</td>
<td>Environmental Impact Assessment</td>
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<tr>
<td>EM</td>
<td>DNV Environmental Manual</td>
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<td>EMP</td>
<td>Environmental Management Plan</td>
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<tr>
<td>ESSA</td>
<td>Environmental and Social System Assessment</td>
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<tr>
<td>F/C</td>
<td>Fraud and Corruption</td>
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<tr>
<td>FONPLATA</td>
<td>Fondo Financiero para el Desarrollo de los Países de la Cuenca del Plata – Fund for the development of countries of the Rio del Plata basin</td>
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<td>GoU</td>
<td>Government of Uruguay</td>
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<td>HDM</td>
<td>Highway Development and Management Model</td>
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<td>IADB</td>
<td>Inter-American Development Bank</td>
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<tr>
<td>ISP</td>
<td>Implementation Support Plan</td>
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<tr>
<td>JTEP</td>
<td>Junta Transparencia y Ética – Anticorruption Commission</td>
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<tr>
<td>MEF</td>
<td>Ministerio de Economía y Finanzas – Ministry of Economy and Finance</td>
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<tr>
<td>MTOP</td>
<td>Ministerio de Transporte y Obras Públicas – Ministry of Transport and Public Works</td>
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<tr>
<td>MVOTA</td>
<td>Ministerio de Vivienda, Ordenamiento Territorial y Ambiente – Ministry of housing, land planning and environment</td>
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<tr>
<td>ONSC</td>
<td>Oficina Nacional de Servicio Civil - National Civil Service Bureau</td>
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<tr>
<td>PAD</td>
<td>Program Appraisal Document</td>
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<td>PAP</td>
<td>Program Action Plan</td>
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<td>PDO</td>
<td>Program Development Objective</td>
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<td>PFM</td>
<td>Public Financial Management</td>
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<td>PforR</td>
<td>Program for Results</td>
</tr>
<tr>
<td>PFS</td>
<td>Program Financial Statement</td>
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<tr>
<td>RC</td>
<td>Rendición de Cuentas – Annual Budget Execution Report</td>
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<tr>
<td>Acronym</td>
<td>Description</td>
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<tr>
<td>SIL</td>
<td>Specific Investment Loan</td>
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<tr>
<td>TCA</td>
<td>Tribunal Contencioso Administrativo - Administrative Court</td>
</tr>
<tr>
<td>TCR</td>
<td>Tribunal de Cuentas de la Republica – State Court of Accounts</td>
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<tr>
<td>TGN</td>
<td>Tesorería General de la Nacion – National Treasury Office</td>
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<tr>
<td>TOCAF</td>
<td>Texto Ordenado de Contabilidad y Administración Financiera – Procurement and public financial management code</td>
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<tr>
<td>UAV</td>
<td>Unidad Ambiental de Vialidad – DNV Environmental Unit</td>
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1 Executive Summary

1. Over the 2013-2015 period, the Program is expected to include (at any one time) about 65 works contracts managed by DNV and CVU, covering road rehabilitation and maintenance, bridge rehabilitation and road safety works. The maximum contract amount is anticipated to be around US$15 million for road rehabilitation and maintenance works, according to the Program profile. The Program will also require contracting for procurement of goods, consultants, and non-technical services.

2. The US$510.0 million Program will be financed by the Government of Uruguay fiscal revenues (about US$283.5 million), as well as the World Bank (US$66 million), the Inter-American development Bank (about US$67.7 million) and FONPLATA (about US$92.8 million) loans proceeds. Program fiduciary arrangements for the proposed operation are within the responsibility of Uruguay's regular fiduciary systems, which essentially rely on the Country's Constitution and the procurement, accounting and financial management code called TOCAF - Texto Ordenado de Contabilidad y Administración Financiera.

Institutional arrangements

3. Procurement. Bidding documents are prepared within DNV by the Administrative Unit, with input from technical units. Bidding processes are formally initiated by a public official (Ordenador de gasto), such as DNV's Director, MTOP's Minister or the President, depending on the contract estimated amount. Program bidding processes are expected to be open competitive bidding. Bidding notices are published through several media, including the State procurement website. There is a clear division of roles and responsibilities for key steps on a procurement process. The Ordenador de gasto holds the ultimate responsibility for a procurement process and the contract award decision, but is assisted by DNV's procurement and technical teams, and by a "bid evaluation committee". The State Court of Account has the authority to prior review decisions that will cause expenditures, including contract award decisions. Bidders may complain about decisions during the procurement process directly to the implementing agency, informing the State Court of Account of such complaint. The legal framework in Uruguay does not require agencies to respond to complainants directly but complaints are addressed at bid evaluation reports, which are available for review by all bidders.

4. Since CVU operates under regulations of private sector law, CVU is not required to follow the TOCAF. The concession contract, however, requires publication of procurement opportunities, that all invitations for bids as well as contract awards and signed contracts be published in CVU's website and that all bidders are treated equally regardless of the contract amount. The procurement operational arrangement, as set in a technical assistance contract between CVU and DNV, establishes that on one hand, CVU will publish bidding documents, open bids, sign contracts and make payments to contractors; and on the other hand, DNV will prepare engineering designs, technical specifications and bidding documents, evaluate all bids received and recommend an award, and supervise the work done by contractors.

5. Finally, some IADB and FONPLATA-financed contracts, included in the Program, will be subject to specific procurement arrangements set out within the GoU. The IADB-financed works activities are expected to be subject to IADB procurement policy and standards. FONPLATA-financed contracts will use Uruguay’s regular procurement systems, but with contract awards being restricted to firms pertaining to FONPLATA member countries.
6. **Financial management.** All contracts included in the Program, irrespective of the financier, abide by the national financial management systems. In line with the existing processes utilized for the national budget, the Planning and Budget Office (OPP - Oficina de Planeamiento y de Presupuesto, linked to the Presidency) and the various departments of MEF execute, control, record, and report the budget and financial transactions related to the MTOP programs, through the existing procedures, methods and tools. At the end of each calendar year, the Annual Budget Execution Report (RC - Rendicion de Cuentas) process takes stock of all incurred expenditures and adjusts budgeted allocations accordingly.

7. The DNV Planning Unit is responsible for budget preparation and follow-up, in collaboration with the Administrative Unit, where the DNV accounting function sits. Budget execution and payment transactions are made by each spending unit (ministry). All budget and financial transactions are registered through the state financial information system or Sistema Integrado de Información Financiera (SIIF); once information is entered into the system and payment requests cleared by the National Accounting Office or Contaduria General de la Nacion (CGN) and the State Court of Accounts, the process moves to MEF and the Treasury for release of funds. Financial management processes require both internal controls, from the National Accounting Office, Treasury, and external audits from the State Court of Accounts or Tribunal de Cuentas de la Republica (TCR). Program Financial Statements (PFS) would mainly consist of the CGN-issued Annual Budget Execution Report for the overall central government (with an appropriate schedule detailing MTOP-managed programs) and submitted to Parliament every year.

8. In terms of internal controls, Program expenditures receive verification from the MTOP central accountant who reports to the National Accounting Office and State Court of Accounts. In addition, MTOP hosts an internal auditor, reporting to the MEF Internal Audit Office or Auditoría Interna de la Nacion (AIN).

9. Program external audit is the responsibility of the State Court of Accounts, which is also Uruguay’s Supreme Audit Institution. The MTOP budget execution is audited in different ways, according to the source of expenditure financing. The Program external audit will be the same as the regular annual audit exercised on Government programs. The audit of the PFS will consist of: (i) the opinion of the TCR on the Annual Budget Execution Reports (Rendicion de Cuentas Anuales), together with (ii) a supplementary opinion of the TCR on the programs implemented by the MTOP under the Bank-financed operation, and indicating that the transactions related to these programs are included in the Rendicion de Cuentas Anuales (referencing the table/specific annex that presents this information). Since the Rendicion de Cuentas is due to be sent to Parliament by June 30 of each year, the audit reports of the Program covered by items (1) and (2) above, are expected to be submitted to the Bank by September 30th of each year.

10. The CVU carries out financial management following International Financial Reporting Standards (IFRS). Specifically, CVU issues annual and semiannual (interim) financial statements, which are subject to external audit by a private auditing company and submitted to the State Court of Accounts through CND reporting.

11. IADB-financed activities and FONPLATA-financed contracts included in the Program will fully use the country institutional arrangements and systems for financial management.
Assessment of fiduciary capacity and performance

12. Overall, Program fiduciary systems, including the fiduciary arrangements set out to implement the IADB and FONPLATA-financed contracts which are part of the Program, are deemed satisfactory, providing reasonable assurance for the Program funds will be used for their intended purposes; it is assessed that no major fiduciary risk could prevent the Program from delivering its intended results. The quantitative analysis carried out on Program’s works procurement processes over the past four years has highlighted Program procurement performance is good, in terms of economy and efficiency, supported by a high level of competitiveness and transparency. From a financial management perspective, the Uruguay budget system is conducive for the government to strategically allocate its resources based on its policies, and stated priorities, including at the MTOP level. It also helps the government to maintain budget discipline and budget releases to MTOP are predictable and consistent; they allow for a reasonable implementation of the DNV budget which is subjected to effective internal and external controls.

13. IADB and FONPLATA-financed activities within the Program draw substantially on national systems; Specificities related to procurement are deemed compatible with the OP 9.00 requirements. On the one hand, IADB’s procurement policies are fully aligned OP9.00 requirements, in terms on economy, efficiency and transparency. On the other hand, while FONPLATA-financed contracts award are restricted to firms pertaining to its member countries, it has been appraised that, over the 2008-2011 period, all bidders for road rehabilitation and maintenance contracts actually came from FONPLATA member countries (Argentina, Bolivia, Brazil, Paraguay, Uruguay), with an overwhelming proportion of Uruguayan firms. This situation stems from the relatively modest size of contracts, as well as their low technical complexity. It is therefore assessed that, for the Program, this restriction on the country on origin of contractors for FONPLATA-financed contracts would not hinder procurement competitiveness.

Assessment of fiduciary risks

14. The Program’s major areas of remaining fiduciary risks relate to: (i) the slow bid evaluation process; and (ii) the weak internal audit function at the MTOP level. These two risks, especially the former one, may impact the ability of the Program to achieve results within desired timeframe. Measures to address these issues are included in the Program Action Plan.
2 Background and Program Institutional Arrangements

2.1 The Program

15. Supporting the Government of Uruguay road rehabilitation and maintenance program, the Program consists of the following activities, to be carried out by MTOP and CVU within the Uruguay National Road Network, from January 1, 2013 until December 31, 2015:

- Road rehabilitation and/or maintenance works, which consists of, *inter alia*: (i) pavement rehabilitation; (ii) pavement resurfacing; (iii) shoulders’ rehabilitation and/or surfacing; (iv) repairing and/or upgrading drainage systems; and (v) rehabilitation and maintenance of road vertical and horizontal signaling.
- Bridge rehabilitation and maintenance works, which consists of, *inter alia*: (i) structure repairing of deck, abutments, piers and foundations; and (ii) the enhancement of bridge functional characteristics, such as increasing bridge extension, deck widening and increasing of bridge bearing capacity.
- Bridge reconstruction works, which consists of the construction of a new structure and its contiguous road accesses, to replace an existing bridge on the same location or in its vicinity.
- Acquisition, installation and maintenance of road safety equipment.
- Provision of technical assistance to DNV, DNTop and DINAPLO, including, *inter alia*: (i) the carrying out of road condition surveys; (ii) the carrying out of training and capacity building activities; and (iii) the carrying out of studies required to implement the Program.

16. The Program will be implemented by (a) the Road Department (DNV – *Dirección Nacional de Vialidad*) of the Ministry of Transport and Public Works (MTOP) and (b) the Uruguay Road Corporation (CVU). The CVU was created in 2002 as a subsidiary of the National Development Corporation or *Corporación Nacional de Desarrollo* (CND); CVU is a state-owned entity and acts as public road concessionaire for approximately 1,600 km of Uruguay’s road network. The CVU is linked to the MTOP through (a) a concession agreement, making CVU responsible for managing part of Uruguay’s primary road network, including highway maintenance, rehabilitation, and, as needed, development; and (b) a technical assistance agreement, through which DNV provides technical and administrative support to CVU. Program’s fiduciary function will be primarily undertaken by MTOP’s Road department (DNV) and CVU’s administrative department.

17. Table 1 recaps all institutions directly and indirectly involved in Program implementation, as well as a description of their respective roles.
Table 1 – Institutions involved in Program Implementation

<table>
<thead>
<tr>
<th>INSTITUTION</th>
<th>ROLE PLAYED IN PROGRAM IMPLEMENTATION</th>
</tr>
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<tbody>
<tr>
<td>MTOP – Ministry of Transport and Public Works</td>
<td>DNV-Road Department Responsible for the maintenance and development of Uruguay’s national road network; DNV will be the entity primarily involved in Program implementation.</td>
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<tr>
<td></td>
<td>DNTop-Topographic Surveying Department Responsible for all processes linked to public domain management and expropriations, including social measures linked to resettlement.</td>
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<td></td>
<td>DINAPLO-Planning and Logistics Department In charge of infrastructure and services long-term planning, multimodality and logistics.</td>
</tr>
<tr>
<td>CVU-Uruguay Road Corporation</td>
<td>Public concessionaire for approximately 1,600km of Uruguay’s national road network; CVU will be in charge of implementing the Program in these sections of the network.</td>
</tr>
<tr>
<td>MEF-Ministry of Economy and Finance</td>
<td>Responsible for Program budgeting and financial management.</td>
</tr>
<tr>
<td>DINAMA-Environmental Department of the Ministry of Housing, Land Planning and Environment</td>
<td>In charge of adjudicating environmental permits.</td>
</tr>
<tr>
<td>OPP-Budget and Planning Office</td>
<td>In charge of preparing 5-year budgets and monitoring and evaluation of public sector programs</td>
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<tr>
<td>State Court of Accounts</td>
<td>Will play a role in external audits, oversight and control functions.</td>
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</table>

**Program duration and geographic scope**

18. Program duration is expected to be three years, covering the 2013-2015 calendar years. Program works activities will be located on the Uruguay national road network.

**Program Financing**

19. The total estimated cost of the Program is US$510.0 million equivalent over the 2013-2015 period. The Program will be financed by Government fiscal resources, as well as IADB, FONPLATA and the World Bank loans proceeds. IADB and FONPLATA will finance each a set of specific contracts, with some level of counterpart financing; levels of counterpart funding to the IADB and FONPLATA loans are respectively estimated at US$15.2 million and US$13.1 million over the 2013-2015 period. Table 2 shows the planned expenditures for the three years of implementation, based on anticipated available budgetary spending ceilings and works contracting/progress. During preparation, the Ministry of Economy and Finances committed that the spending ceiling will be made available to the MTOP to implement its work-program, including Program activities. Program expenditures are based on this conservative hypothesis.
Table 2: Program Financing (US$ Million)

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount (US$ million)</th>
<th>% of Total</th>
</tr>
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<tbody>
<tr>
<td>Government (*)</td>
<td>283.5</td>
<td>56%</td>
</tr>
<tr>
<td>IBRD</td>
<td>66.0</td>
<td>13%</td>
</tr>
<tr>
<td>IADB</td>
<td>67.7</td>
<td>13%</td>
</tr>
<tr>
<td>FONPLATA</td>
<td>92.8</td>
<td>18%</td>
</tr>
<tr>
<td><strong>Total Program Financing</strong></td>
<td><strong>510.0</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

(*) Including counterpart financing to IADB and FONPLATA loans

Program contract amounts

20. The Program will finance mainly contracts for works, particularly road and bridge rehabilitation and maintenance. In addition, the Program will finance small-value goods operational costs of DNV and consulting / non-consulting services. As confirmed during appraisal, the proposed Program is not expected to finance any contract at or above prevailing OPRC (Operations Procurement Review Committee) thresholds, which at the time of project preparation were at USD 50 million for works, USD 30 million for goods and USD 20 million for consultants. The maximum contract amount is anticipated to be around US$15 million for road rehabilitation and maintenance works according to the profile of the Programs financed by the loan.

21. Based on information available at appraisal, over the 2013-2015 period, the Program is expected to include (at any one time) about 65 works contracts managed by DNV and CVU, covering road rehabilitation and maintenance, bridge rehabilitation and road safety works. Among these 65 contracts, it is estimated that: (i) about 45, representing approx. US$200 million, would be implemented 100% through national fiduciary systems and processes; (ii) about 10, representing approx. US$75 million, would be procured through IADB procurement specificities; and (iii) about 10, representing approx. US$35 million, would be procured with national systems and including FONPLATA specificities.

2.2 Fiduciary planning and budgeting

2.2.1 Budget planning

22. The institutional framework that rules the elaboration of the National Budget involves a range of entities including OPP (Budget & Planning Office) and various departments of MEF, including the National Budget Unit (UPN), National Accounting Office (CGN), National Treasury Office (TGN), and National Investigation Unit (AIN). Budget planning encapsulates all Program activities, irrespective of the source of funds.

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1 US$67.7 million out of the US$80 million IADB loan will contribute to Program financing over the 2013-2015 period. The remaining US$12.3 million will be devoted to rehabilitation works beyond 2015 and other activities.

2 US$92.8 million out of the US$120 million FONPLATA loan will contribute to Program financing over the 2013-2015 period. The remaining US$27.2 million will be devoted to rehabilitation works beyond 2015.
There are two easily distinguishable budgetary processes in Uruguay:

- One referred to the actual “National Budget”, which involves 13 ministries and 7 entities from article 220 of the Constitution. The national budget is set by a budget law that applies to a period of five years operating in practice as a medium term fiscal framework. The current budget law is valid for period 2010-2014 and includes a new budgetary classification, structured around the definition of 17 programmatic areas based on national policy priorities. This is an initial process towards the introduction of performance-informed budgeting and for the moment has no implications in terms of actual allocations.

- Another referred to the elaboration of annual “Rendiciones de Cuentas” (RC), which is the main institutional mechanism for adjusting budgeted allocations, which are fundamentally budget execution reports, yearly approved by both chambers of Congress, and they also provide a way to yearly change the allocations of the 5-year budget, subject to policy-making decisions and to the actual evolution of the economy. The National Budget can also be modified by other means such as adjusting clauses for salaries and tariffs foreseen in the budget law, and by specific legislation (e.g. the tax reform introduced in 2007). A unique feature of budgetary practices in Uruguay is that revenue projections/budgetary expenditure allocations for the next year(s) are not approved by the beginning of each fiscal year.

Through a coordinated effort of several MEF entities (namely, UPN and TGN), consistency is assured between budgeted allocations — according to the 5-year budget law and its legal adjustments — yearly macroeconomic forecasts, and the annual financial program, thus yielding to a monthly cash planning, agreed bilaterally between MEF and each spending unit included in the National Budget, and managed by TGN. Starting from this, TGN operates each year a cash-plan that includes monthly adjustments according to the actual evolution of forecasted expenditure execution and public revenues.

2.2.2 Procurement planning

There is no systematic procurement planning in DNV with detailed planned dates, estimated costs and procurement methods for the activities financed by the Program. In fact, planning is incipient at the government administration in general. As detailed above, the country’s budgetary processes and procedures are not conducive to using the budget as a planning tool, the main budget document being the five-year budget plan. There is no requirement to prepare annual budgets and, therefore, this has a direct impact on the ability to plan procurement. The five-year budget is modified annually when agencies submit their statements of expenditures or “Rendición de Cuentas Anuales”. And, since there is no annual budget planning processes, there is no information to reconcile planned dates for bidding

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3 Including the Judiciary Power, the Court of Accounts, as well as autonomous / decentralized entities such as the National Administration of Health (ASSE) and Education (ANEP).
4 However, as explained, annual RC’s cannot be considered as “annual budgets” since they are approved too late (around October of each year) and do not include estimated budget revenue and allocations for the next fiscal year(s).
5 In the particular case of MTOP, the starting point is the “tope”, i.e., an agreed and legally approved limit below the budget expenditure allocation (“crédito”).
processes with actual implementation dates or even to verify if planned contracts were implemented.

26. In spite of the above, procurement of supplies is very organized at DNV. The agency programs demand for supplies for an entire fiscal year as required by clause 40 of the TOCAF. In addition, there is a fairly predictable demand for inputs (asphalt, sand, oil and others) for works at DNV’s regional offices and procurement of these inputs are organized by each regional office independently.

27. Other than the above, the maximum detail of planning is a list of demand for public works prepared by DNV. This list is prepared based on the five-year plan but the level of detail does not get into planned dates. Implementation of the contracts that make it to the list of demand is contingent to the allocation of funds made by the Ministry of Economy and Finance. At the end of the fiscal year, DNV will report at its annual statement of expenditures what was executed and will indicate which contracts were included during the course of the year.

2.3 Program procurement arrangements

2.3.1 TOCAF

28. TOCAF (“Texto Ordenado de Contabilidad y Administración Financiera”) is the main legal text regulating procurement in the country and it is available for download at the website of the State Court of Accounts or “Tribunal de Cuentas de la República” (TCR). TOCAF regulates procurement of goods, works and services and it is important to note that the same rules and procedures apply equally when procuring goods, works or services, even consulting services. In other words, there is no different set of procedures to recruit consultants. Equally important to note is the fact that there is a large number of legal texts regulating different aspects of procurement.

29. Even though TOCAF is the main procurement legal text, special procurement procedures may be created by the government provided that such special procedures are approved by the TCR. When approved, these special procedures are outside the scope of the TOCAF and might have completely different rules and procedures for procurement. One example of special procurement procedures is used for SMEs and it allows for reserved procurement and margins of preference. Although special procurement procedures, outside the TOCAF framework, may be conducive to fraud and corruption, such procedures are based on prior approval from the TCR. Besides, when the present assessment was carried out, DNV had not used any special procurement procedures.

2.3.2 Modifications to TOCAF

30. During appraisal, MTOP/DNV informed the Bank of the approval of the new TOCAF, which came into effect in June 2012 (Decree 150/12). Modifications were introduced through the law that approved 2011’s budget execution, named Law 18.834 from November 17, 2011. Some of the modifications will depend on further regulation or development of infrastructure to become active and operational. For instance, the mechanism that sets timeframes for review of bids by bid evaluation committees will depend on further sector-specific regulation. Submission of electronic bids will depend on development and installation of information systems that will support these transactions.
31. The modifications to the government procurement section of the TOCAF are significant; main points are listed in Annex 1. Modifications constitute a significant enhancement *vis a vis* the previous procurement legal framework, and may contribute to address areas where the system underperformed, such as the time spent for bid evaluation and contract award. In particular, some of the new measures are expected to increase security and confidentiality of bids (e-bidding), transparency (in case the Ordenador de gasto overlooks the State Court of Accounts recommendation) and potential conflict of interests (information disclosure). Another new measure is to increase by four times the *Licitacion Abreviada* (see below), which could heighten the fraud and corruption risks; the new threshold is still quite low (UYU 5 million – approx. US$250k) and some risk mitigations measures are included. See Annex 1 for further details.

2.3.3 Publication

32. Most invitation for bids as well as bidding documents and contract awards have to be published at the Compraestatales website. This requirement is enforced *via information systems*. Payments can only be processed at the financial management system, named SIIF (“Sistema Integrado de Informaciones Financieras”), if a bidding process had been previously awarded at the procurement system, named SICE (“Sistema de Información de Contrataciones Estatales”), and published at Comprasestatales. As an exception to the requirement just explained, contracts below US$ 700 are not required to be published at Compraestatales and they are paid out of the petty cash account.

2.3.4 Procurement methods

33. Open competitive bidding, named “*Licitación Pública*” (LP) in TOCAF, is the default procurement method in the country. “*Licitación Pública*” requires publication of an invitation for bids at the official gazette, a newspaper of national circulation and the Comprasestatales website. The other methods available are “*Licitación Abreviada*” (LA), “direct contract based on the amount” (CD) and “direct contract by exception” (CDE). The Table below details all methods and conditions of use.

34. Direct contracts based on small amount are published at Compraestatales with a very short period of time for submission of bids. There are 27 cases described in the law for the use of direct contract by exception and its use is not limited by any monetary threshold.

<table>
<thead>
<tr>
<th>Procurement method</th>
<th>Conditions for use</th>
<th>Advertisement required</th>
<th>Period for submission of bids</th>
</tr>
</thead>
<tbody>
<tr>
<td>“Licitación Pública” - LP or open bidding</td>
<td>Default procurement method</td>
<td>• Official gazette</td>
<td>• Minimum 15 days</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• National newspaper</td>
<td>• 30 days if foreign participation is expected</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Compraestatales website</td>
<td>• In case of urgency, 5 or 10 days respectively</td>
</tr>
<tr>
<td>“Licitación Abreviada” - LA or restricted bidding</td>
<td>Up to $2.2 million Uruguayan pesos or approximately US$ 110,000</td>
<td>• Direct invitation to at least 6 companies</td>
<td>• Minimum 3 days</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Also available at Comprasestatales website</td>
<td>• 2 days in case of urgency</td>
</tr>
</tbody>
</table>
“Compra Directa por monto” – CD or direct contract based on amount

<table>
<thead>
<tr>
<th>Amount</th>
<th>Website/Method</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to $110,400</td>
<td>Comprasestatales website</td>
<td>No requirement</td>
</tr>
<tr>
<td>Uruguayan pesos or</td>
<td></td>
<td></td>
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<tr>
<td>approximately US$ 6,000</td>
<td></td>
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</tr>
</tbody>
</table>

“Compra Directa por excepción” - CDE or direct contract without competition

<table>
<thead>
<tr>
<th>Amount</th>
<th>Website/Method</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>27 cases listed in clause 33 of TOCAF.</td>
<td>Award published at Comprasestatales website</td>
<td>Not applicable.</td>
</tr>
</tbody>
</table>

35. During the period of January 2008 to November 2011, the average size of contracts for works awarded by DNV was USD 4.5 million for open bidding processes and the largest contract awarded during the same period was in the amount of USD 14 million. Graph 1 shows the average size of works contracts awarded by DNV distributed by procurement method.

Graph 1 – Average cost of contracts of works procured by DNV

2.3.5 Bidding documents

36. General conditions for bidding documents for procurement of works were published by MTOP in 1990 but have not been updated recently. These general conditions apply to all bidding documents published by MTOP. Also, whilst there is no standard bidding document of mandatory use, DNV uses the same format for all bidding documents for roads and bridges. This format was developed by DNV based on many years of experience of the agency's procurement team. The model documents are even used by other agencies that liked the format. The bidding documents used by DNV for procurement of works can be considered a de facto standard but DNV told the Bank that the documents could be changed at any time.

37. The Bank reviewed a sample of bidding documents used by DNV for rehabilitation and maintenance of roads, construction of bridges and construction of sewage infrastructure in roads.
These bidding documents for procurement of works are organized around eight sections as follows:

- **Description of the contract, delivery schedule and general characteristics**: this is typically the shortest section and besides description and delivery schedule, it sets out the conditions for contract amendment (clause 63 of the TOCAF), subcontracts and transfer of contract.
- **Instruction to bidders**: this section deals with qualification requirements - engineering, financial, legal and fiscal requirements.
- **Laws and documents regulating the bidding**: it is a list of all the laws, regulations and documents that apply to the bidding.
- **Securities and guarantees**: sets the format and amount for bid and performance security, amount of retention money, and provides the model format for the securities.
- **Evaluation of bids and award**: defines bid opening information, criteria for bid evaluation and contract award. The latter is always defined in the bidding documents as the "most convenient bid".
- **General conditions of contract**: deals with ownership of the works site, actions that require prior approval by the employer, notifications, labor conditions, materials, patent rights, environmental issues, mobilization costs, responsibilities, insurance, termination, indemnification, force majeure, payment, price adjustment, acceptance.
- **Specific conditions of contract and technical specifications**: in contracts for rehabilitation and maintenance provides a list of standards that shall be met during the maintenance period.
- **Penalties**: describes applicable penalties in case of delay, failure to meet contract standards, environmental damages and others.

**Bidding documents** shall not include any specification or mechanism that limits competition. In such an event, the bidding process is declared null and void and the agency should investigate and identify responsibility.

2.3.6 **Contractors national registry**

38. Contractors are required to register at the Registro Nacional de Empresas de Obras Públicas to be able to bid and sign contracts for works with the government⁶. Registration is done by the MTOP and requires local representation⁷ in the case of the contracts financed by the Program. There is a special procedure for registration of foreigners when the bidding is financed by IFIs but this special procedure will not apply to this Program because specific bidding processes under the Program that are financed by the Bank will not be identified.

39. Private and individuals firms are eliminated from the national registry following a sanction by the State related to fraud and corruption (F/C). This elimination automatically disqualifies firms for any future public contract. It does not, however, disqualify any of their subsidiaries. A private business or individual that is sanctioned because of fraud and corruption is automatically removed from this national registries (for a specified period or permanently, depending on the severity of the crime) and cannot enter into a contractual agreement with an agency.

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⁶ See clauses 66 and 159 of the TOCAF. A detailed description of the registration can be found at the CPAR Uruguay, IBRD Report 38965-UR.

⁷ Local representation is required for foreign contractors according to clause 28 of Decree 208/009.
public entity while suspended. Businesses and individuals that have been removed from either national registry can request to be reinstated after the expiration of the suspension period following a process that requires ministerial approval, in the most serious cases. The names of the firms and/or individuals removed from the national registries is not publicly available but may be communicated to public sector agencies and ministries upon request.

40. Contract penalties are recorded at the “Registro Nacional de Empresas de Obras Públicas” after review, appeal and decision. History of nonperformance at the database might be a reason for rejection of a bid in the future. DNV told the Bank about a bidding process at which the bid evaluation committee recommended rejection of the lowest bidder because the same bidder had previously offered an unrealistic bid and did not perform.

2.3.7 IADB and FONPLATA specific procurement arrangements

41. While drawing on the above-described systems, some IADB and FONPLATA-financed contracts, included in the Program, will be subject to specific procurement arrangements.

42. Contracts financed by the IADB will be procured on the same basis (similar procurement principles, same team) as any other contracts under the Program. Yet, the Government of Uruguay / IADB loan agreement has defined specific arrangements for some types of contracts; in particular, any works contract greater than US$3 million (most of the Program works), is expected to be subject to IADB’s own procurement policy, including specific bidding documents and procedures.

43. FONPLATA-financed contracts will be procured following Program systems, as above-described. However, it is FONPLATA’s policy that FONPLATA-financed contracts are awarded to firms from FONPLATA member countries (Uruguay, Brazil, Argentina, Paraguay, Bolivia). Yet, as discussed in Section 3 below, this restriction is deemed not to hinder procurement competitiveness, in the particular case of the Program.

2.4 Contract administration

44. Under TOCAF, a company awarded a contract for works may transfer the contract to another company with the consent of the employer and provided that the new company has the required qualifications to perform the contract. While this transfer of contract may increase fraud and corruption risks, DNV reported to the Bank team that this has seldom occurred over the past years and that the TOCAF allows for government officials to take action against companies that abuse this procedure.

45. Companies awarded a contract for works or services are required to employ a minimum of 5% of the low-skilled staff working on the contract from former jail inmates. A bonus may be awarded to companies employing more than the 5%.

46. Contracts may be amended to an amount of up to 20% by technical teams at DNV. Above that amount, amendments shall be cleared by the “ordenador de gasto” and it cannot

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8 The procedure is locally named “cesión de contrato” and it is regulated by clause 64 of the TOCAF.
9 As described in Law 17.987 from 14 September 2005.
exceed 100% of the original contract amount. Data on contract amendments was not available for analyses.

47. Contract disputes are addressed through administrative procedures at first. Project managers will escalate any dispute to the supervisor, who will try to settle it. If not settled, disputes have to be taken to the “Tribunal de lo Contencioso Administrativo” or TCA for a review.

2.5 Payments and flow of funds

48. There is a detailed system for control of prices; this system applies to all contracts included in the Program. At the beginning of every month, project managers will deliver a report to DNV’s central office detailing the quantity of work performed by contractors in the previous month. This information will feed a system named “sistema de certificación de obras” or “Fiorina” that will track quantity and unit price of each item of the bill of quantity, including taxes and social benefits, and adjustment for inflation. All contracts for works have price adjustment mechanisms. The information sent by the project managers will be checked against the invoices submitted by contractors.

49. Once the information entered at the “Fiorina” system is confirmed, payment requests are reviewed by the ‘Contaduría General’ for financial soundness and by the “Tribunal de Cuentas” for legal consistency. If cleared for payment, the process will migrate from the Fiorina system to the financial management system (SIIF - Sistema Integrado de Información Financiera) for its acronym. There is no integration between the two systems and the financial information from Fiorina will have to be entered manually at SIIF. Once payment instruction is given at SIIF, the process will move to MEF and treasury for release of funds. DNV reported that the information entered at SIIF is checked by auditors against the physical file of the process before payment release. This control aims at preventing unauthorized or incorrect information being carried over from Fiorina to SIIF.

50. The process associated to actual payments made through TGN also depends in most cases on the source of financing. If funds stem from domestic sources (usually “rentas generales”), payments are made in most cases through the “Single Treasury Account” system (CUT), which is composed by a total of six accounts, two located at the Central Bank (BCU), and the other four at Uruguay’s National Bank (BROU). If funds stem from external financing, they are transferred from creditors to individual accounts at BCU, and then payments are made through one (or several) specific bank accounts located at BROU. The BCU is currently working (in cooperation with TGN and the Bank and IADB) on the implementation of a new direct payment system for externally financed projects, i.e. avoiding the two-stage payment process involving the use of BROU accounts.

2.6 Accounting and financial reporting

51. As previously mentioned, within the scope of the Central Government, budget execution and transactions are made by each spending unit (inciso) and registered through the expenditure execution system (SEG - Sistema de Ejecución de Gastos), one of the pillar modules of SIIF.

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10 See clause 63 of the TOCAF. This clause is also referred to in the bidding documents for works.
11 A more detailed explanation of the TCA can be found later in this report under the sub-section 2.9 Access to information and complaint mechanism.
This is implemented by MTOP and other key spending units through a detailed 4-step accounting sequence that supports expenditure internal controls, valid for all contracts and activities expenditures included in the Program: 1. “Afectación”, which implies the lock of funds within the ceiling resulting from the financial and cash planning agreed between the spending unit and MEF; 2. Commitment, “Compromiso”, leads to identifying the expenditure counterpart (supplier, etc.) and first registering in SEG; 3. “Obligación”, which refers to accrued expenditures, i.e., legally incurred but yet unpaid (also registered in SEG); and 4. “Pago”, i.e., actual payment through a Treasury managed bank account.

52. SIIF registered information is consolidated and reported by CGN on a monthly basis, which is also available to the public, usually within 3 months of actual execution. The main annual budget execution report issued by the CGN is the RC, timely submitted to Congress by the end of June, and presented with the same level of disaggregation as it appears on the 5-year budget law.

2.7 Controls and audits

2.7.1 Procurement

53. Under TOCAF, there is clear definition and segregation of functions in a procurement process. Officials and committees participating on the implementation of procurement processes work independently and are accountable for their individual contribution to the process. The most important roles in a procurement process are performed by the “ordenador de gasto”, the “escribano”, the “comisión asesora de adjudicación” and the “Tribunal de Cuentas”.

54. The “ordenador de gasto” is the official who has the authority to execute an outlay. In this sense, this official is responsible for authorizing the kick off of a procurement process by committing budget funds. Also, this official has the ultimate responsibility of a procurement process outcome by signing off the award decision. Primary “ordenadores de gasto” at the executive branch of power are the President and the Cabinet. Secondary “ordenadores de gasto” are sector Ministers, Directors and Managers at the agency-level and their authority are limited to contracts estimated to cost four times the threshold for “licitación abreviada”. Primary and secondary “ordenadores de gasto” may delegate the task to officials in the same agency but the responsibility for the decisions is not passed along with the delegation.

55. The arrangement just described requires the President or his Cabinet to sign off awards of contracts over four times the amount of “Licitación Abreviada” unless delegation arrangements are put in place. The majority or all of the contracts for rehabilitation and maintenance of roads financed by the Program will have their award decisions reviewed and cleared by the President.

56. The “escribano” is a public notary who is responsible for conducting bid opening ceremonies. At DNV, “escribanos” carry out the bid opening ceremony of all “Licitaciones Públicas” and “Licitaciones Abreviadas”. The “escribanos” are employees of the MTOP.

57. The “comisión asesora de adjudicación” or bid evaluation committee is nominated by the highest authority of an agency and its job is to evaluate all bids received and recommend an award based on the convenience and interests of the government as well as the need for

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services\textsuperscript{13}. Bid evaluation committees are required for all contracts estimated to cost at least $636,600 Uruguayan pesos\textsuperscript{14}. The award recommendation made by the committee is not final and does not constitute any legal right to the bidders recommended for award. The award decision rests solely with the “ordenador de gasto” and the work of the committee is a recommendation for decision. If the “ordenador de gasto” diverges from the recommendation made by the committee, he/she has to document the reasons for the decision\textsuperscript{15}. DNV reported to the Bank that there was only one occurrence of such overruling in the fifteen years preceding this report.

58. The bid evaluation committee does its work in private but its report recommending an award as well as all documentation of the process is made available for inspection by all bidders before an award decision is taken by the “ordenador de gasto”, following the legal procedure named “vistas” that are later detailed in this document.

59. The "Tribunal de Cuentas" (TCR) has the authority to prior review decisions that will cause expenditures, including contract award decisions, as stated in article 211 of the country’s Constitution and article 94, paragraph 2 of the TOCAF. The TCR reviews the legality of the procedures and can raise objections. The review of the TCR is a major input for the "ordenador del gasto". It is customary for the "ordenadores del gasto" to abide by the objections raised by the TCR. Otherwise, an "ordenador del gasto" may not abide by the objection raised by TCR and therefore, reiterate the decision, stating the reasoning for disagreeing with the TCR, but in such cases, if the TCR maintains its objections, the matter has to be sent to Congress for information purposes. There is no penalty for an "ordenador" to overlook an objection raised by the TCR.

60. There are timeframes for the “Tribunal” to carry out its review but the deadline may be extended at any time and as many times as necessary upon request of additional information to the bid evaluation committee or to the implementing agency.

2.7.2 Financial management

61. Internal Controls: Expenses are verified at accounting stages # 2 (compromiso) and # 3 (obligación) by the Central Accountant authority from each “inciso”, which depends from the National Accounting Office (CGN) and also reports (monthly) to the Court of Accounts (TCR). All spending decisions by the Central Government Ministries are authorized through the Expenditure Execution System (Sistema de Ejecucion de Gastos- SEG), which is part of the SIIF. This leaves very few to no risk of over-commitment and has helped keep expenditures within the limits of the cash projections.

62. Salary expenditures are managed through a centralized database system of personnel (SGH) by the CGN and the National Civil Service Office (ONSC). The full concept of SGH foresees the use of an “economic management” module for payroll processes, integrated to SIIF, which is so far non-operative. Instead, salary payments are made through a separated information system (SLH), also managed centrally by CGN for most ministries, including the MTOP. In all cases, monthly execution of salary expenditures and actual payments made through the Treasury

\textsuperscript{13} The job of the bid evaluation committee is described at clause 57 of the TOCAF.

\textsuperscript{14} For contracts below this amount, approximately USD 32,000, there is no need to appoint a bid evaluation committee and bids will be evaluated by DNV’s procurement team and an award recommendation will be sent to the “ordenador de gasto” for review and approval.

\textsuperscript{15} As required by clause 59 of the TOCAF.
are subject to a series of internal controls by CGN, i.e., although personnel and payroll data are not directly linked, payroll is supported by full documentation for all changes made to personnel records each month, and checked against the previous month’s payroll data.

63. The national internal audit office (AIN) reports to the MEF and current AIN audit tasks are mainly applied to private sector entities (corporations and cooperatives).

64. **External audit** is carried out by the Court of Accounts (TCR), which is also Uruguay’s Supreme Audit Institution (SAI). The nature of audits undertaken by the TCR is strictly financial, and its scope includes the consolidated public sector, i.e., Central Government, state-owned enterprises, public financial entities, other public entities ruled by private sector laws (“para-estatales”), and sub-national governments “Intendencias”.

65. Within the scope of the Central Government, TCR audit tasks are focused mainly on annual financial statements referred to the execution of public expenditures\textsuperscript{16} consolidated and reported by CGN. TCR’s audit opinions on aggregated financial statements referred to several grouped public entities\textsuperscript{17} and also on the consolidated annual budget execution report (RC) are based on international standards (INTOSAI), and timely sent to Congress, following country legal requirements.

66. MTOP budget execution is audited in different ways, according to the source of expenditure financing. When public resources stem from domestic funds, then external audit is performed by Department 1 of TCR, and reported within the “Central Administration”, which includes other ministries and decentralized public entities. Put differently, there is no specific audit reporting at the ministerial level, unless specifically required. Alternatively, when expenditures are externally financed, audit is performed for each operation by Department 5 of TCR, following the requirements of the multilateral lending institutions (IADB, FONPLATA and the Bank).

### 2.8 Access to Information and Complaint Mechanisms

67. **Access to information.** As indicated in the draft PEFA Report, public access to key fiscal information is a reality in Uruguay since most of the budgetary and financial information is made available through the internet. CGN web site gives timely access to the 5 year budget law as well as to the annual RC including budget proposals, budget execution monthly and annual reports. In addition, CGN website dedicates a specific webpage\textsuperscript{18} to ensure that public effectively gains access to the available information related to its mission, activities, ethics code, staff remunerations and access-to-information rights. TCR website publishes its audit reports and opinions on budget and financial statements while the Public Procurement Agency (*in Spanish Compras y Contrataciones Estatales*) website\textsuperscript{19} share all information related to award of contracts and related information. Specifically, this site avails search by type of purchase, subsection, implementing unit and classification of articles

\textsuperscript{16} Keep in mind that public assets and liabilities are not yet reported, despite of being required by financial management legislation (TOCAF).

\textsuperscript{17} For example, an audit opinion is issued on aggregated financial statements of the “Central Administration”, which includes all 13 ministries from the Executive Power and some decentralized entities (art. 220 of National Constitution). If considered necessary, the TCR is legally entitled to audit the financial statements of individual spending units.

\textsuperscript{18} [http://www.cgn.gub.uy/innovaportal/v/126/3/innova.front/acceso_a_la_informacion_publica_.html](http://www.cgn.gub.uy/innovaportal/v/126/3/innova.front/acceso_a_la_informacion_publica_.html)

68. All procurement laws and regulations are widely available to the public at no cost, primarily through the internet. The Comprasestatales website is a repository of legal procurement information that can be accessed at the link named “Normativa vigente” at the home page. Additionally, DNV is responsible for keeping the records of all procurement processes and contracts. A specific department, named Document Administration, is responsible for this task. Recordkeeping in Uruguay is regulated by Law 18.220 or “Ley de Sistema Nacional de Archivos”. Procurement files kept by DNV include all relevant procurement documents, including publications, bidding documents and their amendments, all bids received, bid evaluation report and complaints received, award decisions and contract amendments. Payment files are kept separately by a different department. Law 18.381 allows any citizen to have access to public information and documents, and all documents generated during a bidding process are considered public. The Law in reference allows for bidders to request confidentiality of parts of their bids.

69. For contracts estimated to cost more than four times the limit of “Licitación Abreviada” (around US$ 440,000), all documentation about the process, including all bids and the bid evaluation report, is made available to all bidders for inspection for a period of five days prior to contract award, a procedure named “vistas”. In addition to these five days, bidders have another five days to file complaints about an award decision.

70. **Complaint mechanisms.** Bidders may complain about decisions during the procurement process directly to the agency implementing the bidding and a copy of the complaint shall be sent to the “Tribunal de Cuentas” for information only within 48 hours of its filing. Complaints freeze the course of bidding processes unless the implementing agency documents that the freeze will cause damages to the administration or stop of services.20

71. Implementing agencies are not required to respond directly to complainants but the complaint has to be described in the evaluation report. The “Tribunal de Cuentas” will not respond to complaints either but they will consider any complaints received when reviewing the award decision. Besides complaining to the agency implementing the bidding process, the only other recourse for unsatisfied bidders is to file a complaint with the “Tribunal de lo Contencioso Administrativo” or TCA. The TCA does not report to any of the three branches of power and it is administratively independent. It was created in 1952 and its main mission is to safeguard private rights against government actions21. In this sense, TCA aims at exercising legal control of government actions by reviewing petitions to nullify them. Requests for review by TCA can only be filed by individuals who have a direct stake at the issue and only after having previously exhausted the corresponding administrative procedures. TCA will only annul or confirm a government action; it cannot propose modifications. Compensation for damages has to be sent to the judiciary. Complaints to TCA shall be filed no later than 60 days after having exhausted the administrative channels. In procurement, besides reviewing complaints about bidding processes, TCA also reviews contract disputes.

2.9 **Ethics**

72. All civil servants abide by the code of ethics defined at Decree 30/003 dated 23 January 2003. The code of ethics defines activities that civil servants shall not engage, such as corruption,

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20 Procurement complaints follow the procedures established by clauses 58 and 62 of the TOCAF.

21 TCA’s role is regulated by clause 309 of the 1967 Constitution and also by Law 15.524 dated 09 January 1984.
activities that are in conflict with the job or interest of the government, use of inside information for personal benefit, deny access to information or documentation, use the job for direct or third-party benefit and others. The code requires officials working on government procurement to rotate after 30 months on the position\textsuperscript{22} and the term can be extended by the highest authority at the agency in case of lack of qualified human resources and provided that there is a positive assessment of the performance of the staff. However, this rule is not complied with, due to the shortage of the technical human resources. This potential risk for undue influence is nonetheless mitigated by income and asset disclosure requirements (Law no. 17060) at the Ordenador de gastos level, as well as a conflict of interest disclosure for the members of the bid evaluation committee. Applying Law No. 17060 to include all these public officials directly involved in procurement processes in MTOP and other public agencies among the list of civil servants required to provide income and asset declarations could strengthen the oversight and prevention system of the country and benefit both the Program as well as F/C systems.

73. Also, officials working on government procurement are required to treat all bidders equally, use open competitive processes and publish all procurement processes. It is forbidden for government officials to sign contracts with the agency of employment and to have any affiliation or association with companies doing business with such agency. The code also forbids accepting commission, gratuities or gifts. Allegations against the conduct of civil servants are addressed to the judiciary, government prosecutors or the police\textsuperscript{23}.

3 \textbf{Program Fiduciary Performance and Risks}

74. Overall, Program fiduciary systems, including the fiduciary arrangements set out to implement the IADB and FONPLATA-financed contracts which are part of the Program, are deemed satisfactory, providing reasonable assurance for the Program funds will be used for their intended purposes; it is assessed that no major fiduciary risk could prevent the Program from delivering its intended results.

75. IADB and FONPLATA specificities with respect to procurement are deemed compatible with the OP 9.00 requirements. On the one hand, IADB’s procurement policies are fully aligned OP9.00 requirements, in terms on economy, efficiency and transparency. On the other hand, while FONPLATA-financed contracts award are restricted to firms pertaining to its member countries, it has been appraised that, over the 2008-2011 period, all bidders for road rehabilitation and maintenance contracts actually came from FONPLATA member countries (Argentina, Bolivia, Brazil, Paraguay, Uruguay), with an overwhelming proportion of Uruguayan firms. This situation stems from the relatively modest size of contracts, as well as their low technical complexity. It is therefore assessed that, for the Program, this restriction on the country on origin of contractors for FONPLATA-financed contracts would not hinder procurement competitiveness.

3.1 \textit{Bank’s past experience on fiduciary performance}

76. MTOP, and DNV in particular as its main executing unit, has a good track record of fiduciary performance, as demonstrated on the Transport Infrastructure Maintenance and Rural

\textsuperscript{22} See clause 24 of the code of ethics and Law 17.060.

\textsuperscript{23} See clause 42 of the code of ethics and Law 17.060.
Access project (P057481) that was closed in July 2011 and previous experience with Bank financed operations. During the 5 years of project implementation, the FM rating has been Satisfactory; annual Audited Financial Statements have been submitted to the Bank by TCR in timely manner throughout the project life, and no major issues have been identified. Consistently, ISR ratings have been deemed as “satisfactory” during project implementation. Beyond this closed latest transport project, as of the date of this report, the audit covenants of existing Bank financed projects in Uruguay have been timely complied with. Procurement on the transport project has usually been rated Satisfactory, but some shortcomings a few semesters had the rating downgraded to Moderately Satisfactory. At project completion, both FM and procurement ratings were Satisfactory.

3.2 Program fiduciary performance

3.2.1 Budget management and planning performance

77. Following the review, it is noted that Uruguay budget system is well-suited for and conducive to the implementation of a PforR operation since it is fundamentally based on government programs covering several areas (including transport) and approved for a 5 year period coinciding with the term of the elected government. This approach provides Uruguay’s Central Government with a multi-year perspective that in one hand helps in reflecting government policies in budget and plans, and in other hand, allows for managing programs and projects with the required flexibility to meet expected results. Still, the resulting government programs may be confronted with implementation uncertainties. At the MTOP and DNV level, this is particularly reflected in the ample deviations observed between the budget appropriations, and actual expenditures during past years.

78. Actual spending is usually well below the initial budgeted amount (respectively -44% for the last five-year program and -33% for 2010) because the latter budgets were based on program needs and ignored the resources constraints. Similar wide but opposite deviation is observed between actual spending and initial ceiling (+48% for 2005-2009) since the economic growth enjoyed during that period resulted in more domestic revenues made available to DNV programs (+7% increase in domestic funding compared to initially budgeted). Finally, and not surprising, the actual DNV spending matched almost the revised ceiling (+3%) since this appropriation is approved ex-post. Therefore, sustainability of the DNV programs would mostly hinge on existence of realistic Topes (revised ceilings) which in turn, depend on economic conditions.

<table>
<thead>
<tr>
<th>Table 4: DNV budget ratios - 2005-2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>Actual Spending/ Initial Budget</td>
</tr>
<tr>
<td>2005       2006       2007       2008       2009       Five Years       2010</td>
</tr>
<tr>
<td>81%        61%        43%        52%        59%        66%        61%        67%</td>
</tr>
<tr>
<td>Actual Spending/Rev.Budget</td>
</tr>
<tr>
<td>86%        63%        45%        57%        66%        61%        69%</td>
</tr>
<tr>
<td>Actual Spend/Initial Ceiling</td>
</tr>
<tr>
<td>122%       147%       137%       166%       161%       148%</td>
</tr>
<tr>
<td>Actual Spend/Revised Ceiling</td>
</tr>
<tr>
<td>93%        115%       110%       99%        100%       103%</td>
</tr>
</tbody>
</table>

79. Although past years show that actual spending was much higher that the initial budgets, it will be important to protect the Program from lack of resources that could arise given the budget formulation process. Relevant government entities may need to commit to reasonable assurance
that budgeted funds will be made available to the Program throughout the years, but for exceptional circumstances.

3.2.2 Procurement performance

80. DNV relies on highly skilled procurement staff but the team is understaffed. It is reasonable to expect that any bumps on demand for more procurement work will reach a bottleneck. For example, preparation of bidding documents is done by only one highly-skilled specialist. DNV’s staff working on procurement has very solid capacity and knowledge of local procurement rules and procedures. The legal adviser to the bid evaluation committee told the Bank that she has been working for more than fifteen years at the position.

81. Further, the Bank team reviewed data of all contracts for works awarded by DNV from January 2008 to November 2011 and found that 86% of all contracts were awarded through open competitive procurement processes whereas 12% followed less competitive methods and 2% were awarded without competition. Graph 2 below summarizes the results found based on the data for contracts for works.

82. When considering the amount of money spent through procurement processes for works, the use of open competitive methods is even more prominent, at 98% as shown in Graphs 2 and 3.

Graphs 2 and 3 – DNV’s procurement methods

83. General conditions for bidding documents for procurement of works were published by MTOP in 199024 but have not been updated recently. These general conditions apply to all bidding documents published by MTOP. Also, whilst there is no standard bidding document of mandatory use, DNV uses the same format for all bidding documents for roads and bridges. This format was developed by DNV based on many years of experience of the agency’s procurement team. The model documents are even used by other agencies that liked the format. The bidding

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24 See Decrees 8/990 and 9/990 from 1990.
documents used by DNV for procurement of works can be considered a de facto standard but DNV told the Bank that the documents could be changed at any time; likelihood for such event to occur is deemed low.

84. The Bank reviewed a sample of bidding documents used by DNV for rehabilitation and maintenance of roads, construction of bridges and construction of drainage infrastructure in roads. These bidding documents for procurement of works are organized around eight sections as follows:

- Description of the contract, delivery schedule and general characteristics: this is typically the shortest section and besides description and delivery schedule, it sets out the conditions for contract amendment (clause 63 of the TOCAF), subcontracts and transfer of contract.
- Instruction to bidders: this section deals with qualification requirements – engineering, financial, legal and fiscal requirements.
- Laws and documents regulating the bidding: it is a list of all the laws, regulations and documents that apply to the bidding.
- Securities and guarantees: sets the format and amount for bid and performance security, amount of retention money, and provides the model format for the securities.
- Evaluation of bids and award: defines bid opening information, criteria for bid evaluation and contract award. The latter is always defined in the bidding documents as the “most convenient bid”.
- General conditions of contract: deals with ownership of the works site, actions that require prior approval by the employer, notifications, labor conditions, materials, patent rights, environmental issues, mobilization costs, responsibilities, insurance, termination, indemnification, force majeure, payment, price adjustment, acceptance.
- Specific conditions of contract and technical specifications: in contracts for rehabilitation and maintenance provides a list of standards that shall be met during the maintenance period.
- Penalties: describes applicable penalties in case of delay, failure to meet contract standards, environmental damages and others.

85. Bidding documents shall not include any specification or mechanism that limits competition\(^{25}\). In such an event, the bidding process is declared null and void and the agency should investigate and identify responsibility.

86. Estimated costs are the responsibility of a specific department at DNV. During project preparation, DNV reported that estimated costs are fairly accurate as they are based on previous prices paid by the administration. Also, DNV told the Bank that the usual practice is for DNV to prepare engineering designs before bidding the construction work. The general conditions of bidding published by DNV and that are cross-referenced in all bidding documents allows the rejection of bids that are 30% or more below DNV’s official estimation. The Bank found a few cases in which the lowest bid was rejected on such grounds during 2008-2011.

Award criteria

\(^{25}\) See clause 46 of the TOCAF.
87. In Uruguay, the award does not necessarily need to be made to the lowest price. Clause 59 of the TOCAF allows for an award decision made on the basis of the “most convenient bid”. The Bank reviewed individual procurement processes carried out by DNV to assess the procurement performance of this agency and found that the majority of the award decisions are made to the lowest price as shown in Graph 4. The assessment also showed that it is a practice of the agency to reject bids that are 30% or more below the agency’s official estimated cost. It should be noted that the dataset used for this specific analysis did not contain data for all procurement of works carried out by DNV during 2008-2011.

**Graph 4 – Awards made to lowest and second lowest bidder**

88. DNV reported to the Bank that awards made to bids other than the lowest bid and based on “convenience”-related considerations happen more often in “licitaciones abreviadas” where differences in quality among bids are more prominent. However, DNV stressed that the large majority of awards are made to the lowest price, a statement which is consistent with the data available.

89. Government agencies may negotiate directly with bidders when bids are considered “similar”. According to clause 57 of the TOCAF, “similar bids” are within a 5% range of the price of the lowest bid provided that the quality and delivery schedule are also similar. Bidders with similar bids have at least 24 hours to offer a lower priced bid. Alternatively, the agency may negotiate in private with the concerning bidders if such procedure is defined in the bidding documents. If negotiations fail to separate bidders, the agency may consider splitting the award among the “similar bids” or else award by lottery. Negotiations may also take place when all bids are considered overpriced.

90. While contract negotiations may increase fraud and corruption risks within the procurement process, DNV reported to the Bank that negotiations based on “similar bids” seldom occur. DNV said that only three or four cases happened in the 15 years previous to this period.

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26 The Bank reviewed individual files for 25% of total number of bidding processes for works in the period 2008-2011.
report. But bid evaluation committees will always point out to the “ordenador de gasto” when there are bids that can be considered “similar” in the terms of the law.

Timeliness

91. Data reviewed by the Bank shows that DNV took on average eight months to award a contract for works through open bidding during 2008-2011 as shown in Graphs 5 and 6. The majority of the time spent to turnaround a procurement process goes on bid evaluation and award recommendation. On average, it took 200 days for DNV to review bids and go through all internal procedures for an award decision as seen on the two Graphs below. More details about internal procedures for bid evaluation and award are provided at the “Controls and Integrity” section of this report.

92. The TOCAF allows for a bid clean-up period of two days during which the government agency may permit bidders to correct minor and formal deviation of bids. Bidders may also complement the bid security amount in this period provided that the amount corrected is not substantial.

Graphs 5 / 6 – Average time of procurement processes / Average time to evaluate bids

Competitiveness

93. DNV received on average five bids per bidding when implementing open bidding processes during 2008-2011 as shown in Graph 7. When considering median figures, the number goes down to three bids per open bidding process.

94. Bidders offering national goods, works or services are entitled to an 8% margin of preference over foreign bids. In the case of procurement of goods, the national bid should include a minimum of 35% of local inputs to be eligible for the margin of preference.

27 See clause 52 of the TOCAF.
95. Preferences are granted to small and medium enterprises (SMEs) offering national goods, works or services. Bids from SMEs with a minimum of 30% of national content may be granted a 20% preference on the national content percentage, if there is at least one other bid not considered national. If all other bids are qualified as nationals, then bids from SMEs will be awarded a 10% preference, on the national content percentage.28

96. Furthermore, according to Law 18.362 a minimum of 10% and a maximum of 20% of the total amount to be spent with procurement shall be set aside for the program of government procurement for development or “Programa de Contratación Publica para el Desarrollo”. The terms of such program allows preference margins or reserved procurement for SMEs.29

3.2.3 Contract administration

97. Based on the road rehabilitation and maintenance contracts on-going at the time of the assessment, contract amendments for time and cost increase can be significant.

98. Out of the 11 on-going rehabilitation and maintenance contracts managed by DNV, 5 have been amended for cost / duration increase. On this recent sample (4 contracts), price increase is ranging between 10% and 54% of the initial contract price (quantity increase). 4 contracts have been amended to increase the contract duration, between 25% and 50% of the initial contract duration.

3.2.4 Payments and flow of funds

99. There is no reliable data to assess timeliness of payments to suppliers as evaluated by the PEFA report. However, late payments are estimated to have hovered around 3% in the period

28 The mechanism of margins of preference for SMEs offering national products is regulated by Law 18.046 from 24 October 2006.
29 Details of the program are described at Law 18.362 from 06 October 2008 and Law 15.093 from 10 November 1987.
2007-2009 as assessed through the concept of “floating debt” used in Uruguay\(^\text{30}\). It should be noted that DNV told the Bank that since 2010 payments were being processed quickly – about 2 weeks as informed by DNV – and that little delay has happened since then. The Bank was unable to verify that information through specific DNV data, as no specific follow-up of payments and related data was available.

100. Following the FM assessment, it is noted that the existing Treasury arrangements are robust enough to manage the Program resources and do not require any specific measure to that end.

101. Bank disbursements under the Program operation, upon achievement of DLIs, and submission of disbursement requests by MEF, will be transferred in US dollars directly from the Bank to a treasury special account maintained at the Central Bank, on behalf of the Program. In line with PforR disbursement options, the first withdrawal may take any of the following forms, meeting the needs of the Government: i) an advance of funds (to be deducted in future withdrawals) for a total of 25% of the total loan amount, ii) recognition of expenditure incurred (retroactive payments) up to 25% of the loan amount, or iii) a combination of both, and in this latter case, may not exceed 30% of the loan. The proposed disbursement arrangements are described in the following table:

<table>
<thead>
<tr>
<th>Prior-results Payment</th>
<th>Eligible payments:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• Are paid between the date of the Program Concept Review and the date of loan signing;</td>
</tr>
<tr>
<td></td>
<td>• Do not exceed 25% of the loan amount and total Prior-Results and Advance Payment (see below) should not exceed 30% of the loan; and</td>
</tr>
<tr>
<td></td>
<td>• For DLIs achieved before loan approval in accordance with applicable PforR requirements and policies (BP 09, paragraph.14)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Advance Payment</th>
<th>Eligible payments</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• Do not exceed 25% of the loan amount and total Prior-Results (see above) and Advance Payments should not exceed 30% of the loan; and</td>
</tr>
<tr>
<td></td>
<td>• Advance (or portion of advance) is deducted (recovered) from the amount due to be disbursed upon achievement of DLIs or refunded by Borrower if the DLIs have not been in accordance with applicable PforR requirements and policies (OP/BP 09, paragraph 15).</td>
</tr>
</tbody>
</table>

| Other Disbursement Methods | Following achievement of DLIs, amount disbursed to TGN account in BCU in US$ or pesos according to withdrawal request sent by Borrower (see below) |

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\(^{30}\) See indicator ID-4 of the PEFA report.
102. During appraisal, MEF submitted to the Bank a form indicating its preferences in terms of the financial terms and disbursement arrangements of the loan. The Government of Uruguay has wished to be able to request advances to be disbursed prior to the achievement of specific DLIs, namely DLI-1 and DLI-2, in a maximum amount of US$14 million. Such advances on a rolling basis would help the MTOP to facilitate the achievement of these DLIs. Advanced disbursements will be recovered from disbursements due when the DLIs are actually achieved and new advances are disbursed, on a rolling basis. Disbursement requests are expected to be submitted to the Bank once a year, by the Ministry of Economy and Finance.

3.2.5 Accounting and financial reporting

103. Drawbacks identified, in terms of accounting include that current accounting tools do not allow for a comprehensive and updated registry of public assets and liabilities within the scope of the Central Government. The accounting module of the SIIF system is not operational and consequently consolidated annual financial assets and liabilities statements (which are central to reporting transparency) are prepared manually. Lack of reliable annual financial statements represents a limitation regularly noted by TCR in its audit opinion. The MEF is very aware of this shortcoming and a project to reengineer and to update the SIIF incorporating the Accounting Module is under development at the functional design stage.

104. Program accounting and financial reporting will rely on the budgetary country system, SIIF. MTOP budget execution reporting, as any other line ministry, is available through SIIF since the system is able to produce instant reporting related to the program and budget execution. However, the reports issued by the system are not detailed enough to track spending at the activity level, such as road maintenance and rehabilitation expenses. Indeed, the current reporting is designed to inform on aggregate spending at the Ministry (inciso), program, and project levels. It also can detail economic nature of spending, (i.e salaries, utilities, capital spending, etc.) but it does not specifically report sub-activities. Therefore, it was agreed to rely on the SIIF system reports as they are during the first year of project implementation. MTOP is to discuss with SIIF managers to determine how the system can be revised to produce reports including the sub-activity level.

31 The Borrower through the Coordination Unit shall retain all records (contracts, orders, invoices, bills, receipts and other documents) evidencing expenditures under the Program until at least the later of: (i) one year after the Bank has received the audited Financial Statements covering the period during which the last withdrawal from the Loan Account was made; and (ii) two years after the closing date. The Borrower and the Coordination Unit shall enable the Bank’s representatives to examine such records.

32 The accounting module planned in SIIF is yet to be operational.
The "Program Financial Statements" would consist of the RC (volumes 1, 2 and 5) incorporating the Program (programs 750, 752, 855, 908 and 742) as an annex.

3.2.6 Controls and audits

Internal Controls: There is a quite solid institutional setup for controlling expenditures within the scope of the Central Government in Uruguay, which relies essentially on the extensive coverage of the financial management information system (SIIF) and preventive internal controls described in details in TOCAF34.

The PEFA reported that there is generally a high degree of compliance with internal control procedures within the scope of central government and its main actors. In particular, to authorize any spending decision, a validation process is in place involving many check and counter-check by the MEF (through the CGN and TGN at central and decentralized levels), and the TCR. Therefore the Program implementation is anticipated to rely on the existing internal control system for budgeted expenditures in the Road Program.

Internal Audit: The effectiveness of the internal audit function is a challenging subject in Uruguay. Public sector audit is limited both conceptually —it focuses only on internal processes and rulings compliance — and in scope —several “incisos” and ministries of the Executive are not covered by audit plans. While TGN and CGN have strong internal controls capacities in place, internal audit to closely supervise their activities has been assessed to be weak. The Auditor Interno de la Nacion (AIN), main public sector auditor, should regularly implement this critical function. Furthermore, at the MTOP level, the internal audit unit lack capacities, and staff to undertake risk-based auditing. In addition, this Unit’s audit activities ought to be more coordinated with AIN’s own activities.

Strengthening of AIN is among the priorities of the government public sector reform plan and an on-going IADB project is supporting the development of risk-based audit procedures and standards. At MTOP level, the PAP provides for capacity building activities for the internal audit function, including in risk-based auditing. Since the Bank would not be involved in financial management and procurement supervision as it would in a classical operation, this capacity building program is expected to support the MTOP Internal Audit Unit gradual conversion into the entity that would help in mitigating fiduciary risks for the Program, as well as for other MTOP programs.

External audit: External audit is performed by the “Tribunal de Cuentas” and reported to the Legislative branch of power. Uruguay represents a good-practice case in Latin America where external audit relies on country systems, although it is important to keep in mind that both overall TCR audit activities and even those of its Department 5 dealing with donors projects, do not consider so far performance budgeting information as an element of judgment and TCR audits are limited to financial aspects. The challenge for TCR, in the context of a result-based approach, is to reinforce its capacities in performance auditing in order to be able to support not only the MTOP but the whole government programs.

Annual Financial Audit: PFS external audit will be carried out by the Court of Accounts (TCR). For audit purposes, the fiscal year will be the calendar year. The audit of the PFS will

34 TOCAF: Spanish acronym for Uruguay Accounting and Financial Management Law. Texto Ordenado de Contabilidad y Administración Financiera
consist of: (i) the opinion of the TCR on the Annual Budget Execution Reports (Rendicion de Cuentas Anuales in Spanish) that the Central Government submits annually to Parliament, together with (ii) a supplementary opinion of the TCR on the programs implemented by the Ministry of Transport (MTOP) under the Bank-financed operation (programs 362, with proyectos 750 Roads; 752 Bridges; 855 Maintenance; and 908 Technical Assistance; and Program 462, with proyecto 754 Road safety), and indicating that the transactions related to these programs are included in the Rendicion de Cuentas Anuales (referencing the table/specific annex that presents this information). Since the Rendicion de Cuentas is due to be sent to Parliament by June 30 of each year, the audit reports of the Program covered by items (i) and (ii) above, are expected to be submitted to the Bank by September 30 of each year.

112. Since a significant part of DNV budget funding is also managed through Corporation Vial de Uruguay (CVU- in its Spanish acronym)\textsuperscript{35}, the company would be required to continue submitting its audited financial statements to the MTOP and the Bank, prior to September 30 of each year.

3.2.7 Complaint mechanism and access to information

113. An evaluation of the complaint mechanisms available to bidders who questioned the evaluation of bids and award of contracts over a 15 year period, show a fairly “accepted” system\textsuperscript{36}; however, it is one with limitations in terms of effectiveness, as highlighted in the PEFA evaluation (rated at “D” at the preliminary PEFA report for Uruguay). Specifically, while complaints must be included in the evaluation report of any contract award, neither the public agencies conducting the bidding process nor the Court of Accounts (Tribunal de Cuentas) are required under Uruguayan law to respond to the complainants. The Administrative Court can also receive complaints after all other administrative channels have been exhausted. The power of the Administrative Court (Tribunal Contencioso Administrativo) is, however, limited since the Court can only confirm or annul the government action.

114. Data obtained from the Administrative Court for cases from 2008-2011 do however show a small number of contracts issued by MTOP which were annulled by the Administrative Court (see Table 6).

<table>
<thead>
<tr>
<th>Year</th>
<th># Cases reviewed</th>
<th># Annulment</th>
<th># Confirmation</th>
<th># Suspension</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>14 (out of 1052)</td>
<td>2</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>2009</td>
<td>13 (out of 885)</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>2010</td>
<td>12 (out of 831)</td>
<td>4</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>2011</td>
<td>8 (out of 900)</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

\textsuperscript{35} CVU is a public entity concessionaire of part of the primary highway network and which operates under commercial terms.CVU receives US$24 million each year from DNV to maintain the network.

\textsuperscript{36} There was one complaint by a bidder made during the implementation of the UY Transport Sector TAL alleging that the MTOP had not followed procurement guidelines since their bid was the lowest. The MTOP bid evaluation committee (comisiones asesorias) and DNV’s Legal Counsel did provide justification for selection of the 2\textsuperscript{nd} lowest bid, including further confirmation of information in the bids and the decision was endorsed by the Minister as well as the President of the Republic through a formal resolution. It is notable that Uruguayan procurement norms did not require informing the complaining bidder of the response to the complaint; the MTOP did eventually response since the project was financed by the Bank, an international agency, and the Loan Agreement required Uruguay to inform the bidder of the outcome, which was done.
115. DNV informed the Bank team that the country does not feel the need to track data about procurement complaints because their number is very small. DNV argues that the “vistas” procedures along with the mandatory prior review of award decisions by the “Tribunal de Cuentas” are enough for all bidders to have their complaints and concerns addressed. The reputation of the “Tribunal de Cuentas” as an honest broker vis-à-vis government agencies is also a major factor on this regard. The Program Action Plan proposes to establish a database in DNV to register, track and follow-up complaints linked to Program-related activities, including procurement complaints (see technical assessment).

3.2.8 Red flags

116. Based on information provided and reviewed during the assessment, no fiduciary red flag has been identified.

3.3 Fiduciary systems performance monitoring

3.3.1 Procurement

117. During Program implementation, procurement performance will be measured according to the indicators defined in Annex 2. Annex 2 also provides the baselines against which future indicators will be compared to.

3.3.2 Financial Management

118. Financial management performance will be monitored during Program implementation based on the 3 indicators presented in Table 7.

<table>
<thead>
<tr>
<th>PEFA related indicator</th>
<th>Description</th>
<th>Measure</th>
<th>Purpose</th>
</tr>
</thead>
<tbody>
<tr>
<td>PI-1</td>
<td>Deviations: Budget allocations to DNV (Topes) vs. actual expenditures over 3 years.</td>
<td>Variance from budget (%).</td>
<td>To ensure planned resources are available for the Program throughout Program</td>
</tr>
<tr>
<td>PI-21</td>
<td>Effectiveness of internal audit.</td>
<td>Coverage, quality, and management response to internal audit reports; frequency and distribution of audit reports.</td>
<td>To follow up Internal Audit strengthening efforts through the PAP</td>
</tr>
<tr>
<td>PI-25</td>
<td>Quality and timeliness of the Program annual financial statements.</td>
<td>Completeness (including CVU Financial Statements) and timely submission of</td>
<td>To monitor budget and fiduciary risks</td>
</tr>
</tbody>
</table>
3.4 Assessment of fiduciary risks

119. **Procurement.** Based on available data for all contracts of works procured during 2008-2011, slow decision-making during bid evaluation and contract award is the main risk to achieve results within desired timeframes and it may impact prices paid. Understaffing might compound the problem if there are spikes in demand for procurement processes. Modifications to the TOCAF set timeframes for the work performed by bid evaluation committees and the “Tribunal de Cuentas”. During project implementation, the Bank will analyze the impact of this legal procedure in the results.

120. Data shows that procurement processes implemented by DNV are transparent and competitive. In fact, open competitive bidding is the default procurement method in Uruguay and all contracts estimated to cost over US$ 700 are published in the open access website named “Comprasestatales”. Data for the period of 2008-2011 shows that 98% of all the money spent by DNV for procurement of works followed open competitive bidding disclosed at the website “Comprasestatales”, with an average participation of five bidders per process.

121. At DNV, the majority of the awards are made to the lowest evaluated bidder. According to data reviewed by the Bank in procurement of works, the lowest evaluated bidder was awarded the contract 64% of the time during 2008-2011. All rejections of the lowest bidder complied with local law that allows for bids to be eliminated if 30% or more below the official estimated cost.

122. The above results are in part the consequence of a consolidated and mature procurement system in Uruguay, which relies on a regulatory framework that has been gradually evolving over the past 24 years. Still, there are opportunities for improvement in the system, such as the following:

- The law allows for awards based on convenience, which fuels worries of transparency;
- Bids within a price range of 5% are considered similar and negotiations are permitted, again a concern for transparency;
- The country’s planning framework does not provide the elements to enable procurement planning;
- The complaint resolution mechanism has a limited scope;
- Contracts can legally be transferred among suppliers;
- The long process to reach an award decision may impact timely delivery of contracts and result in losses of efficiency as bidders price up the risk.
123. The assessment shows that while these opportunities for improvement could contribute to a better performing system overall, they are not considered major risks for the implementation of the Program for the following key reasons:

- While awards can legally be made on the basis of convenience, four years of data shows that the actual practice is to award to the lowest price. When awards are not made to the lowest price, a legal justification is made, approved by the appropriate authority and disclosed.
- Whereas the law allows negotiations with bids considered similar, it is very unlikely to happen as shown by data. Again, the large majority of awards are made to the lowest bidder. In addition, all awards of contracts over US$ 700 are disclosed at the website “Compraestatales” and this allows oversight by bidders.
- Even though procurement planning could provide more transparency and unlock an opportunity for gains of efficiency, any improvement in this area will depend on a much broader overhaul of the country’s planning process because procurement planning derives from annual budget plans, which are not prepared in the country.
- The complaint resolution mechanism could be better and faster if an independent and effective administrative appeals body were in place but the current mechanism works reasonably, as bidders are allowed to complain to the agency, have its case reviewed by the “Tribunal de Cuentas” and yet appeal to a judiciary body, the “Tribunal Contencioso Administrativo” if unsatisfied. Also, Uruguayans believe that the procedure named “vistas” makes for a transparent and predictable award decision.
- Transfer of contracts among suppliers seldom happens and the law allows for DNV to crack down if abused in their judgment.

124. Besides, it should be noted that all issues presented above are legal in Uruguay and modifications would, therefore, require a change to the law. More efficiency in the implementation of a bidding process is a true opportunity to improve performance of the system and the one that offers most lasting results, possibly without changing the law, and on this vein an in-depth analysis is proposed as part of the Program Action Plan.

125. **Financial Management.** It is assessed that Program’s Financial Management arrangements relying on country wide system are acceptable in terms of procedures and results. Program’s FM systems present no significant risk against result achievements, with respect to Program resources management and financial information for the stakeholders. The country wide system helps the government (i) to keep close control of fiscal risks and to maintaining overall budget discipline, (ii) to plan and execute the budget in line with its set priorities; and (iii) to effectively manage public resources to deliver services. The country PFM gives reasonable assurance that fiduciary risks would be maintained at moderate level; the Program can be implemented through the existing PFM system, provided that some identified challenges, at the country and MTOP levels, are addressed, either through the PAP or other initiatives (accounting and reporting, internal and external audit).

126. **Overall.** Based on the elements above, the overall fiduciary risk is rated Moderate.
4 IMPROVING THE PERFORMANCE OF PROGRAM FIDUCIARY SYSTEMS

127. Significant improvements in the fiduciary processes are included in the recent TOCAF revision, in particular with respect to: (i) timeliness of the procurement process, transparency through e-bidding and increased control and oversight. However, some of the modification to TOCAF will be medium to long term. For instance, the use of e-bidding will depend on significant investments in infrastructure and process reengineering. Monitoring fiduciary indicators, as detailed in section 3.3 above, will also capture to what extent updating the TOCAF has translated into results. While improvements to TOCAF are implemented, the short-term activities below are proposed, as part of the Program Action Plan.

4.1 Procurement

128. While improvements to TOCAF can indeed improve the procurement regulatory framework, the following activities are suggested for improving performance of the procurement system supporting the Program implementation (inputs for the Program Action Plan):

- Carrying out a detailed diagnostic of intermediate instances between bid evaluation and contract award with the aim of identifying bottlenecks and opportunities to improve efficiency and performance. Modifications to the TOCAF create timeframes for the bid evaluation committee and for the "Tribunal de Cuentas" to carry out their work during bid evaluation and contract award. The Bank will monitor the data to check if this modification will actually improve outcomes.

4.2 Financial management

129. The following activities are suggested through the Program Action Plan for improving performance of the financial management system supporting the Program implementation (inputs for the Program Action Plan):

- Improving MTOP’s Internal Audit Unit capacity and preparing a capacity building plan;
- Carrying out MTOP’s Internal Audit Unit staff training in risk-based audit;

130. Besides, as mentioned earlier, CGN is taking steps toward upgrading and updating the SIIF including the Accounting Module, with support from IADB. IADB is also supporting the development of risk-based audit procedures and standards.

4.3 Ethics

131. The following activities are suggested for improving performance of the procurement system supporting the Program implementation:

- Institutionalize the process to handle complaints and grievances related to the Program implementation and establish and maintain a database to track and follow-up on these complaints and grievances, including procurement-related complaints.
5 FIDUCIARY ELEMENTS OF THE IMPLEMENTATION SUPPORT PLAN

132. **Procurement.** Procurement support during implementation will be two-folded: it will help MTOP’s assessment of the procurement decision-making process and it will monitor the performance of DNV’s procurement system based on the indicators and measurements presented in Annex 2 of this Fiduciary Assessment. The procurement supervision plan is presented in Table 8.

<table>
<thead>
<tr>
<th>Time</th>
<th>Focus</th>
</tr>
</thead>
<tbody>
<tr>
<td>First twelve months</td>
<td>To provide support to DNV in improving efficiency of award decision-making.</td>
</tr>
</tbody>
</table>
| 12-48 months     | (1) to provide support to DNV in improving efficiency of award decision-making.  
                     (2) to evaluate performance of DNV’s procurement systems according to the indicators and measurements designed during project preparation. |

133. **Financial Management.** During the first year of implementation, intensive FM supervision will be carried out. At least, twice on-site supervisions that will be complemented by desk reviews of the PFS and the TCR annual external audit. Thereafter, FM supervision intensity will be calibrated based on FM performance and updated risk (see table next page).

<table>
<thead>
<tr>
<th>Type</th>
<th>Timing</th>
<th>Mechanism</th>
<th>Objective</th>
</tr>
</thead>
</table>
| On-site visit & desk work      | General supervision: twice a year | Integrating supervision missions or in agreement with project TTL          | Review FM performance  
Support to implementation of the MTOP Internal Audit Unit Capacity Building Plan and other FM reform related activities (i.e. budget classification, project to upgrade SIIF)  
Follow up on TCR recommendations/ raised issues  
Update assigned risk |
| Financial audit review         | Once a year by end of December | TCR Audit Report including general opinion on Rendicion de Cuentas and specific opinion submitted to the Bank by end of September | Review Audit Report  
Raise issues disclosed in Audit report |
Annex 1: Modifications to TOCAF

An updated version of TOCAF, addressing some of the concerns raised in the assessment, became effective in June 2012. Modifications to the TOCAF were introduced through the law that approved 2011's budget execution, named Law 18.834 from 17 November 2011.

Some of the modifications will depend on further regulation or development of infrastructure to become active and operational. For instance, the mechanism that sets timeframes for review of bids by bid evaluation committees will depend on further sector-specific regulation. Submission of electronic bids will depend on development and installation of information systems that will support these transactions.

The modifications to the government procurement section of the TOCAF are significant and the main issues are listed right below. These modifications are advancements to the current government procurement legal framework, and some might contribute to address areas where the system currently underperforms, such as the time spent for bid evaluation and contract award.

**Revisions to TOCAF:**

*Create the procurement policy agency*, named ACCE or "Agencia de Compras y Contrataciones Estatales". The main tasks of ACCE are to formulate procurement policies, to develop and maintain central database of suppliers, contractors and consultants, to develop a database of goods and services, to design quality standards for goods and materials, to advise government agencies on procurement-related issues, and to assist suppliers.

*Update thresholds and limits*. The threshold for a *Licitacion Abreviada* is increased to 5 million pesos and Direct Contracting to 250,000 pesos. Bid evaluation committees are required for all bidding processes estimated to cost 1.5 million pesos and above. All procurement thresholds and limits will be updated annually by the "Instituto Nacional de Estadistica".

*Introduce a new procurement method*, "pregón", or reverse auction. This method can be used for operational and investment expenditures when the scope of the bidding is precise, tangible and easily specified. There is no monetary threshold for the use of this new method. Award is made to the lowest price. Reverse auctions can be implemented electronically or in person and bidders will have a minimum of 10 days to submit bids. Publication at the website Comprasestatales is required. This method is further regulated by ACCE.

*Introduce framework agreements* for goods, works and services that are procured by multiple government agencies.
Set the stage for future regulations about environmentally conscious specifications for goods, works and services.

Upgrade the "Registro Único de Proveedores del Estado" or database of suppliers, contractors and consultants. This database is managed by ACCE and registration is mandatory for all contracts above the threshold of "contratación directa". The database will record all penalties and nonperformance of companies dealing with the government. Sector agencies are allowed to have their own databases in addition to this central database. DNV has a database for contractors and registration on it is mandatory to bid for contracts financed by the Program.

Modify publication requirements. The website Comprasestatales becomes the main source for publications. Agencies are not required to publish on newspapers when doing LPs. In addition, the minimum period for bid submission in LPs remains at 15 days but is reduced from 30 to 20 days when foreign competition is anticipated. LAs are only published at Compraestatales website.

Allow submission of electronic bids. However, the required infrastructure will need to be developed before electronic bidding is implemented.

Give bidders the option of not presenting a performance security. But failure to deliver a contract in such case will trigger a 10% penalty in addition to contract penalties and liquidated damages.

Furthermore, no bid security is required for bids below the threshold for LAs and performance securities are not required for contracts below 40% of the threshold for LAs.

Allow bidders to request copies of all bids received. Bidders who wish to keep portions of their bids confidential have to request it and confidentiality will be restricted to name of customers and intellectual property material. Prices, specifications and general conditions of delivery are not considered confidential.

Set timeframes for actions taken during bid evaluation. Bid evaluation committees have a defined timeframe to evaluate bids and propose an award and such timeframe will be set by each individual agency through future regulations. In addition, there are timeframes for the mandatory prior review by the "Tribunal de Cuentas" that will result in tacit approval if lapsed. Contracts up to 250,000 pesos should be reviewed in 48 hours; contracts up to 5 million pesos in 5 business days; contracts above that amount in up to 15 business days. The "Tribunal" may extend the time only once and up to 25 business days.

Tighten ethics standards for personnel working on procurement. Government officials are ineligible to work on procurement processes when they have a relative up to fourth degree participating as bidder or employer. Also, there is a 12-month cooling off period, during which individuals may not work for the government or for the bidder, if they had had a professional, labor or business relationship with any of the parties in the contract.
Performance assessment of “Programa 362”
In support of the Uruguay transport infrastructure project (P125803)

December 2011

THE WORLD BANK
Agenda

Objective and scope of this work

What is Program-For-Results (P4R)?

What is the role for procurement in P4R?

How did we assess performance of the program “362”?  
  - for economy
  - for efficiency
  - for transparency

Recommendations
Objective and scope
This document is an attempt to evaluate performance

The purpose of this work is to provide advice on government procurement to the team working on the preparation of the Uruguay Transport Infrastructure project. More specifically, this work is an attempt to evaluate the performance of the procurement systems supporting implementation of the Uruguayan government program named “Programa 362”, including procurement performance of the proposed implementing agency DNV, “Dirección Nacional de Vialidad”.

The performance assessment of the procurement systems sets its goal on evaluating whether the existing systems can perform at a level that provides reasonable assurance that program “362” will be able to achieve its intended results.

This work does not address the second component of the procurement assessment, which is a qualitative review of the processes and procedures supporting the procurement system. Rather, this is a quantitative assessment that analyses data of past bidding processes implemented by DNV. Therefore, this material should be read in conjunction with the qualitative review assessment for a full perspective of the procurement system.
What is Program-For-Results (P4R)?
Responding to its mandate of reducing poverty, the World Bank Group has developed an instrument that aims at placing direct emphasis on development results.

**What is Program-For-Results (P4R)?**

- P4R links disbursements to results or performance indicators
- Results and indicators are country specific
- Results and indicators are tangible, transparent and verifiable
- P4R will work with the program’s institutions and systems
- P4R will seek to strengthen country’s own institutions and capacities over time

**Source:** Program-For-Results policy paper
What is the role for procurement in P4R?
Since P4R will rely on program’s existing processes and procedures, the ability of the program’s procurement system to support achievement of intended results is crucial for a successful project.

**Procurement is a bridge to be crossed for service delivery**

- Goods, works and services needs to be available on a **timely** fashion.
- Goods, works and services need to meet **quality** standards.
- Prices paid for goods, works and services need to be **competitive**.
- Processes and procedures for procurement need to be **transparent**.

**Procurement systems needs to provide reasonable assurance that program expenditures will be use appropriately for intended purposes.**
More specifically, fiduciary arrangements for the program should be consistent with 5 key principles of a transparent and performing system.

Procurement assessment in P4R

- Procurement arrangements for the program to provide “best fit for purpose” through procurement processes.
- These five principles underpin systems that are fair, equitable, results-oriented and that promotes responsibility for decisions.

Key Principles

1. Economy
2. Efficiency
3. Effectiveness
4. Transparency
5. Accountability

Source: Program-For-Results policy document.
In P4R, the objective of procurement assessments is to evaluate the ability of the system to support the program achieve its intended results.

Key Components of a high performing procurement system

1. Is the system capable of supporting achievement of desired results?

2. Does the system provide reasonable assurance that program expenditures will be used appropriately and for intended purposes?

Program planning and budgeting is conducive to efficient processes

Procurement rules are reasonable and are accessible to the public

There is capacity to manage contract implementation effectively

Procedures to resolve complaints exist and are reasonable

Systems for oversight and control keep operations in check

Source: Program-For-Results policy document
Results of procurement assessments will feed into the integrated risk assessment as well as into an action plan to mitigate risks. The novelty in P4R is that the action plan will result in lasting improvements for the system.

**Action plan to mitigate risks**

- Since P4R will use existing procurement processes and procedures, implementation of the action plan will produce **permanent results for the entire program**, which will outlast the Bank’s operation.

- The Bank will support activities to **strengthen institutional governance, capacity and systems** that are essential to achieve expected results.

**Source:** Program-For-Results policy document
How did we assess performance of program “362”? 
How did we assess performance of program “362”?

Procurement assessments are both qualitative and quantitative in order to account for and to evaluate all aspects influencing the ability of the system to produce results set for program “362”.

<table>
<thead>
<tr>
<th>Principles</th>
<th>Type of assessment</th>
<th>Dimensions reviewed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Economy</td>
<td>Quantitative</td>
<td>• Competition for individual processes</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Award decisions</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Use of competitive procedures</td>
</tr>
<tr>
<td>Efficiency</td>
<td>Quantitative</td>
<td>• Turnaround of individual processes</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Time for award decision</td>
</tr>
<tr>
<td>Effectiveness</td>
<td>Qualitative</td>
<td>Processes and procedures for contract management and acceptance of goods, works and services</td>
</tr>
<tr>
<td>Transparency</td>
<td>Quantitative and qualitative</td>
<td>• Advertisement of bidding processes</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Advertisement of awards</td>
</tr>
<tr>
<td>Accountability</td>
<td>Qualitative</td>
<td>Processes and procedures for oversight and control. Enforcement of rules.</td>
</tr>
</tbody>
</table>

This document encompasses only the quantitative
In order to account for the characteristics of different types of procurement, we grouped our quantitative analyses into two broad categories: (1) works and (2) durable goods and non-consulting services.

**Principles evaluated**

- Assessment of economy
- Assessment of efficiency

1. Public Works
2. Goods and non-consulting services
Program “362” finances mostly public works, and the project team collected data of almost 4 years of contracts of works to analyse DNV’s performance on procurement.

**Description of data collected for contracts of works**

**Source:** SICE and [www.compraestatales.gub.uy](http://www.compraestatales.gub.uy)

**Data period:** Awards from January 1, 2008 to November 07, 2011

**Query filters used:**
- “Inciso”: MTOP, Ministry of transport and works
- “Unidad Ejecutora: DNV, National Department of Highways
- “Familia”: 6 – Construction, renovation and reparations

**Data fields:**
- Bidding ID
- Description
- Procurement method
- Award price
- Date of advertisement
- Date of bid opening
- Date of award
- Bidders
- Awarded bidder
- Ranking of awarded bidder (for some entries)
Depth and length of assessments are constrained by availability of data.

The team was able to collect good amount of data about bidding processes. However, more detailed analyses were constrained by data availability. More specifically, the following data about bidding processes are not available in digital format:

- Data about handling of complaints
- Rejected bids
- Estimated costs
- Contract signature date
- Planned dates

Although not available in digital format, the team reviewed individual files of procurement of works only and build a database of information about award decisions and reasons for rejection of lowest bidder when that information was disclosed to the public.

Finally, data is not available in digital format for actions regarding contract management and administration and, consequently, this aspect is not dealt with in this document.
In Uruguay, there are 3 procurement methods that differ mainly in terms of advertisement and period for submission of bids.

<table>
<thead>
<tr>
<th>Procurement Method</th>
<th>Advertisement required</th>
<th>Period for submission of bids</th>
</tr>
</thead>
<tbody>
<tr>
<td>“Licitación Pública” (LP) or open bidding</td>
<td>- Official gazette&lt;br&gt;- National newspaper&lt;br&gt;- Comprasestatales website</td>
<td>- Minimum 15 days&lt;br&gt;- 30 days if foreign participation is expected&lt;br&gt;- In case of urgency, 5 or 10 days respectively</td>
</tr>
<tr>
<td>“Licitación Abreviada” (LA) or restricted bidding</td>
<td>- Direct invitation to at least 6 companies&lt;br&gt;- Also available at Comprasestatales website</td>
<td>- Minimum 3 days&lt;br&gt;- 2 days in case of urgency</td>
</tr>
<tr>
<td>“Compra Directa” (CD) or direct contract</td>
<td>- Comprasestatales website</td>
<td>- Not defined</td>
</tr>
</tbody>
</table>

Threshold: 2.2 million pesos or app. USD 110 k

Threshold: 110,400 pesos or app. USD 6 k

In addition to the above, the legal framework provides for 27 cases of exception to competitive processes but data reviewed showed only two cases for DNV, one for works and another for goods.

Source: TOCAF
We profiled the size of contracts of works typically procured by DNV to evaluate the agency’s capacity to handle the workload and complexity of the program “362”.

**Key Points**

- The period covered by the dataset has **43 contracts** for works and a **total amount of USD 157.5 million** (1 USD = 20 Pesos).

- The largest contract of works procured by DNV was in the amount of app. USD 14 million.

- Preliminary project design does not anticipate any contract for rehabilitation of roads over USD 15 million.

**Table: Size of contract of works procured by DNV**

<table>
<thead>
<tr>
<th>Type</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>CDs</td>
<td>2,500</td>
</tr>
<tr>
<td>LAs</td>
<td>110,000</td>
</tr>
<tr>
<td>LPs</td>
<td>4.5 mi</td>
</tr>
</tbody>
</table>

**Average cost of contracts procured by DNV**

In US Dollars (1 USD = 20 Pesos)

Source: [www.comprasestatales.gub.uy](http://www.comprasestatales.gub.uy)
Assessment of economy – procurement of works
We assessed multiple dimensions of competition as proxies for economy. One of the dimensions analyzed is the use of open competitive bidding since competitive bidding should foster more competition and drive down prices as a result.

**Key Points**

- Majority of processes of works implemented by DNV followed open bidding procedures and were subject to market competition.

- The average period for submission of bids on open competitive biddings implemented by DNV is 37 days.

Source: [www.comprasestatales.gub.uy](http://www.comprasestatales.gub.uy)

CDE: “Compra directa por excepción”, or exceptional direct contract
Even more important than the number of open bidding processes is the amount of money channeled through open competitive procedures.

Key Point

- Open bidding not only constitute the majority of number of procurement processes implemented by DNV; more importantly, most of the funds channeled through procurement were awarded on a competitive basis.

Source: www.comprasestatales.gub.uy
A second dimension of competition we reviewed was the participation of bidders in processes carried out by DNV. Larger participation should contribute to potential savings through procurement processes and suggests trust of the private sector in the agency.

### Competition for contracts of works on DNV

#### Median number of bidders
By procurement method

<table>
<thead>
<tr>
<th>Method</th>
<th>LPs</th>
<th>LAs</th>
<th>CDs</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>3</td>
<td>2</td>
<td>2</td>
</tr>
</tbody>
</table>

#### Average number of bidders per process
By procurement method

<table>
<thead>
<tr>
<th>Method</th>
<th>LPs</th>
<th>LAs</th>
<th>CDs</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>5</td>
<td>3</td>
<td>2</td>
</tr>
</tbody>
</table>

Source: www.comprasestatales.gub.uy
E-Procurement might have given a boost to competition for government contracts.

Data appears to suggest that e-procurement might have significantly contributed to competition. The number of bidders on DNV’s contracts for works averaged 4 during 2007-2009, and the number jumped to 8 during 2010-2011. The increase in number of bidders could be, to some extent, associated with the consolidation of the website “Compras y contrataciones estatales” as the main source for bidding opportunities. More detailed review and analysis is required to confirm this preliminary assessment.
A third dimension used as proxy to evaluate economy was the number of times that the contract was awarded to the lowest price.

**Key Points**

- Award decisions have a direct impact on economy and effectiveness of bidding processes.

- Award decisions follow evaluation criteria defined in the law and in the bidding documents. In procurement of works, awards should be made to the lowest evaluated bidder that is qualified to perform the contract.

- Most cases in which DNV awarded to the second lowest was because the lowest price was below the estimated cost.

Source: [www.comprasestatales.gub.uy](http://www.comprasestatales.gub.uy) * Data for this analysis was not available for the entire dataset.
There are 48 active contractors competing for DNV’s contracts of works; 29 of them were awarded a contract in the past 4 years.

**Key Points**

- Diversification of suppliers and contractors is an important component for economy and savings.

- Knowledge of the supply market and evaluation of suppliers and contractors are major ingredients for effective procurement processes.

- 40% of contractors that submitted bids to DNV were not awarded a contract during the period covered by the data.

Source: www.comprasestatales.gub.uy
Assessment of efficiency – procurement of works
We assessed the time taken for DNV to procure works in order to assess the risks for the program to achieve its development objectives on a timely fashion.

### Key Points

- Timely availability of goods, works and services is crucial for DNV to effective delivery services to the society.

- Time taken to turnaround procurement processes will impact contract prices and effectiveness of services provided by the program.

#### Time taken to complete procurement processes in DNV

<table>
<thead>
<tr>
<th>Method</th>
<th>Average Turnaround (in days)</th>
</tr>
</thead>
<tbody>
<tr>
<td>CDs</td>
<td>21</td>
</tr>
<tr>
<td>LAs</td>
<td>173</td>
</tr>
<tr>
<td>LPs</td>
<td>237</td>
</tr>
</tbody>
</table>

- In addition to the methods above, the dataset shows an exceptional direct contract case, named “Contratación Directa por Excepción” (CDE), which took 547 days to be completed for an amount of app. USD 3 million.

Source: [www.comprasestatales.gub.uy](http://www.comprasestatales.gub.uy)
When considering median figures, it takes more than 200 days to turnaround LPs and LAs.

Key Points

- Considering that LPs and LAs are very different in respect to contract size and complexity, data suggests that the bottleneck is on procedures for bid evaluation and award.

- Bidders might account for the length of the process when calculating prices, therefore, impacting efficiency of the process.

Source: www.comprasestatales.gub.uy
Bid evaluation is the longest step on a procurement process; on average, 83% of the number of days spent from advertisement to award.

**Time taken to evaluate bids is impacting efficiency of procurement processes**

<table>
<thead>
<tr>
<th>Average time to evaluate bids</th>
<th>Median – time to evaluate bids</th>
</tr>
</thead>
<tbody>
<tr>
<td>In number of days</td>
<td>In number of days</td>
</tr>
<tr>
<td>LPs</td>
<td>LPs</td>
</tr>
<tr>
<td>200</td>
<td>175</td>
</tr>
<tr>
<td>LAs</td>
<td>158</td>
</tr>
<tr>
<td>CDs</td>
<td>17</td>
</tr>
<tr>
<td></td>
<td>6</td>
</tr>
</tbody>
</table>

Evaluation of bids is a step of the procurement process which does not have timeframes set in laws and regulations. But it is constrained by the validity of bids. Data suggests something inherent to internal procedures could be driving results since even LAs, which are smaller contracts, takes as long as LPs to be awarded.

Source: www.comprasestatales.gub.uy
53% of contracts of works procured by DNV are above USD 2 million. These contracts average 6 bidders per process.

**Key Points**

- Contracts over USD 2 million take longer to be procured.
- Larger infrastructure projects therefore require detailed planning to ensure that works will be delivered by desired date.
- Competition for these contracts is healthy based on data.

**Time to turnaround large contracts in DNV**

<table>
<thead>
<tr>
<th>Average turnaround of processes over USD 2 million</th>
</tr>
</thead>
<tbody>
<tr>
<td>In number of days from advertisement to award – duration</td>
</tr>
<tr>
<td>In number of days from bid opening to award – bid evaluation</td>
</tr>
<tr>
<td>Duration</td>
</tr>
<tr>
<td>----------</td>
</tr>
<tr>
<td>285</td>
</tr>
</tbody>
</table>

Source: [www.comprasestatales.gub.uy](http://www.comprasestatales.gub.uy)
Procurement of durable goods and non-consulting services (ncs)
In addition to works, the project team also reviewed procurement of durable goods and non-consulting services (ncs) carried out by DNV.

### Description of data collected for contracts of durable goods and non-consulting services

<table>
<thead>
<tr>
<th>Source</th>
<th>SICE and <a href="http://www.compraestatales.gub.uy">www.compraestatales.gub.uy</a></th>
</tr>
</thead>
<tbody>
<tr>
<td>Data period</td>
<td>Awards from January 1, 2010 to November 17, 2011</td>
</tr>
</tbody>
</table>
| Query filters used | “Inciso”: MTOP, Ministry of transport and works  
“Unidad Ejecutora: DNV, National Department of Highways  
“Familia”: 4 – Machinery, equipment and new furniture  
“Familia”: 10 – IT equipment |
| Data fields | Bidding ID  
Description  
Procurement method  
Award price  
Date of advertisement  
Date of bid opening  
Date of award  
Bidders  
Awarded bidder |
As we did for works, we profiled the size of contracts of durable goods and non-consulting services typically procured by DNV to evaluate the agency’s capacity to handle the workload and complexity of the program “362”.

**Key Point**

- In the period covered by the dataset, the largest contract procured by DNV was a LA of 167 lots for purchase of vehicle spare parts in the amount of USD 111,720.

- The largest acquisitions done by DNV were purchases of spare parts in multiple-lots bidding.

### Size of contracts of durable goods and ncs procured by DNV

<table>
<thead>
<tr>
<th>Category</th>
<th>Average Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>CDs</td>
<td>1,164</td>
</tr>
<tr>
<td>LAs</td>
<td>41,429</td>
</tr>
<tr>
<td>LPs</td>
<td>89,636</td>
</tr>
</tbody>
</table>

Source: www.comprasestatales.gub.uy
Assessment of economy – procurement of durable goods and ncs
CDs were the most used method for procurement of durable goods and non-consulting services in number of procurement processes...

Key Points

- DNV spent a total of app. USD 907,655 in durable goods and non-consulting services since January 2010.

- The average period for submission of bids on restricted bidding, CDs, is 5 days. On LAs, that period is on average 22.5 days, and 31 days for LPs.

Source: www.comprasestatales.gub.uy

CDE: “Compra directa por excepción”, or exceptional direct contract
...however, more important than the number of processes is the amount of money spent through procurement methods. In this regard, most of the money spent by DNV in durable goods and ncs were channeled through open bidding processes.

Key Points

- Approximately 84% of the money spent on durable goods and ncs were procured through open bidding processes.

- However, the large number of CD processes coupled with the small total dollar value of contracts suggest that there is an opportunity to improve planning and benefit from buying in bulk.

Source: www.comprasestatales.gub.uy
There is reasonable competition for contracts of durable goods and ncs procured by DNV. Average and median had identical figures.

**Competition for contracts of durable goods and ncs on DNV**

**Median number of bidders**
By procurement method

**Average number of bidders per process**
By procurement method

<table>
<thead>
<tr>
<th></th>
<th>LPs</th>
<th>LAs</th>
<th>CDs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Median</td>
<td>5</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>Average</td>
<td>5</td>
<td>4</td>
<td>5</td>
</tr>
</tbody>
</table>

Source: www.comprasestatales.gub.uy
There are 184 active suppliers and service providers competing for DNV’s contracts of durable goods and ncs.

**Key Point**

- As is the case for works, DNV could implement a program to evaluate performance of suppliers and service providers in order to increase its knowledge of the supply-side. Such information could also contribute to enhance contract management procedures.
We reviewed prices paid by DNV for individual items across a period of time to evaluate if procedures were conducive to economy.

**Key Points**

- A key consideration in this exercise was to identify items with very similar specifications and, therefore, comparable across multiple processes.

- Most of the durable goods purchased by DNV are spare parts that are not comparable in most cases.

- Fax machines though have comparable specifications and DNV purchased some of them with fairly consistent prices.

- The main supplier of this item to DNV offered the same price in four different processes.

Source: www.comprasestatales.gub.uy
In our assessments, we considered the quantities purchased in each individual process so as to account for discounts when buying in bulk.

**Key Points**

- In this specific item, although we identified substantial variation in prices paid for the same specifications, it was probably a result of the quantities purchased in each process.

- The two lowest prices were achieved when buying quantities that were 10 times larger than the process with the highest price.

![Differences in prices paid for “alambre galvanizado redondo”](source: www.comprasestatales.gub.uy)
There are cases in which small variations in the specifications might result in significant price swings.

Key Points

- We found that one possible reason for the significant difference in prices for this item is the length of the “llave francesa”.

- The impact that specifications have on prices paid are substantial. Thus, significant savings can be achieved through specifications that fulfill the intended use of the equipment and at the same time does not require more than what is needed.

Source: www.comprasestatales.gub.uy
The dataset of procured durable goods and non-consulting services of DNV provided several examples of how small variations in the specifications have substantial impact on prices.

**Key Points**

- In the case of this item, the variation in prices paid by DNV appears to be associated with the intended use of the part. Some parts were intended to be used on vehicles whereas others on machinery.

**Differences in prices paid for “cubeta de rodamiento de diferencial”**

**Prices paid by DNV**

In US Dollars

![Bar Chart showing differences in prices](chart.png)

Source: www.comprasestatales.gub.uy
Assessment of efficiency – procurement of durable goods and ncs
We assessed the time taken for DNV to procure goods and ncs in order to assess the efficiency of the supply chain.

**Key Points**

- Timely availability of goods and services is crucial for DNV to deliver its services.

- Considering that most of the durable goods purchased by DNV were spare parts, protracted processes could result in vehicle and machinery out of commission.

### Time to complete processes for durable goods and ncs in DNV

<table>
<thead>
<tr>
<th></th>
<th>Average turnaround of procurement processes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>By procurement method</td>
</tr>
<tr>
<td></td>
<td>In number of days from advertisement to award</td>
</tr>
<tr>
<td>CDs</td>
<td>22</td>
</tr>
<tr>
<td>LAs</td>
<td>136</td>
</tr>
<tr>
<td>LPs</td>
<td>152</td>
</tr>
</tbody>
</table>

In addition to the methods above, the dataset shows an exceptional direct contract case, named “Contratación Directa por Excepción” (CDE), which took 198 days to be completed for an amount of app. USD 61 k.

Source: www.comprasestatales.gub.uy
When considering median figures, it takes almost 130 days to complete LAs, the procurement method most used by DNV for goods and ncs in financial terms.

Key Point

- LPs and LAs require preparation and approval of an award decision named “resolución” that appears to be associated with the time taken to clear an award.

- Streamlining bid evaluation and award is an area that can produce substantial impact on the efficiency of DNV’s supply chain.

Source: www.comprasestatales.gub.uy
Like it happened in works, most of the time to turnaround a procurement process is spent on bid evaluation; on average, 65% of the time spent from advertisement to award.

Time taken to evaluate bids is impacting efficiency of procurement processes

**Average time to evaluate bids**
In number of days

<table>
<thead>
<tr>
<th></th>
<th>LPs</th>
<th>LAs</th>
<th>CDs</th>
</tr>
</thead>
<tbody>
<tr>
<td>121</td>
<td>113</td>
<td>16</td>
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</tr>
</tbody>
</table>

**Median – time to evaluate bids**
In number of days

<table>
<thead>
<tr>
<th></th>
<th>LPs</th>
<th>LAs</th>
<th>CDs</th>
</tr>
</thead>
<tbody>
<tr>
<td>121</td>
<td>101</td>
<td>10</td>
<td></td>
</tr>
</tbody>
</table>

Because LAs and LPs are so different in terms of size and complexity, there is certainly something inherent to the processes and procedures for bid evaluation and contract award that is causing the results.

Source: www.comprasestatales.gub.uy
DNV initiated processes to purchase 1,219 items of durable goods and ncs but 106 of those did not result in a contract.

Key Points

- 99% of the failed items were part of a package with 8+ lots.
- The majority of the failed items are spare parts for vehicles and machinery and repair of equipment.

Source: www.comprasestatales.gub.uy
Assessment of transparency
Bidding advertisement and contract award is fully disclosed on the internet, providing transparency and enhancing oversight of procurement processes.

Key Points

- 100% disclosure of bidding opportunities and contract awards of goods, works and services through the open access website “Compras y contrataciones estatales”.
- Besides improving competition for government contracts, the website greatly enhanced transparency of individual procurement processes.
- The website discloses bidding opportunities and contract awards.

Recommendations
Based on data reviewed by the team, shortening period for bid evaluation and award is an opportunity to improve performance. Also, DNV could benefit from implementing procedures to evaluate suppliers’ performance and diversifying the supplier’s base.

**Recommendations to improve performance**

**Streamline procedures for bid evaluation and contract award**
- Data shows that about 6 months are spent evaluating bids and choosing contract award in case of works. Similar results were found for goods and ncs. Since this step of the process does not have procedural timeframes, there is room for improving performance.
- Detailed review of processes and procedures for bid evaluation would help identify bottlenecks and opportunities for gains of efficiency.

**Diversify suppliers and contractors**
- Data suggests that maybe e-procurement improved competition.
- Considering the size of the database of suppliers and contractors, it would be easy for DNV to implement a program to evaluate performance of suppliers and contractors and to work towards expanding the base of suppliers.

**Improve procurement planning for high volume items**
- Data appears to suggest that procurement of some high volume items are scattered through multiple processes.
- Considering that some items are purchased by DNV on a regular basis, planning for procuring these items on larger packages could yield better results in terms of price and reduce number of failed processes.
Annex 3: PFM Assessment for the Ministry of Transport and Public Works

A. Program Planning and Budgeting

<table>
<thead>
<tr>
<th>Overall FM element objective</th>
<th>The Program budget is realistic, prepared with due regard to government policy, and implemented in an orderly and predictable manner.</th>
</tr>
</thead>
<tbody>
<tr>
<td>KEY RISK Source Of Information/Performance Indicators</td>
<td>Major Strengths (at sectoral level)</td>
</tr>
<tr>
<td>Inadequate appropriation for the Program in the annual budget.</td>
<td>A multiyear (5 year) budget is prepared by every newly elected government with “creditos” which are based on needs and “topes” equivalent to annual appropriations based on estimation of revenues over the 5 year period. Creditos and Topes are modified through (i) automatic adjustments linked to changes in economic conditions and indices such as inflation; (ii) annual adjustments based on political negotiation/decision and updated projection of revenue through the Ley de Rendicion de Cuentas (Annual budget execution Law); and (iii) ad-hoc changes derived from legislative decisions such as salary or tax modification. The 2010-2014 budget has introduced program classification in an attempt to initiate performance budgeting. The administrative budget is reclassified into 17 programmatic areas (including the one in Infrastructure and Transport which is managed by the MTOP) linked with performance indicators. Line ministries are regularly involved in the budget formulation and do negotiate their appropriations during preparation of the 5 year as well as of the Rendicion de Cuentas, each year.</td>
</tr>
<tr>
<td>Question 13 Dimension (a), relating to comprehensiveness and credibility of budget linked to policy priorities.</td>
<td>the Ministry.</td>
</tr>
<tr>
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</table>

**Delays in approving the annual budget.**
Dimension (iii) of PI 11 on the timeliness of budget approval by Parliament is a useful indicator.

<table>
<thead>
<tr>
<th>The 5 year budget was adopted before end of June 2010 when the current government took office. The “Annual Budget” represented by the <em>Rendicion Anuales de Cuentas</em> are also approved by end of June after the end of the fiscal year as prescribed by the Constitution (Art 214).</th>
<th>There is no annual budget adopted each year before the fiscal year starts as in other countries. In Uruguay, annual budget is represented by the Rendicion de Cuentas which both approve past year execution and determine current year appropriations or Topes (maximum amounts that can be spent by Administrative Units). The issue is the Rendicion de Cuentas Law is only adopted in June of the fiscal year leaving the ministries to work with Topes established by the Ministry of Finance for at least 7 months. Therefore, the annual budget is not the planning tool it meant to be.</th>
</tr>
</thead>
</table>

This is a broader issue which mitigation goes far beyond the MTOP since it requires a constitutional change to introduce an annual budget as known in other countries. Hence, it would be too ambitious to try to mitigate this risk through this sector operation. Its impact is limited on the Program as long as the budget for 2012-2014 is agreed upon with the Bank upfront at Tope level (see above).

| Budget appropriations being diverted to other activities/programs during the year. | Changes in Ministries Creditos and Topes are guided by formal procedures especially the ones detailed above (first row). Changes in programs during the last 5 year have been driven more by increase in revenue than +costs cutting adjustment at MTOP. Experience of the MTOP with the last 5 year program 2005 to 2009 was positive since DNV final spending (Imputados) exceeded initial appropriations (Topes de Apertura) by almost 48%. This situation is mainly due to availability of additional funds from domestic revenue to DNV programs (+7%) which in turn has to do with increase noted in revenue collection. | One should note however that changes of topes within a Ministry (appropriations to different departments of the ministry) are decided by the Minister. Hence, it may be a situation where the DNV and Road Program appropriations are at risks if the Minister decides so. |
|----------|-------------------|-------------------|-------------------|

In addition to MEF commitment to protect MTOP appropriations , (see first row above) , it may be necessary to get commitment from the MTOP to do the same for DNV programs budget in the PforR, programming investments within...
<table>
<thead>
<tr>
<th>Lack of transparency in the budget process. PI 6 deals with the comprehensiveness of information included in budget documentation. In addition, useful information can be obtained from the IMF’s Fiscal Transparency ROSC report</th>
<th>With budget documentation for the five year budget 2010-2014 and the 2009 Rendición de Cuentas, Parliament received six out of the nine information required in the PEFA indicator (PI-6) for transparency including (i) macroeconomic projections; (ii) deficit financing; (iii) past fiscal year results under format similar to initial budget; (iv) Current annual budget; (v) Summary of revenue and expenditures under same format; and (vi) Explanation of fiscal incidence of new measures including changes in spending programs and in tax policies and rates. In addition, all these information are made public through the Contaduria general de la Nacion website (<a href="http://www.cgn.gob.uy">www.cgn.gob.uy</a>)</th>
<th>No weakness identified. MTOP programs are part of the budget and information is made available under the same formats to the Parliament and the general public.</th>
<th>No changes under consideration</th>
<th>No</th>
<th>mitigation measure needed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cursory scrutiny of budget proposals by the legislature. PI 27 relates to legislative scrutiny of the annual budget law.</td>
<td>Details of budget revenue and spending are reviewed and approved by Parliament every 5 years and the reports and adjustments to initial budgets are approved every year. The current Road Program was adopted following this review</td>
<td>No weakness identified (PEFA)</td>
<td>No changes under consideration</td>
<td>No</td>
<td>mitigation measure</td>
</tr>
</tbody>
</table>
## B. Program Accounting and Financial Reporting

<table>
<thead>
<tr>
<th>Overall FM element objective</th>
<th>Adequate program records and information are produced, maintained, and disseminated for decision-making, management, and Program reporting purposes.</th>
<th>Delays in recording transactions in the accounting system. Although no specific PEFA indicator measures timeliness in recording transactions, PEFA indicator (PI) 24, Dimension (ii) on timeliness of report and Dimension (iii) on quality provide an alternative measure since good-quality and timely in-year reports are difficult to prepare unless transactions are recorded on time.</th>
<th>No identified weaknesses other than the accounting module which is not operational (see below)</th>
<th>CGN is contemplating SIIF upgrading and updating with support from IADB (see below)</th>
<th>No action proposed on this issue, being partially addressed through IADB technical assistance.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rigidity in the chart of accounts prevents the addition of new codes to keep track of program-related transactions. No specific indicators: the assessment should look at existing reports and experience from other programs/sectors. The chart of accounts should have the flexibility to accommodate the requirements of the program.</td>
<td>SIIF is able to track all required transactions and to present budgetary information following traditional classification (administrative) as well as new programmatic classification.</td>
<td>MTOP raised some concerns about possible rigidity in the SIIF system to account for donors funds. Projects funds are usually earmarked for the beneficiary unit/agency and tracked as such in the system. It won’t be possible for the PfO resources to be earmarked for the MTOP programs</td>
<td>No change in SIIF is contemplated. The MEF agreed to discuss with MTOP in order to find a technical/accounting solution to the raised issue.</td>
<td>No mitigation measure contemplated.</td>
<td></td>
</tr>
<tr>
<td>Inability of the accounting system to prepare timely and reliable financial</td>
<td>The SIIF allows CGN to prepare and to timely provide monthly and annual budget execution reports and to meet most of the</td>
<td>The accounting module of the SIIF system is not operational and consequently consolidated</td>
<td>The MEF is very aware of this limitation and CGN has taken steps toward upgrading and</td>
<td>Activation of the accounting module of the SIIF</td>
<td></td>
</tr>
</tbody>
</table>

4
| reports (both management reports and the annual program financial statements). Dimensions (ii) and (iii) of PI 25, relating to timely financial report submission to auditor and use of accounting standards, are useful indicators. Another source of information is the annual audit report of the SAI. In addition, CPIA Question 13 Dimension (c) provides useful information on the timeliness and accuracy of accounting and fiscal reporting. | reporting requirements (Rendicion de Cuentas Anuales). The SIIF is also able to supply specific budget and programs reports as required. | annual financial assets and liabilities statements (which are central to reporting transparency) are prepared manually. Lack of reliable annual financial statements represents a limitation and a risk for the government overall reporting. | updating the SIIF including the Accounting Module. This effort is being undertaken with support from the IADB loan. | is part of the IADB work agenda with the GoU; the Bank will coordinate with IADB as needed. |
### C. Treasury Management and Funds Flow

<table>
<thead>
<tr>
<th>Overall FM element objective</th>
<th>Adequate and timely funds are available to finance Program implementation.</th>
</tr>
</thead>
</table>

#### Inadequate funds will be made available for program implementation.
PI 16 discusses the availability of funds for commitment of expenditures.
Uruguay has a strong track record in funding adequately the spending units at the MDA level. All the 3 sub-indicators of PI 16 are scored A in the PEFA draft Report.
No identified weaknesses. No identified risk No mitigation measure

#### Unpredictable availability of funds.
Dimension (ii) of PI 16, regarding the reliability and horizon of periodic in-year information to ministries, departments, and agencies on ceilings for expenditure commitment, is a useful indicator. High level of arrears (indicator PI-4-i) or of extra budgetary spending in the Program (indicator PI-7-i) can be a good source of information. In addition, CPIA Question 13, Dimension (b) provides useful information on whether budgets are implemented as intended in a controlled and predictable way. Experience in the availability of counterpart funds for ongoing programs should also be considered.
MEF assures consistency between budgeted allocations (according to the 5-year budget law and its legal adjustments), annual macroeconomic forecasts, and the annual financial program, thus resulting to a monthly cash planning, agreed bilaterally between MEF and each spending unit, and managed by Treasury.
No identified weaknesses. No identified risk No mitigation measure

#### Diversion of program funds despite the
See above
No identified weaknesses. No identified No mitigation measure
availability of budget appropriation and budget allocation. PEFA Dimension 16, CPIA Question 13 Dimension (b), and experience gained from ongoing operations.

<table>
<thead>
<tr>
<th>Overall FM element objective</th>
<th>There are satisfactory arrangements for the exercise of control and stewardship of Program funds.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Internal control system is unable to prevent or detect serious irregularities, misuse, and inefficient use of program funds</strong>. PEFA indicator (PI 20) relates to the effectiveness of internal controls for non-salary expenditures. Also, annual reports of the SAI, internal audit reports, and CPIA Question 16 Dimension (a).</td>
<td>Effective internal controls are being implemented and SIIF tools help in managing commitments and payments within the authorized appropriations limits and compliance with legal procedures. Internal controls procedures are well understood and effectively applied by CGN, TGN and TCR staff to prevent misuse of funds and irregularities. Some overlapping in internal controls have been noted as well as conflict of interests for TCR (exercising both ex-ante and ex-post controls). Internal audit in MTOP has been assessed weak. While TGN and CGN have strong internal controls capacities in place, internal audit to supervise their activities is to be strengthened. In particular, CGN was not audited in recent years, while last audit of TGN activities originated from an ad-hoc request from the newly appointed Treasurer (15 month ago). Insufficiently effective internal audit may affect the quality of the government overall internal controls..</td>
</tr>
<tr>
<td><strong>Internal audit is unable to provide assurance on the robustness of and compliance with internal controls</strong>. PI 21 measures the effectiveness of the internal audit function.</td>
<td>There are two internal audit units recently established at the MTOP. One is representing the Auditor Interno de la Nacion (AIN) which report directly to the Ministry of Finance while the other is under the MTOP authority. Internal Audit effectiveness is a challenge: (i) AIN and its branch in the MTOP lack capacities and staff to undertake effective auditing; (ii) looming risk of overlap, since the creation of the MTOP own audit unit with somewhat similar responsibilities; (iii) limited follow-up on audit reports recommendations; and (iv) performance audit is not yet part of the internal audit function, since performance budgeting is in its initial stage in Uruguay. This area poses some risk for the Program.</td>
</tr>
<tr>
<td><strong>Development of the Auditor Interno de la Nacion (AIN) is among priorities of the government PFM reform plan and is supported by EU.</strong></td>
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</tr>
</tbody>
</table>

D. Program Internal Controls (including Internal Audit)

| Overall FM element objective | | |
|-----------------------------| | |
| **Internal control system is unable to prevent or detect serious irregularities, misuse, and inefficient use of program funds**. PEFA indicator (PI 20) relates to the effectiveness of internal controls for non-salary expenditures. Also, annual reports of the SAI, internal audit reports, and CPIA Question 16 Dimension (a). | Effective internal controls are being implemented and SIIF tools help in managing commitments and payments within the authorized appropriations limits and compliance with legal procedures. Internal controls procedures are well understood and effectively applied by CGN, TGN and TCR staff to prevent misuse of funds and irregularities. Some overlapping in internal controls have been noted as well as conflict of interests for TCR (exercising both ex-ante and ex-post controls). Internal audit in MTOP has been assessed weak. While TGN and CGN have strong internal controls capacities in place, internal audit to supervise their activities is to be strengthened. In particular, CGN was not audited in recent years, while last audit of TGN activities originated from an ad-hoc request from the newly appointed Treasurer (15 month ago). Insufficiently effective internal audit may affect the quality of the government overall internal controls.. |
| **Internal control system is unable to prevent or detect serious irregularities, misuse, and inefficient use of program funds**. PEFA indicator (PI 20) relates to the effectiveness of internal controls for non-salary expenditures. Also, annual reports of the SAI, internal audit reports, and CPIA Question 16 Dimension (a). | Effective internal controls are being implemented and SIIF tools help in managing commitments and payments within the authorized appropriations limits and compliance with legal procedures. Internal controls procedures are well understood and effectively applied by CGN, TGN and TCR staff to prevent misuse of funds and irregularities. Some overlapping in internal controls have been noted as well as conflict of interests for TCR (exercising both ex-ante and ex-post controls). Internal audit in MTOP has been assessed weak. While TGN and CGN have strong internal controls capacities in place, internal audit to supervise their activities is to be strengthened. In particular, CGN was not audited in recent years, while last audit of TGN activities originated from an ad-hoc request from the newly appointed Treasurer (15 month ago). Insufficiently effective internal audit may affect the quality of the government overall internal controls.. |
| **Development of the Auditor Interno de la Nacion (AIN) is among priorities of the government PFM reform plan and is supported by EU.** | Development of the Auditor Interno de la Nacion (AIN) is among priorities of the government PFM reform plan and is supported by EU. |

No specific action is required (Part of the general Bank / GoU dialogue).
<table>
<thead>
<tr>
<th><strong>Leakages in payroll. PI 18 (effectiveness of payroll controls).</strong> Another source of useful information is the annual SAI audit report.</th>
<th>Effective auditing.</th>
<th>An audit of the Payroll has not been undertaken during the last years (2007-2009) leaving the possibility of errors and ghost workers in the database. However, MTOP internal audit unit has recently undertaken a desk review of the payroll and HR which did not point out to serious issues.</th>
<th>No action is planned</th>
<th>No mitigation is required in this area.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>134. Delayed and irregular accounts reconciliation. PI 22, regarding timeliness and regularity of accounts reconciliation, and CPIA Question 13 Dimension (c).</strong></td>
<td>Uruguay has effective systems and tools for payroll and HR controls. The 2 Databases are linked and controls on changes in the registries are effectively enforced. (see PEFA indicator 18)</td>
<td>135. The Single Treasury Account (TSA) concept is established and working in Uruguay that helps in managing domestic as well as donors’ resources. An automated reconciliation is implemented daily on the TSA accounts. Line Ministries maintain bank accounts are also reconciled every day. In addition, all suspense accounts are cleared before the end of fiscal year.</td>
<td>136. There is no risk to the PforR since resources from the loan are expected to be channeled through the central government bank accounts (TSA) which is regularly reconciled.</td>
<td>137. Various bank accounts are still open for ministries to manage external funds in line with donors’ requirements. This weakens the TSA but Treasury is taking necessary steps with IDB support to streamline those transactions and eliminate most of the bank accounts.</td>
</tr>
<tr>
<td><strong>139. Program lacks capacity to effectively monitor, evaluate, and validate program results.</strong> No specific indicators. Experience of implementing agency in monitoring and evaluating program implementation and reviewing existing reports.</td>
<td>140. 2010-2014 budget was presented under the new programmatic classification with specified activities, results, indicators and targets.</td>
<td>141. Performance management is at its initial stage and monitoring and evaluation function nascent.</td>
<td>142. Performance reporting has started with the 2011 Rendicion de Cuentas presented under the new 17 programmatic areas classification. Processes are nonetheless new, using the existing SPP (sistema de presupuestacion y planificacion) and ad-hoc procedures that are developed by the</td>
<td>143. No other mitigation than closely monitoring that, during implementation, M&amp;E is indeed carried out adequately.</td>
</tr>
<tr>
<td>144. Weak IT security and back-up arrangements. Reports on IT security audit, if available, provide useful information. Other sources of information are annual SAI audit reports or reports by the internal audit department.</td>
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</table>
| 145. Security policies and procedures are in place. Information security policies are issued by AGESIC, and CGN has developed classification of information and related risk assessment. With respect to data backup and business continuity, there is a suitable method of data backup and recovery (backup and restore).

146. Physical access and data integrity are supported with clearly specified processes. Access control to SIIF is defined by roles in the system and profiles are assigned by the Ministry of Transport as the functions associated with each user. Technical users at SIIF central level operate under the same criterion for access to workplaces, which are divided into development, testing and production areas. These technical users are responsible for managing changes in programs, and this activity has been documented in formal procedures. |
<p>| Ability to continue processing at an alternate disaster site is missing. |
| There is no project to resolve this issue in the near term |
| No action is proposed. |</p>
<table>
<thead>
<tr>
<th><strong>E. Program External Audit</strong></th>
<th><strong>Overall FM element objective</strong></th>
<th><strong>Adequate independent audit and verification arrangements are in place, taking into account the country context and the nature and overall risk assessment of the Program.</strong></th>
<th><strong>SAI is unable to prepare and submit an audit report within a reasonable period after the close of the financial year.</strong> The laws of the country and actual submission dates of audit report to the Parliament are relevant in assessing this risk. In addition, PI 26 Dimension (ii) and CPIA Question 13 Dimension (c) are useful indicators.</th>
<th>Uruguay Tribunal de Cuentas de la Republica (TCR) regularly presents to Parliament, its audit reports and opinion over the various public sector units’ financial reports (especially Rendicion de Cuentas) within 4 months following submission by CGN.</th>
<th>No weakness reported other than the reliability of the Assets and Liabilities Annual Statements (as mentioned above in Acct and Reporting)</th>
<th><strong>No action considered</strong></th>
<th><strong>No need for any mitigation. TCR will continue to give an opinion on RC and specific opinion on the Program.</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><em>SAI lacks independence, capacity, resources, and skills to perform PS audits.</em> Some useful sources of information are the CFAA, PI 26 Dimension (i), and SAI audit reports.</td>
<td>There is an audit of more than 75% of the budget spent by public sector entities in Uruguay, including the central government units, the decentralized organizations, the SoEs and the local governments. The TCR does avail resources to audit the budget and report on time to the Parliament but on financial grounds.</td>
<td>Performance audit is not yet part of current TCR work despite the introduction of programmatic budgeting. TCR audit and opinion so far are focused on financial and regulatory compliance. Absence of performance audit is a limitation for the PforR operation since monitoring of results and key indicators is critical to the Road program in particular.</td>
<td><strong>No action is considered</strong></td>
<td><strong>TCR capacity in performance auditing would need to be strengthened so to allow for a proper and effective monitoring of the Road Program. This action would be part of the on-going Bank – GoU dialogue on country FM issues.</strong></td>
<td></td>
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</tr>
<tr>
<td><em>Lack of response to, or follow-up on, audit findings and recommendations.</em> Useful sources of information include PI 26 Dimension (iii), CFAA, and SAI audit reports (which may summarize the status of past audit queries and recommendations).</td>
<td>This is the weakest part in external audit in Uruguay. There is no evidence that current audit reports recommendations are monitored and followed up by government. Without a proper follow-up of external and independent audit of the MTOP programs, it would be difficult for the PforR operation to meet its expected results.</td>
<td><em>No action is planned by the country in this area</em></td>
<td><strong>Follow-up of the external audit recommendations for the Road programs could be also part of the on-going Bank – GoU dialogue on country FM issues.</strong></td>
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</tr>
<tr>
<td><strong>Legislative oversight</strong></td>
<td>All government programs, including the MTOP programs, are reviewed by the Parliament through the 5 year budget and annual rendicion de Cuentas approval</td>
<td>Parliament lacks capacities in performance management. Allocations of resources are still driven by traditional budget procedures (i.e. incremental). The current PfoR relies on an</td>
<td><strong>No action is contemplated</strong></td>
<td><strong>The next budget review related to 2015-2019 is slated for 2015 which is beyond the Program timeline.</strong></td>
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</tbody>
</table>
already adopted program. Hence, the Parliament lack of capacity in performance management may only impact the upcoming 2015-2019 program.
Annex 4: Fiduciary Assessment of CVU – Corporación Vial del Uruguay S.A.

**CVU Institutional Framework.** Part of the proposed Program will be implemented by CVU. CVU is a company regulated by private sector laws and whose single shareholder is the CND or the “Corporación Nacional para el Desarrollo”. CND is also regulated by private sector laws and all of its funding comes from the government’s budget. The law that created CND allows for private sector participation of up to 40% of CND’s capital.

CVU has a board of directors comprised by three members, two of whom are appointed by the CND and the other is designated by MTOP, subject to Congress approval. CVU has around 250 staff, out of which about 215 works on the tollbooths and about 35 working on the central office at Montevideo. CVU does not have a procurement team or any significant administrative team. CVU rather contracts the administrative structure and staff of DNV under the terms of a technical assistance contract signed by both agencies.

The framework regulating CVU’s activities are (i) the concession contract and (ii) a technical assistance contract signed by CVU and DNV in 2002 and set to expire in 2020. Since CVU is regulated by private sector law, the company is not required to follow the procurement and financial management rules and procedures prescribed by the TOCAF.

The concession contract signed by CVU requires publication of procurement opportunities at the official gazette and a newspaper of national circulation, and a minimum of 14 days for submission of bids for all contracts estimated to cost USD 75,000 or more. Invitations for bids are published at CVU’s website as well as contract awards and signed contracts. Clause 19.1 of the concession contract also requires CVU to treat all bidders equally regardless of the contract amount.

Part of CVU’s financial resources comes from the monthly budget allocation, of USD 2 million, from DNV. Payment of the budget allocation is processed by the DNV at the financial management system- SIIF- and it is transferred on a monthly basis to a CVU general account in local currency at BBVA Bank. In addition to DNV’s budget allocation, additional funding for CVU comes from 13 tollbooths operated by the agency, loans with development agencies and funds obtained through financial markets.

**Procurement Arrangements**

In a nutshell, the procurement operational arrangement between CVU and DNV is that CVU will be the point of contact with bidders and contractors while DNV will carry out the engineering

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37 As defined by clause 19.1 of the concession contract signed between MTOP, CND and CVU.
and administrative work. One the one hand, CVU will publish bidding documents, open bids, sign contracts and make payments to contractors; on the other hand, DNV will prepare engineering designs, technical specifications and bidding documents, evaluate all bids received and recommend an award, and supervise the work done by contractors. According to this division of responsibilities, implementation of CVU’s contracts will kickoff at DNV with preparation of engineering designs and technical specifications. Then, DNV’s procurement team will prepare bidding documents based on a standard developed for CVU’s bidding processes. Next, the package is sent to CVU for publication and bid opening. Then, bids will be sent to DNV for evaluation and recommendation of award. The process will go back to CVU for review of the award recommendation by its board of directors. It bears noticing that CVU’s board is not required to follow DNV’s recommendation. CVU will sign a contract and send it to MTOP for clearance by the Minister.

The standard bidding documents used by CVU allow for “vistas” of all bids during bid opening ceremony and a 10-day period for complaint after notification of award. Complaints are addressed to CVU and there is no independent appeals body. All contractors and consultants willing to deal with CVU have to be registered at the “Registro Nacional de Empresas de Obras Públicas”38, the database owned and maintained by DNV.

During project preparation, it was reported to the Bank that CVU is able to implement bidding processes faster since it is not subject to the same instances of control that DNV is, such as the prior review by the “Tribunal de Cuentas”, the “Contaduría General” and the “ordenador de gasto”. The concession contract signed by CVU requires the agency to implement bidding processes within 80 days39. Therefore, in theory, significantly quicker than DNV’s average of 237 days for “licitaciones públicas”. The Bank reviewed data of procurement processes carried out by CVU and found that evaluation of bids on CVU-financed contracts are substantially faster.

**FM arrangements**

**Budgeting.** Due to its legal status, CVU is not considered as a central government entity. In addition, CVU’s debt is not accounted as government debt. Therefore, CVU is not integrated within the SIIF and it is not limited by any budgetary constraint of the government. The entity annual budget is prepared by its Treasury department which consolidates proposals and needs of different sectors. The annual project budget is submitted to the General Manager for its approval.

**Accounting and Financial Reporting.** An adequate Information System (SAP) is in place for accounting and reporting purposes. The SAP system is used to produce the entity accounting records and financial information. It provides a good ex ante internal control framework and

38 As defined in clause 19.2 of the concession contract.
39 See clause 20.1 of the concession contract.
allows for accurate and reliable financial reporting. The accrual basis standard is applied in accounting.

CVU produces annual and semiannual (interim) financial statements, following International Financial Reporting Standards (IFRS), which are subject to external audit. In addition to CVU financial statements, the entity prepares and submits to DNV monthly financial reports detailing nature and amounts of expenditures that have been paid during the reported period.

**Internal Control and Internal Audit.** Because of CVU’s legal status, the company’s award decisions as well as payment processes are not reviewed by the “Tribunal de Cuentas”. However, an adequate internal control system is currently in place. CVU has written operational and internal control procedures including approval and authorization controls, and segregation of duties. These procedures have been incorporated in its Integrated Management Handbook (“Manual de Gestion Integrado”). CVU is also subject to CND Internal Control scrutiny. The internal audit function within CVU is performed by CND’s Internal Audit Unit which reports directly to CND Board of Directors and has qualified staff with technical capacity to fulfill the internal control function.

**External Audit.** Adequate external audit arrangements are already in place in CVU. The entity annual and semiannual financial statements are audited by an independent auditor following international audit standards. Unqualified audit opinions were issued by the auditors on the Entity Financial Statements for the last three years. Details on the CVU external audit are included in following table.

<table>
<thead>
<tr>
<th>Period</th>
<th>Auditor</th>
<th>Audit Opinion</th>
<th>Critical Issues identified</th>
</tr>
</thead>
<tbody>
<tr>
<td>Six month period ended April 30, 2011</td>
<td>Price Waterhouse Coopers</td>
<td>Unqualified</td>
<td>No</td>
</tr>
<tr>
<td>Fiscal year ended October 31, 2010</td>
<td>Price Waterhouse Coopers</td>
<td>Unqualified</td>
<td>No</td>
</tr>
<tr>
<td>Fiscal year ended October 31, 2009</td>
<td>Price Waterhouse Coopers</td>
<td>Unqualified</td>
<td>No</td>
</tr>
</tbody>
</table>

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40 CND FM arrangements- including internal audit- were review in the years 2007 and 2010 and found acceptable to the Bank, since CND has been selected as the fiduciary agent of the Bank Financed project “Uruguay Promoting Innovation to Enhance Competitiveness” (P099520), and proposed fiduciary agent for the SFLAC Grant: Uruguay promoting cleaner production in the industrial sector (TF096687).
Moreover, CVU financial statements are part of the CND reports annually submitted to Parliament by CGN through the RC. The CND annual statements are first reviewed by TCR and then included in the RC annexes, as required from all entities receiving funding from the National Budget.

From the FM standpoint, the assessment conclusion indicates that the arrangements in place at CVU are adequate. No major weaknesses have been identified. CVU has significant experience in the execution of the concessioned highway network, since it has successfully been executing it from the year 2002 on. In addition, the review of CVU organizational structure and professional staff provide reasonable assurance that its FM functions including budgeting, accounting, internal control, payments and financial reporting are properly undertaken.