

SOCIALIST REPUBLIC OF VIETNAM

Results-based Scaling Up Rural Sanitation and Water Supply Program

**Fiduciary Systems Assessment
(FSA)**

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PREPARED BY
THE WORLD BANK

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List of Acronyms

ACG	Anti-Corruption Guidelines
BCC	Behavior Change Communication
CATS	Community Approaches to Total Sanitation
CEMA	Commission for Ethnic and Minority Affairs
DARD	Department of Agriculture and Rural Development
DLI	Disbursement-linked Indicator
DoC	Department of Construction
DoET	Department of Education and Training
DoF	Department of Finance
DoH	Department of Health
DPI	Department for Planning and Investment
EM	Ethnic Minority
FSA	Fiduciary Systems Assessment
GI	Government Inspectorate
GoV	Government of Vietnam
IDA	International Development Association
IEC	Information, Education and Communication
INTOSAI	International Organization of Supreme Audit Institutions
INTVP	Bank's Institutional Integrity Vice Presidency
IT	Information Technology
IVA	Independent Verification Agent
M&E	Monitoring and Evaluation
MARD	Ministry of Agriculture and Rural Development
MoF	Ministry of Finance
MoH	Ministry of Health
MPI	Ministry of Planning and Investment
NA	National Assembly
NCERWASS	National Center for Rural Water Supply and Sanitation
NM-CH	Northern Mountains and Central Highlands
NTP	National Target Program
NTP1 / NTP2 / NTP3	National Target Program for Rural Water Supply and Sanitation Phase 1/ Phase 2 / Phase 3
NTP-SO	National Target Program Standing Office
OD	Open Defecation
PAP	Program Action Plan
PCERWASS	Provincial Center for Rural Water Supply and Sanitation
PforR	Program for Results
PPA	Public Procurement Agency
PPC	Provincial People's Committee
RB-SupRSWS	Results-based Scaling up Rural Sanitation and Water Supply
SAI	Supreme Audit Institution
SAV	State Audit of Vietnam
SOE	State-Owned Enterprise

TA	Technical Assistance
TABMIS	Treasury and Budget Management Information System
USD	United States Dollar
VBSP	Vietnam Bank for Social Policies
VIHEMA	Vietnam Health Environment Management Agency
VND	Vietnamese Dong
WASH	Water, Sanitation and Hygiene

Executive Summary

Purpose of Fiduciary Systems Assessment (FSA)

1. The Results-based Scaling Up Rural Sanitation and Water Supply Program (the “Program”) fiduciary systems should provide reasonable assurance that the financing proceeds will be used for intended purposes, with due attention to the principles of economy, efficiency, effectiveness, transparency, and accountability. The Assessment of Program fiduciary systems integrates findings in three areas:
 - The **procurement systems** were assessed to determine the degree to which the planning, bidding, evaluation, contract award and contract administration arrangements and practices provide a reasonable assurance that the Program will achieve intended results through its procurement processes and procedures;
 - The **financial management systems** were assessed to determine the degree to which the relevant planning, budgeting, accounting, internal controls, funds flow, financial reporting and auditing arrangements provide a reasonable assurance on the appropriate use of Program funds and safeguarding of its assets; and
 - The Program was also assessed in how its **governance systems** handle the risks of fraud and corruption, including the use of complaint mechanisms, and how such risks are managed and mitigated in light of the government’s commitments under the Guidelines on Preventing and Combating Fraud and Corruption in Program-for-Results Financing (Anti-Corruption Guidelines or ACGs).
2. The Fiduciary Systems Assessment (FSA) has been prepared based on interviews and analysis at the national level with the National Target Program (NTP) Standing Office under the Ministry of Agriculture and Development (MARD), the Ministry of Finance (MoF) and the Ministry of Planning and Investment (MPI), and the Vietnam Health Environment Management Agency (VIHEMA) under the Ministry of Health (MOH). Interviews and analysis were also completed at the provincial level in the Northern Mountains and the Central Highlands (NM-CH) provinces of Dien Bien, Dak Lak, Lai Chau, Hoa Binh and Yen Bai provinces. The Assessment also benefited from the recent fiduciary assessments prepared for the Results-Based Rural Water Supply and Sanitation under the National Target Program (approved in November 2012) and the Results-Based National Urban Development Program in the Northern Mountains Region (approved in June 2014) which cover similar technical and geographical areas, respectively, as compared with the concerned Program.

National Target Program for Rural Water Supply and Sanitation

3. The Government of Vietnam (GoV) gives high priority to development of rural water supply and sanitation. The National Rural Clean Water Supply and Sanitation Strategy to 2020 (developed in 2000 and updated in 2011) has set the overall vision and goals for the sector. To implement the strategy, GoV established a National Target Program (NTP) for Rural Water Supply and Sanitation which has resulted in considerable progress over the past ten years. Since 2001, rural water supply and sanitation has been financed through a dedicated

National Target Program in three phases; the second RWSS NTP ran from 2006 to 2010 and upgraded water services for 5.4 million people and sanitation services for 6.8 million people.

4. This Fiduciary Systems Assessment (FSA) relates to the third National Target Program for Rural Water Supply and Sanitation (hereafter referred to as NTP3) which runs from 2012 to 2015. NTP3 is specifically intended to promote investment in poor, remote, ethnic, border and island areas as well as areas where water is polluted or scarce. The NTP3 includes the following components:
 - a) Construction and rehabilitation of water supply schemes, promotion of clean water use, improved control of water quality, and support to sustainable systems;
 - b) Construction and effective use of latrines at households, schools, health clinics and public places;
 - c) Information, Education and Communication activities to raise awareness on the importance of clean water and latrines and hygiene practices;
 - d) Continued development of the legal framework for the implementation of the RWSS strategy;
 - e) Promotion of international cooperation; and
 - f) Capacity building.
5. Nationally, NTP3 aims to reach the following indicators in rural areas by 2015: 85 percent coverage of hygienic water, of which 45 percent meets water quality standards as per QCVN 02-BYT; 65 percent coverage of hygienic latrines and 100 percent of commune clinics and schools (excluding satellite schools) that have hygienic water supply and sanitation facilities. To date NTP3 has achieved 82 percent coverage of hygienic water (40 percent meeting QCVN 02-BYT) and 60 percent coverage of hygienic latrines. However the level of achievement across the provinces is highly variable, with almost all low performing provinces in the mountainous and poor areas.
6. Following lessons learned from the first two phases, NTP3 has been structured to support both water supply and sanitation (domestic and environmental sanitation), improve sustainability and assign clear responsibilities to MARD for water supply infrastructure and the Ministry of Health (MOH) for sanitation and hygiene. NTP3 had an increased focus on the sustainability of water systems as well as Information, Education, and Communication (IEC) activities, and incorporated sanitation under the mandate of MOH.
7. A proposal to transfer the components of the current NTP3 to the successor program in 2016, expected to be the New Rural Area NTP, has been developed within MARD.

Results-based Scaling up Rural Sanitation and Water Supply (RB-SupRSWS) PforR (the Program)

8. The approach taken under the Program is to strengthen the Government of Vietnam's NTP3 in the 19 provinces of the NM-CH regions with the lowest sanitation coverage to support the existing efforts of the government to scale up access to sanitation and improved hygiene practices. The RB-SupRSWS Program will include interventions to support demand generation through innovative approaches in behavior change communication (BCC) at the local level, coupled with national-level interventions to build awareness of the importance of sanitation to the national economy and obtain public commitment at the highest level. Support will also be provided to strengthen the supply chain to improve the design, availability and affordability of sanitation products and services. Participative approaches will be used at all levels in order to ensure that interventions are appropriate and effective. Construction of new sanitation facilities and rehabilitation of existing and construction of new water supply schemes will facilitate improved hygiene practices. Behavior change communication programs would work through nutrition programs as well as reinforce them. Technology used will be appropriate, cost effective and accessible for poor households. The Program will also support the provision of sanitation, hygiene and water supply services to schools and health clinics through the construction of facilities and the strengthening of the management model for sustainable operation and maintenance of the system.
9. The institutional and financing arrangements will be aligned with the structures of GoV. Funds will pass from the center to the Provincial People's Committees (PPC) in the 19 recipient provinces. Fund allocations will be made on the basis of provincial plans and within the framework of NTP3. These funds will be used to finance NTP3, including water supply, sanitation and hygiene promotion. It will be the responsibility of the PPC in each of the 19 recipient provinces to plan investments and allocate funding to the appropriate technical departments at that level in accordance with the inter-ministerial guidelines. For national-level activities, funding for the Program will be allocated by the MOF to the related ministries. The amount of funds allocated to different ministries under the Program will be based on the anticipated funds required to achieve the Disbursement-Linked Indicator (DLI) targets as well as the amounts corresponding to the DLI results that are verified as completed.
10. The Program will be designed in coordination with existing socio-economic, rural development programs and activities managed by other line Ministries. In order to effectively implement the Program and target remote regions, effective and multi-sectoral approaches to commune-wide sanitation will need to be developed. Linkages with the health and education programs and with nutrition will be key given the links between poor access to sanitation and stunting and the need to develop a sustained system. Schools, in particular, will be a critical focal point for developing an integrated strategy. For integration strategies with nutrition, synergies can specifically be found in the outreach programs to mothers and care-givers.
11. Learning from global and Vietnam-specific experience, the proposed program would have the following three closely inter-related elements corresponding with the projects under the RWSS NTP3 which support delivery of behavior change communication, provide basic

services and infrastructure to support behavior change, support sustainable services, and build capacity:

a. Rural domestic water supply and rural environment

- Provision of hygienic sanitation, hand washing facilities and adequate water supply in schools – including consideration of the needs of all children – and support for putting in place the system for operation and maintenance of the facilities;
- Increasing water supply coverage for villages – using small-to-medium sized community-based systems – focusing on rehabilitation and extensions from existing systems. New water supply schemes would be constructed as required using appropriate technology. Investments would be demand responsive and would balance willingness to pay with prioritizing areas with higher levels of poverty; and
- Provision of Technical Assistance (TA) for improved operation and maintenance procedures, management and tariff collection, and accounting procedures at the village/commune levels. The role of the Provincial Center for Rural Water Supply and Sanitation (PCERWASS) in supporting this process, specifically in their technical backstopping role for community based systems, will be strengthened.

b. Rural sanitation and hygiene

- Provision of hygienic sanitation, hand washing facilities and adequate water supply in health clinics – along with support for putting in place the system for operation and maintenance of the facilities;
- Support for scaling up domestic hygiene and sanitation to achieve Commune Wide Sanitation:
 - (i) Demand side interventions would be implemented through existing channels, including clinics, schools, government health system staff, and traditional leadership structures. In addition, at the village level, local leaders along with the women’s union and commune and village health workers would be supported with new tools and to adapt existing approaches, such as Community Approaches to Total Sanitation (CATS), which have demonstrated effectiveness. Counseling of mothers and caregivers in clinics would also support scaling up existing successful programs combating malnutrition;
 - (ii) Supply side interventions such as support to the private sector to strengthen the capacity of local builders, manufacturers and suppliers of sanitation products and services, in order to supply a menu of affordable and appropriate household sanitation and hand washing hardware options and services. The intervention will build on the work already being done by VIHEMA and other Development Partners; and

(iii) Additional targeted support to households for latrine construction with affordable technology options and potentially strengthening micro-financing through the Vietnam Bank of Social Policy (VBSP). This intervention would also identify how to improve the delivery of the existing subsidy systems for poor households (e.g., as rebates directly to households or voucher systems to be redeemed at local sanitation suppliers).

c. Capacity building, communication and supervision, monitoring and evaluation of NTP3

- Focused capacity building of national, provincial and local agencies involved in the Program to develop their implementation and management capacity and improve inter-sectoral collaboration including: (i) capacity to promote hygienic behavior change and provide sustainable sanitation services; (ii) planning, monitoring, evaluation and reporting; and (iii) supporting improved environmental, social and fiduciary systems;
- Policy support where needed, for example to enhance the role of PCERWASS in supporting institutional capacity development at the commune levels, for school water supply, sanitation and hygiene (WASH), water pricing framework, and development of sanitation markets;
- Improving sustainability of access to sanitation and improved water supply through technical assistance for community management and support to PCERWASS and the Department of Health (DoH)/Department of Education and Training (DoET);
- Verification of Program Results and External Audit of the Program by the Independent Verification Agent; and
- Launch of a national and provincial high-level advocacy campaign to raise the political profile of sanitation and hygiene.

Institutional Arrangements

12. The institutional arrangements are described below:

- MARD will coordinate the implementation of the Program, through a national steering committee comprising MARD, MoH, the Ministry of Education and Training (MoET), the Committee for Ethnic Minority Affairs (CEMA), MPI and MoF. Fully empowered teams will be established nationally in MARD and VIHEMA in order to monitor and support implementation in all Provinces under the Program;
- At the central level, VIHEMA will be the technical lead for the sanitation and hygiene promotion activities. The National Center for Rural Water Supply and Sanitation (NCERWASS) will lead activities relating to community water supply. A strong coordination mechanism will be needed in order to promote integrated water and sanitation projects to support hygiene practices;

- PPCs will lead provincial level steering committees for coordination and supervision comprising DoH, PCERWASS, DoET, DPI, the Department of Finance (DoF), and CEMA. PCERWASS will be the program owner at the provincial level;
- Independent Verification Agent (IVA) role is to provide independent confirmation of the results reported by the provinces through MARD. State Audit of Vietnam (SAV) was selected to verify Program results using protocols agreed with the Bank. This choice is based on SAV's role as a constitutional body with both the independence and the mandate to conduct NTP audits. SAV has good management capacity and can subcontract verification works for which it does not have the technical expertise in-house. SAV is the IVA under the RWSS PforR and has performed satisfactorily; it has subcontracted the physical verification of sanitation and water supply connections to a specialist firm. SAV provided adequate oversight of the surveys teams and reporting process; and
- The Women's Union, potentially other mass organizations, village health workers and similar groups will be critical for implementation of the hygiene promotion components. These groups will be incorporated into the institutional structure of implementation to assist in community mobilization. The Women's Union will also be engaged to support grievance redress channels. These routes are also potential channels for the effective engagement of Ethnic Minority (EM) groups in implementation.

Procurement

13. Procurement under NTPs is governed by national procurement laws and regulations. Specifically, the procurement done before April 2006 was governed by, in turn, Decrees 88/1999/ND-CP dated September 1, 1999; Decree 14/2000/ND-CP dated May 5, 2000; and then Decree 66/2003/ND-CP dated June 12, 2003. The procurement implemented after April 2006 has been subject to the Procurement Law No. 61/2005/QH11 dated November 29, 2005; Law No. 38/2009/QH12 on Amendments to the Procurement Law dated June 19, 2009; and subsequent implementing Decrees (including Decree No. 111/2006/ND-CP, dated September 29, 2006; Decree No. 58/2008/ND-CP dated May 5, 2008; and Decree No. 85/2008/ND-CP dated October 15, 2009). The new Public Procurement Law No. 43/2013/QH13 (approved by National Assembly on November 26, 2013, and became effective on July 1, 2014) and Decree No. 63/2014/ND-CP (dated June 26, 2014 became effective on August 15, 2014) will govern all procurement activities under the concerned Program.
14. Legally, procurement complaints are handled in accordance with the procedures stated in Decree No. 63/2014/ND-CP. These procedures require complaints to be duly signed and stamped by a legitimate representative of the complaining bidder (anonymous complaints are not considered); for complaints related to contract award, the complainant has to deposit a fee which would not be returned if the complaint is not substantiated. Complaints are handled by procuring entities or project owners and appeals are reviewed by a

competent agency - normally the Provincial People's Committee. This procedure seems to be rather rigid and discouraging of complaints.

15. Procurement under the proposed Program mostly includes civil works of small and medium size (upgrading or new construction of water supply system and providing of sanitation facilities less than US\$10 million) and associated consulting services (capacity building, communication campaign, detailed designs, construction supervision, etc.). There are no large contracts valued at or above Operational Procurement Review Committee (OPRC) thresholds under the Program. As stated above, Program procurement will be carried out in accordance with Vietnam's procurement laws and regulations. Specific procurement methods that would be applicable to the Program include open competitive bidding, direct contracting and shopping. It is envisaged that more than 90 percent of the Program's expenditures will be subject to mandatory open competitive bidding due to the effectiveness of the new Procurement Law and Decree. The procurement rules and procedures applicable to the Program, therefore, are considered to promote transparency, economy and efficiency for the Program.
16. The team identified three specific areas during the assessment of the procurement cycle that could, directly or indirectly, compromise the efficient achievement of Program objectives, namely: (a) prevalent rejection of bids due to bid prices exceeding pre-bid cost estimates and minor, non-substantive deviations; (b) award of contracts to dependent State-Owned Enterprises (SOEs); and (c) non-application of Bank debarment/suspension lists which may result in unacceptable contract awards to Bank debarred/suspended firms or individuals. Corresponding Program actions to address these gaps are proposed to be agreed with the Government prior to Credit negotiations. To strengthen the Program's procurement implementation capacity, several crucial measures should be adopted including additional staffing, intensive training and hiring of qualified procurement/contract management support consultants.
17. In addition to the above, there are a number of other weaknesses that are assessed to possibly impact the timeliness, cost-effectiveness and competitiveness of Program procurement. These include: (a) a segregated and fragmented approach to procurement planning; (b) low-cost estimates for consulting services due to the use of Government cost norms; (c) subjective application of technical scoring criteria in bid evaluation; and (d) delayed construction due to shortage of funds or delayed allocation of budget or delayed payments. These weaknesses will be addressed through capacity support to participating provinces in procurement activities; the development of a detailed, clear and practical Program Operational Manual (POM) by MARD / VIHEMA (MoH); close support, monitoring and supervision by MARD / VIHEMA (MoH) and Program provinces; and strict inspection and audit by the MPI Inspectorate / provincial inspectorates and State Audit of Vietnam. The Bank will provide assistance and support to the Program procurement implementation, and will also closely monitor the defined indicators of Program procurement performance. The overall procurement risk is assessed as Substantial, and may be reduced to Moderate after mitigation.

Financial Management

18. **Budget formulation and allocation.** The principal law governing budget management is the revised State Budget Law approved by the National Assembly in 2002 which came into force for the 2004 budget year. This revised Law has strengthened the legal platform for budget management. It clarifies the powers and responsibilities of stakeholders participating in the budget process and strengthens decentralization by providing greater budgetary powers to Provincial People's Councils and Provincial People's Committees.
19. In NTP3, PCERWASS, assigned by PPC to be the provincial NTP Standing Office, prepares a five-year financial plan for the NTP which forms part of the overall provincial plan. On the basis of the five-year plan, PCERWASS coordinates with DoH and DoET to prepare the annual budget proposal for NTP implementation in the province, comprising of budget for rural water supply, rural sanitation and communication. This annual budget proposal will be reviewed by the provincial Department of Finance and the provincial Department for Planning and Investment (DPI), and approved by PPC before being submitted to the NTP Standing Office as the basis for the NTP budget allocation for the coming year. In parallel, DoH also reports to VIHEMA on the proposed budget for rural sanitation and communication. This first process of provincial budget proposal generation is demand-based.
20. The budget allocation from the central government, however, is based on the availability of funds. The NTP Standing Office (NTPSO), after receiving budget proposals from all provinces, with call for a joint meeting among line ministries – MARD, MoH and MoET. The consolidated NTP3 annual budget proposal submitted by NTPSO to MPI is detailed by province and by sub-project (water supply, sanitation and communication), with substantial cut down from provincial budget proposals based on limited availability of funds informed by MPI in the regular budget formulation process. Normally, the approved annual budget allocation is only around 30 to 50 percent of the province's proposed amount.
21. Once budget reconciliation has been completed at the national level, the MPI informs each province of the amount of NTP funding allocated to them. Upon receiving the annual budget allocation, the PPC revises the initial plan in accordance with available resources. As long as the chosen activities fall within the scope of the annual plan presented to MPI, the allocation of the budgeted resources is at PPC discretion, without any further intervention from central government.
22. This full decentralization of budget allocation to PPC created a practice in NTP3, especially in the low income provinces such as the Northern Mountains and Central Highlands, whereby: (a) almost all NTP funds are allocated by PPCs to water supply components while sanitation and communication do not usually receive adequate priority and resources; and (b) the implementation of investment is mostly assigned to district and commune government instead of provincial technical agencies such as PCERWASS and DoH, leading to poor performance in both investment and operation of water supply schemes and low quality communication activities. For this Program, the earlier differences between

provincial budget proposals and centrally-provided funds will be addressed through an improved provincial planning process, complemented by a national inter-ministry (MARD, MoH and MoET) guidance based on annual Program entitled withdrawals that have a high degree of certainty. There will be a Program Action Plan (PAP) to require timely and appropriate budget allocation by PPCs, including adequate allocation to sanitation and communication as indicated in inter-ministry guidance. Implementation arrangements, with main focus on PCERWASS and DoH for provincial activities, will be provided in the Program Outline and Feasibility Study.

23. **Fund flow.** NTP funds flow from the Government Budget to the ultimate beneficiaries through the State Treasury system, in parallel to the budget allocation process. Based on the revised plan approved by the PPC, implementing units conduct NTP activities. After expenditures are incurred and work completed, contractors/suppliers send supporting documents and request for payment to implementing units. Implementing units review and transfer the requests to the provincial State Treasury to verify and make payments to contractors/ suppliers. NTP funds flow from the National State Treasury to provincial State Treasury. The MoF recognizes the need to secure Program funds in a special deposit account in State Treasury at the provincial level, to manage proper budget allocation, execution and reporting by the provinces. Funds transferred from MoF to provinces are performance-based, and result from the amount the provinces are entitled to request for advances and the amount reimbursed for DLIs achieved and verified. Funds transferred from provincial main deposit accounts to sub-accounts of implementing agencies follow the same principles.
24. **Internal control, financial reporting and audit.** In terms of accounting and financial reporting, the capacity of provincial State Treasury and each implementing agency (PCERWASS and DoH) is expected to be adequate as the Treasury Budget and Management Information System (TABMIS)¹ is fully implemented. However, there remains a risk of mis-recording of transactions or mis-presentation of financial statements overall at the provincial level, where a significant amount of transactions in sanitation and hygiene promotion are incurred at communities. This risk is mitigated by assigning PCERWASS to prepare consolidated provincial program financial statements, and DoH to be responsible for all advances and spending of sanitation and hygiene promotion activities in the province, including activities conducted by the Women's Union, district health centers and village health workers. In addition, clear and comprehensive guidance will need to be provided in the Operational Manual and training will be provided by the coordinating agency. Reconciliation of main account and sub-account statements is done with provincial State Treasury quarterly. At the central level, NTPSO will consolidate financial statements for the whole Program (provinces, MARD and MoH) and get them audited by the State Audit of Vietnam. This process has been done annually by NTPSO and SAV for the ongoing Bank-financed RWSS PforR under NTP3.

¹ TABMIS is a computerized system used by State Treasury to record public expenditures, including NTP

25. Internal controls exist in PCERWASS, DoH and DoET, covering critical areas such as segregation of duties, work acceptance and payments, asset count, cash reconciliation and advance management. However, no manual has been issued as guidance for the investment owners/spending units with respect to managing their funds. With significant increases in the volume of sanitation and hygiene promotion, by adding this Program fund to NTP3, an operation manual is required to guide the agencies in implementing soft activities, including cost norms, advance and advance clearance, work acceptance, filing of records and reporting of expenditures. Reporting of budget execution by PPCs to NTPSO is done annually; however, it is done with limited reconciliation and follow-up by NTPSO. At the provinces, while there are many inspection missions covering various areas, there are risks of these overlapping, yet leaving some areas uncovered. The risk of inadequate internal control of NTP is assessed as Substantial, and the introduction of an Internal Audit function is required. MARD Inspectorate is currently performing an Internal Audit function for the ongoing RRWS PforR, with capacity strengthened by an independent consulting firm recruited by NTPSO using a Department of Foreign Affairs and Trade (DFAT) Technical Assistance Grant. The Inspectorate is requested to perform internal audit functions for this Program as well.
26. The scope and frequency of external auditing, which is performed by the State Audit of Vietnam, also need to be increased. SAV Audit Division 5 is the financial auditor of NTP3 and the ongoing RRWS PforR. As required by the Bank, SAV performed audits for 8/8 provinces of the PforR and submitted audit reports to the Bank on time for the financial year 2013. The audit coverage of NTP3 overall, however, is 20 – 25/ 63 provinces annually. Agreement on annual audit Terms of Reference (TORs) needs to be reached between NTPSO and SAV to ensure full scope audits on 19/19 provinces for this Program. SAV will be included as an implementing agency of this Program to receive funds from MoF to support this annual audit work.

Governance

27. The 2005 Anti-Corruption Law and the 2011 Laws on Complaints and on Denunciation entitle citizens to submit complaints on fraud and corruption (among other concerns) to the government People's Committee at the appropriate level. A complaints handling system will receive, record, and provide necessary investigative actions where it is deemed legitimate. The assessment also identified a parallel complaints "system" in the Government Inspectorate (GI) offices under line ministries and departments at the central and provincial level. The GI's main functions are to investigate allegations of fraud and corruption in their respective sectors.
28. Under the Program, complaints of all kinds, which could include allegations of fraud or corruption, should be submitted in writing to the Provincial or District People's Committee, as well as the supervising Departments of Agriculture and Rural Development (DARDs) and Departments of Health (DOHs), or through the implementing agencies (PCERWASS and PMC). Where crimes are alleged, allegations will be passed to the local police and prosecutors for handling. In addition to the written complaints channel, any citizen may also

attend Meeting Sessions with PC/Department leaders, held at least monthly, to raise issues of fraud and corruption. Although government offices are not required to handle anonymous complaints, all these agencies maintain the practice of accepting, recording, and giving these complaints some consideration when they contain credible evidence of fraud and corruption.

29. In addition to this system for handling complaints, citizens can also submit fraud and corruption allegations to the Inspectorate Office of National Ministries or Provincial DARDs and DOHs under this Program. The inspectors reserve the right to stop construction for investigation if they find evidence of fraud and corruption. Similar to the government system above, the Inspectorate will pass allegations on to the police and prosecutor once crimes are alleged. Both of these parallel complaints handling systems contain a reporting mechanism that can capture information on the number, type and handling of fraud and corruption allegations. Information on sanctions and debarment is reported through the PPC to the provincial Department of Planning and Investment (DPI) and up to the MPI to prepare the National Debarment List.
30. While this multiple-entry complaints system provides a number of options for citizens, it can also be confusing and result in complaints being passed around agencies or lost in the transfer process making it difficult for citizens to follow up on their complaints. No recent significant fraud and corruption cases were reported during the assessment. In recent years, participating provinces have mostly received and recorded complaints regarding the quality of service delivery or the household contribution requirements.
31. The Government will improve reporting systems and establish a database in order to strengthen the framework for complaints handling and combat fraud and corruption under the Program. The Government has confirmed its commitment to the implementation of the *Guidelines on Preventing and Combating Fraud and Corruption in Program-for-Results Financing* and will require the application of World Bank suspension and debarment lists that will be made readily available to participating entities. These actions will be reviewed during Program supervision. In addition, the Government will oblige all Program participants to cooperate with Bank investigations through issuing an executive order to participating entities on the Bank's investigative rights and the Anti-Corruption Guidelines.
32. Over recent years, the Bank has received several complaints related to fraud, corruption and collusion in water sector projects in Vietnam. The Bank has substantiated three cases of fraud and corruption resulting in the debarment of international and local firms and individuals. While it has not been possible to substantiate all the complaints, in each instance the Bank has worked with the client to review and resolve issues, mitigate risks and strengthen systems where necessary. Despite progress in water program governance, it is acknowledged that some weaknesses remain in the sector.

Key Performance Indicators

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

Summary

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

Additional Provinces

35. During negotiations, the Government of Vietnam requested the inclusion of two additional provinces in the Program; Ninh Thuan and Binh Thuan. The Bank agreed to the inclusion of these two additional provinces. Following this agreement, the Bank carried out a further desk-based fiduciary assessment of Ninh Thuan and Binh Thuan. The fiduciary aspects of the Program relating to Ninh Thuan and Binh Thuan provinces, were found to be consistent with those identified through the findings of the initial assessment of the 19 original provinces. The fiduciary recommendations, the risk rating and the inputs to the Program Action Plan from this assessment are therefore considered to be appropriate for all of the provinces under the Program including Ninh Thuan and Binh Thuan.

A. Program Description

RWSS NTP3 (the Program)

36. The Government of Vietnam (GoV) gives high priority to development of rural water supply and sanitation. The National Rural Clean Water Supply and Sanitation Strategy to 2020 (developed in 2000 and updated in 2011) sets the overall vision and goals for the sector. The key principles of the strategy include community participation, sustainability and cost recovery. The sector strategy also emphasizes the focus on poverty, Ethnic Minority groups and remote areas. The government recognizes that improving access to sanitation is a priority and has committed to eliminating open defecation (OD) in Vietnam by 2025. In the short term, the focus is to target poor communities where water and sanitation coverage is low and malnutrition is high. Improving hygiene practices has been a long-term goal of the government. To implement the strategy, GoV established a National Target Program for Rural Water Supply and Sanitation (NTP) which has resulted in considerable progress over the past ten years. Since 2001, rural water supply and sanitation has been financed through a dedicated National Target Program.
37. This Fiduciary System Assessment relates to NTP3, which runs from 2012 to 2015.² NTP3 is specifically intended to promote investment in poor, remote, ethnic, border and island areas as well as areas where water is polluted or scarce. The NTP3 includes:
- a) Construction and rehabilitation of water supply schemes; promotion of clean water use, improved control of water quality and support to sustainable systems;
 - b) Construction and effective use of latrines at households, schools, health clinics and public places;
 - c) Information, Education and Communication activities to raise awareness on the importance of clean water and latrines and hygiene practices;
 - d) Continued development of the legal framework for the implementation of the RWSS strategy;
 - e) Promotion of international cooperation; and
 - f) Capacity building.
38. Nationally, NTP3 aimed to reach the following indicators in rural areas by 2015: 85 percent coverage of hygienic water, of which 45 percent meets water quality standards as per QCVN 02-BYT; 65 percent coverage of hygienic latrines and 100 percent of commune clinics and schools (excluding satellite schools) that have hygienic water supply and sanitation facilities. To date NTP3 has achieved 82 percent coverage of hygienic water (40 percent meeting QCVN 02-BYT) and 60 percent coverage of hygienic latrines. However, the level of

² After NTP3 ends, the Government of Vietnam is planning to consolidate all the NTPs into two integrated Targeted Programs starting 2016. For the purpose of the FSA, this consolidation will most likely have minimal impacts since the participating institutions and the overall government fiduciary system will remain the same. Any necessary assessment should it be required will be done during Program implementation.

achievement across the provinces is highly variable, with almost all low-performing provinces in the mountainous and poor areas.

39. Following lessons learned from the first two phases, NTP3 has been structured to support both water supply and sanitation (domestic and environmental sanitation), improve sustainability and assign clear responsibilities to MARD for water supply infrastructure and MoH for sanitation and hygiene. NTP3 has an increased focus on the sustainability of water systems, and IEC activities, and incorporates sanitation under the mandate of MoH.
40. Following the end of the NTP3 program period it is expected that the Government support to the activities under NTP3 would be continued for the period 2016-2020 with MARD as the lead agency. This support is expected to be implemented either as a stand-alone national program, or as a component under an umbrella National Target Program incorporating multiple sectors.

Result-based Scaling up Rural Sanitation and Water Supply PforR (the 'Program')

41. The approach taken under the Program is to strengthen the Government of Vietnam's NTP3 in the 19³ provinces of the NM-CH regions with the lowest sanitation coverage to support the existing efforts of the government to scale up access to sanitation and improved hygiene practices. The RB-SupRSWS Program will include interventions to support demand generation through innovative approaches in behavior change communication at the local level, coupled with national-level interventions to build awareness of the importance of sanitation to the national economy and obtain public commitment at the highest level. Support will also be provided to strengthen the supply chain to improve the design, availability and affordability of sanitation products and services. Participative approaches will be used at all levels in order to ensure that interventions are appropriate and effective. Construction of new sanitation and water supply facilities will facilitate improved hygiene practices, and will not be implemented as a standalone intervention. Behavior change communication programs would both work through nutrition programs and also reinforce them. Technology used will be appropriate, cost effective and accessible for poor households. The Program will also support the provision of sanitation, hygiene and water supply services to schools and health clinics through the construction of facilities and strengthening the management model for sustainable operation and maintenance of the system.
42. The institutional and financing arrangements will be aligned with the structures of GoV. Funds will pass from the center to the PPCs in the 19 recipient provinces. Fund

³ During negotiations, the Government of Vietnam requested the inclusion of two additional provinces in the Program; Ninh Thuan and Binh Thuan. The Bank agreed to the inclusion of these two additional provinces. Following this agreement, the Bank carried out a further desk-based fiduciary assessment of Ninh Thuan and Binh Thuan. The fiduciary aspects of the Program relating to Ninh Thuan and Binh Thuan provinces, were found to be consistent with those identified through the findings of the initial assessment of the 19 original provinces. The fiduciary recommendations, the risk rating and the inputs to the Program Action Plan from this assessment are therefore considered to be appropriate for all of the provinces under the Program including Ninh Thuan and Binh Thuan.

allocations will be made on the basis of provincial plans and within the framework of NTP3. These funds will be used to finance NTP3, including water supply, sanitation and hygiene promotion. It will be the responsibility of the PPCs in each of the 19 recipient provinces to plan investments and allocate funding to the appropriate technical departments at that level in accordance with the inter-ministerial guidelines. For national-level activities, funding for the Program will be allocated by the MoF to the related ministries. The amount of funds allocated to different ministries under the Program will be based on the anticipated funds required to achieve the DLI targets as well as the amounts corresponding to the DLI results that are verified as completed.

43. The Program will be designed in coordination with existing socio-economic, rural development programs and activities managed by other line Ministries. In order to effectively implement the Program and target remote regions, effective and multi-sectoral approaches to commune-wide sanitation will need to be developed. Linkages with the health and education programs and with nutrition will be key given the links between poor sanitation and stunting and the need to develop a sustained system. Schools, in particular, will be a critical focal point for developing an integrated strategy. For integration strategies with nutrition, synergies can specifically be found in the outreach programs to mothers and care-givers.

Institutional Arrangements

44. Launching a national program for sanitation requires high level coordination and cooperation between Ministries and different levels of Government. Steering committees will be required at the National and Provincial level to support this process. The arrangements are described below:
- MARD will coordinate the implementation of the Program, through a national steering committee comprising MARD, MoH, MoET, CEMA, MPI and MoF.
 - At the central level, VIHEMA will be the technical lead for the sanitation and hygiene promotion activities. NCERWASS will lead activities relating to community water supply. A strong coordination mechanism will be needed in order to promote integrated water and sanitation projects to support hygiene practices.
 - MARD and MoH will establish preparation teams which will be fully empowered to work intensively with the Bank to prepare the Program. Fully empowered and autonomous Program Management Units (PMUs) will be established nationally and at VIHEMA in order to monitor and support implementation in all Provinces under the Program.
 - PPCs will lead provincial-level steering committees for coordination and supervision comprising DoH, PCERWASS, DoET, DPI, DoF and CEMA. PCERWASS would be the program owner at the Provincial level.

- Multi-sectoral links will be established including with CEMA to support with knowledge on EMs and with MoET to provide support for activities in schools.

45. The Program will learn from global and Vietnam-specific experience, and the proposed program would have the following three closely interrelated elements corresponding with the projects under the RWSS NTP3, which support delivery of behavior change communication, provide basic services and infrastructure to support behavior change, support sustainable services, and build capacity:

a. Rural domestic water supply and rural environment

- Provision of hygienic sanitation, hand washing facilities and adequate water supply in schools – including consideration of the needs of all children – and support for putting in place the system for operation and maintenance of the facilities;
- Increasing water supply coverage for villages – using small-to-medium sized community-based systems – focusing on rehabilitation and extensions from existing systems. New water supply schemes would be constructed as required using appropriate technology. Investments would be demand responsive and would balance willingness to pay with prioritizing areas with higher levels of poverty; and
- Provision of TA for improved operation and maintenance procedures, management and tariff collection, and accounting procedures at village/commune levels. The role of PCERWASS in supporting this process, specifically in their technical backstopping role for community based systems, will be strengthened.

b. Rural sanitation and hygiene

- Provision of hygienic sanitation, hand washing facilities and adequate water supply in health clinics – along with support for putting in place the system for operation and maintenance of the facilities;
- Support for scaling up domestic hygiene and sanitation to achieve Commune Wide Sanitation:
 - (i) Demand side interventions would be implemented through existing channels, including clinics, schools, government health system staff, and traditional leadership structures. In addition, at the village level, local leaders along with the women’s union and commune and village health workers would be supported with new tools and to adapt existing approaches, such as CATS, which have demonstrated effectiveness. Counseling of mothers and caregivers in clinics would also support scaling up existing successful programs combating malnutrition;
 - (ii) Supply side interventions such as support to the private sector to strengthen the capacity of local builders, manufacturers and suppliers of sanitation

products and services, in order to supply a menu of affordable and appropriate household sanitation and hand washing hardware options and services. The intervention will build on the work already being done by VIHEMA and other Development Partners.

- (iii) Additional targeted support to households for latrine construction with affordable technology options and potentially strengthening micro-financing through Vietnam Bank of Social Policy (VBSP). This intervention would also identify how to improve the delivery of the existing subsidy systems for poor households (e.g., as rebates directly to households or voucher systems to be redeemed at local sanitation suppliers).

c. Capacity building, communication and supervision, monitoring and evaluation of NTP3

- Focused capacity building of national, provincial and local agencies involved in the Program to develop their implementation and management capacity and improve inter-sectoral collaboration, including: (i) capacity to promote hygienic behavior change and provide sustainable sanitation services; (ii) planning, monitoring, evaluation and reporting; and (iii) supporting improved environmental, social and fiduciary systems;
- Policy support where needed, for example to enhance the role of PCERWASS in supporting institutional capacity development at the commune levels, for school WASH, water pricing framework and development of sanitation markets;
- Improving sustainability of access to sanitation and improved water supply through technical assistance for community management and support to PCERWASS and DoH/DoET;
- Verification of Program Results and External Audit of the Program by the Independent Verification Agent; and
- Launch of a national and provincial high-level advocacy campaign to raise the political profile of sanitation and hygiene.

Financing and program costs

46. The budget for the NTP3 Program at the national level is VND 27,600 billion (US\$1.3 billion). The main sources of funding are the central government (49 percent - directly or through the provision of concessional credit to users), provincial governments (11 percent), donors (30 percent) and users (10 percent).

47. In the 19 provinces supported by the Program, the total scale of the financing is estimated to be US\$300 million. Within this context, the GoV seeks an IDA Credit at an indicative funding level of US\$200 million, or 15 percent of the overall NTP3 Program.

B. Institutional Framework and Fiduciary Arrangements under the Program

Planning and Budgeting

48. The NTP Standing Office has developed an overall proposal for NTP3, for the entire period 2012 – 2015, that has been approved by the NA and the Prime Minister. The overall budget presented by NTP3 includes all sources of funds (central, local, donors, community and private sector) needed for program delivery. The total budget for NTP3 is broken down into sub-components: investment for water supply, investment for sanitation and environment, and recurrent expenditures. More detailed breakdowns, such as budget by province, by sub-project, by activities, by spending unit and by year, are not yet reflected in the NTP3 proposal.
49. Provinces, under the leadership of the PPC, play the key implementing role in the program. To carry out this role, the PPC assigns responsibility to one of its subordinate units to prepare an implementation plan for the NTP program conducted in the province, as part of the provincial overall five-year plan and covering activities in rural water supply, rural sanitation and communication. This process of provincial budget proposal is demand based. In most provinces, the PCERWASS is given that responsibility in coordination with DOH and DoET. The participation of health and education sectors in this planning process is rather limited, especially since the two sectors do not usually have a list of capital expenditure projects to be prioritized for fund allocation. The implementation plan becomes the basis for preparation of the proposed NTP annual budget proposal. This annual budget proposal is reviewed by the provincial DoF and provincial DPI prior to submission for PPC approval before being submitted to the NTP Standing Office as the basis to request an allocation of NTP central budget resources for the coming year. In parallel, DOH also reports to VIHEMA on the proposed budget for the rural sanitation and communication. In NTP3, Provinces typically submitted annual plans that would need much more resources than they know to be available, and received annual budget allocations of 30 – 50 percent of their request.
50. The budget allocation from the central government, however, is based on the availability of funds. NTPSO, after receiving budget proposal from all provinces, will call for a joint meeting among line ministries – MARD, MoH and MoET. The consolidated NTP3 annual budget proposal submitted by NTPSO to MPI is detailed by province and by sub-project (water supply, sanitation and communication), with substantial cut down from provincial budget proposals based on limited availability of fund as determined by MPI. VIHEMA also go through the same procedure with MoH for its annual budget. All the budget proposals from NTPSO and ministries are sent to the National Assembly (NA) for approval. Upon approval by the NA of the NTP budget, the Prime Minister authorizes MPI to announce the budget allocation for capital expenditures to PPCs. MOF is authorized to announce the budget for recurrent expenditures.

51. Once budget reconciliation has been completed at the national level, each ministry and province is informed of the amount of the funding allocated to them, including the NTP allocation. Normally, the approved annual budget allocation is only around 30 to 50 percent of the proposed amount. So upon receiving the figures, PPC informs PCERWASS and other spending units (DoH, DoET and districts) of the amount of budget allocated and then works with them to revise their initial plan and to allocate the available budget to each activity and sub project. As long as the chosen activities fall within the scope of the annual plan presented to MPI, the allocation of the budgeted resources is at PPC discretion, without any further intervention from central government. VIHEMA also does the same among its departments.
52. The overall expenditure framework is described in detail in the Technical Assessment. The government has in place budget and expenditure management systems and practices that support the NTP in reaching its expected results. Key issues to be addressed within the Program design and agreements include reducing delays in budget approval, better linking annual budgeting and planning process to multi-year plans and overall targets, increasing the current limited spending on software, specifically hygiene and sanitation promotion activities, and O&M components to increase effectiveness and sustainability of services, and financing mechanisms to reach the poor. Improvements are planned and expected through various measures taken by the government, which will be enhanced through the PforR Program.
53. In terms of budget sufficiency it should be noted that Budget allocations to VIHEMA for implementing the sanitation component of the NTP have declined since 2011, with a very significant fall in budget and expenditure from 2012 to 2013. Table B.1 below shows funding for the NTP has reduced from 8.4 trillion VND in 2011 to 6.6 trillion VND in 2013. While central funds and international grants remain relatively constant, the cash and in-kind contributions of local residents have declined. On the other hand, allocations by provinces has increased to 0.85 trillion VND in 2013. There are significant fluctuations for some provinces in the funds received from central level over the period 2010-2014, for water supply and sanitation/IEC.

Table B.1. Budget for NTP implementation, and percent implemented from 2011-2013

Source	2011		2012		2013	
	Budget (Billion VND)	Percent execution	Budget (Billion VND)	Percent execution	Budget (Billion VND)	Percent execution
Central budget & donor fund	1,918	95%	1,368	86%	1,352	100%
Allocations by provinces	450	147%	600	100%	850	58%
International grant	250	72%	940	89%	850	58%
Cash and in-kind contributions of local residents	3,382	118%	600	99.8%	948	32%
Preferential credit	2,400	123%	3,300	106%	2,600	146%

Total	8,400	114%	6,808	99%	6,600	98%
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Procurement

54. Upon finalizing the provincial plan within the allocated budget, the PPC also assigns the investment responsibility within the province. In NTP1 (2001-2005) implementation was highly decentralized. The investment owner role was mostly assigned to district and commune levels and consequently procurement was carried out by these levels. The completed works (rural water supply schemes) were then operated and managed by the districts or communes. However, experience showed that districts or communes lacked the necessary technical and program management capacity to efficiently implement and manage the investments.
55. Drawing the above lesson learned, in NTP2 (2006-2010), the implementation responsibility was generally given to PCERWASS under the overall coordination, management and oversight of National Center for Rural Water Supply and Sanitation (NCERWASS, housed in MARD). PCERWASS functioned as agencies reporting to the provincial DARD for rural water supply component. PCERWASS also acted as program owners. They implemented the subprojects within the investment plan, including carrying out procurement and managing contract implementation. For operation and maintenance of the resultant water supply schemes, PCERWASS took responsibility for major facilities, while smaller water systems were handed over to beneficiaries (typically communes) to operate. Most PCERWASSs are judged to have good technical and management capacity. In carrying out their procurement function, they have acquired a good knowledge of procurement requirements through long experience in handling Government-funded procurement, such as the Public Procurement Law. For rural sanitation and communication, at central level VIHEMA will play the role of coordination and management. VIHEMA is judged to have good technical and management capacity for the required goods and services, thanks to its involvement in the first PforR operation. The construction and consultancy packages typically managed by VIHEMA vary from US\$3-4M in value although they have managed contracts of up to US\$27M for equipment and facilities under a previous Asian Development Bank funded project. VIHEMA also has experience in procuring national-level media packages for behavior change communication including under the Vietnam Hand-washing Initiative. At provincial level, however, as mentioned above, procurement activities of health and education sectors by DoHs and DoETs are rather small due to limited budget allocation. Nevertheless, DoHs and DoETs have benefited from procurement training courses organized at the central and provincial level to familiarize themselves with procurement procedures set forth in the relevant laws and regulations.
56. Procurement under NTPs is governed by national procurement laws and regulations. Specifically, the procurement done before April 2006 was governed by, in turn, Decrees 88/1999/ND-CP dated September 1, 1999; Decree 14/2000/ND-CP dated May 5, 2000 and then Decree 66/2003/ND-CP dated June 12, 2003. The procurement implemented after April 2006 has been subject to the Procurement Law No. 61/2005/QH11 dated November

29, 2005, Law No. 38/2009/QH12 on Amendments to the Procurement Law dated June 19, 2009 and subsequent implementing Decrees (including Decree No. 111/2006/ND-CP, dated September 29, 2006; Decree No. 58/2008/ND-CP dated May 5, 2008; and Decree No.85/2008/ND-CP dated October 15, 2009). The new Public Procurement Law No.43/2013/QH13 (approved by National Assembly on November 26, 2013, and became effective on July 1, 2014); and Decree No. 63/2014/ND-CP (dated June 26, 2014 became effective on August 15, 2014 will govern all procurement activities under on the concerned Program.

57. A review of the new Public Procurement Laws and the new Decree found that they: (a) require procurement planning to be prepared and approved in a timely manner with proper linkage to budget availability; (b) mandate open competitive bidding as the default procurement method and provide detailed procedures for open competitive bidding; (c) provide a reasonably clear allocation of responsibilities and accountabilities to the procuring entities, employers and project owners; and (d) provide sanctions against unacceptable practices including fraud and corruption. In addition, the Government will issue the Harmonized NCB Bidding Documents for Goods and Civil Works (including forms and templates of contract) and bid evaluation templates, which have been drafted and agreed with MDBs, expectedly by mid of the year 2015 for use by procurement practitioners. The Decree on Selection of Contractors, which was officially issued on June 26, 2014, however does still propose to allow an automatic use of direct contracting and single sourcing for small contracts below certain monetary thresholds.⁴
58. The open competitive bidding procedures described in the procurement laws and regulations generally adequately accommodate transparency, economy and efficiency of the procurement process. An open competitive bidding for civil works typically includes the following steps and requirements:
59. *Preparation of bidding documents.* Bidding documents should be prepared using the templates issued by MPI. Bidding documents should clearly state bid evaluation and qualification criteria and contain no restrictions. Bidding documents must be approved by a competent agency before issuance;
60. *Advertising of bidding opportunity.* Invitation for bids must be advertised in the Public Procurement Newspaper, which is available nation-wide, for three consecutive issues and published on the MPI's public procurement website (muasamcong.mpi.gov.vn). Bidding documents can be sold (at maximum VND2 million or US\$90 for one set) or released free of

⁴ The Decree on Selection of Contractors proposes a threshold of VND 1 billion for goods and works (US\$48,000) and VND 0.5 billion for consulting services (US\$ 24,000) may be procured through direct contracting. Compared to the thresholds in the existing laws and regulations, these thresholds are substantially lower than those under earlier laws and decrees, meaning more mandatory use of competitive bidding for the Program.

charge to interested bidders three days after the advertising date. The laws and decrees prohibit any practices to restrict bidders from access to bidding documents;

61. *Preparation, submission and receipt of bids and bid opening.* Bidders shall be given at least 20 days for preparation of their bids counting from the date of bidding document issuance. Upon the deadline for bid submission, the procuring entity shall immediately open all bids received in the presence of bidders' representatives. The procuring entity shall read out bidders' names, bid prices and discount offers and other important information; prepare the minutes of bid opening and send a copy to each participating bidder;
62. *Evaluation of bids.* The laws require that bid evaluation must be completed within 45 days after the date of bid opening. Extension of bid validity is permissible but not exceeding 20 days. Evaluation of bids includes three main steps: (a) preliminary examination, which includes the checking on eligibility, bid security, bidder's experience and qualifications; (b) detailed evaluation, which includes evaluation of technical responsiveness and calculation of evaluated bid prices through error corrections, adjustments, and discount application; and (c) ranking of responsive bids to determine the top ranked bid for contract award consideration. The laws permit: (a) the use of a merit point (scoring) system for technical evaluation of bids in addition to a pass and fail methodology; and (b) one stage two envelopes for contract above US\$1 million. This technical scoring methodology may be subjective and misused;
63. *Contract award, negotiations and signing.* The laws require that to be selected for contract award, the bidder must: (a) have submitted an eligible, qualified, and technically responsive bid; (b) have the lowest corrected price or lowest evaluated bid price; and (c) have the proposed contract price not exceeding the approved pre-bid cost estimate. The procuring entity will negotiate and sign the contract with the selected bidder based on the contract form included in the bidding documents and the selected bidder's bid; and
64. *Publication of contract award.* After the contract is awarded, the procuring entity shall publish the contract award information in the Public Procurement Newspaper. Information to be published includes name and descriptions of the contract, name of the successful bidder, and contract price.
65. In case of open competitive bidding for consulting services, the procuring entity shall advertise in the Public Procurement Newspaper to seek consultants' interests; establish a shortlist of at least three qualified firms, prepare bidding documents using the MPI's templates, issue the bidding documents to shortlisted consultants and give them at least 10 days for preparation of proposals; receive proposals and immediately open the technical proposals; score technical proposals against prescribed evaluation criteria; publicly open the financial proposals of those consultants who secure the minimum technical score and conduct financial and final evaluation to determine the highest ranked consultant; negotiate and sign the contract with the selected firm and publish the contract award in the Public Procurement Newspaper.

66. The Procurement Law requires that procurement plans shall be approved by competent agencies after the approval of investment decisions or they can be approved at the same time as the approval of investment decisions where conditions allow. The Law also requires that procurement plans shall be prepared for the entire projects except where conditions do not suffice. Procurement plans must be prepared based on the availability of project funding sources. The Law further stipulates that procurement packaging shall be done based on technical nature and implementation sequence to ensure no restriction of prospective bidders' participation, and to ensure the consistency of contract implementation with overall project implementation. It also prohibits any practices to willfully divide procurements into small contracts in order to enable the use of direct contracting methods. Procurement and contract management documents are required by law to be maintained for 10 years (from the date of work completion).
67. The Government has detailed regulations and a complex cost norm system for cost estimation. For works under the Program, detailed cost estimates will be prepared based on cost norms that are established by respective provincial departments (normally departments of construction) based on the Ministry of Construction (MOC)'s norms on construction inputs (standardized consumption of material, labor, and construction machinery for a unit of a work item) and local prices of such inputs. These cost norms are required to be regularly updated (normally on a quarterly basis). Cost norms for works may be comparable to the market prices if they are updated in a timely manner. Costs for detailed designs and construction supervision are estimated based on a fixed percentage of the total construction costs. This fixed percentage is regulated by MOC and varies by types and total costs of construction works. For example, the "percentage norm" for technical design of civil works with a cost estimates \leq VND 7 billion is 1.88 percent while the percentage norm for construction supervision for those works is 2.628 percent.⁵
68. For the purpose of procurement planning, several rounds of cost estimation will be conducted with different level of accuracy. Preliminary estimates are used for preparation of initial procurement plans, budget allocation, etc. Before a particular contract is invited for bids, PCERWASS /DoH will prepare the contract's detailed cost estimate based on detailed designs of the works. This detailed cost estimate is considered the contract's ceiling and is used for the purpose of bid evaluation and contract award, and is subject to appraisal and approval by relevant government agencies. Under direct contracting arrangements, this ceiling is used to negotiate price and bidders are normally asked to voluntarily offer a discount of a few percent below the established ceiling. Under open competitive bidding, bids offering prices above the approved cost estimate are rejected.
69. While procurement planning is a mandatory requirement at the level of the individual investment, there are no comprehensive procurement plans at a provincial or program

⁵ Based on MOC's Decision 957/QD-BXD dated September 9, 2009.

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

70. For each approved investment, the draft procurement plan is based on the program proposal including a design and cost estimate that had been appraised by relevant provincial departments such as the Department of Construction (DOC) or DPI and then approved by the PPC. However, the procurement plan can only formally be prepared once the budget has been allocated for it. Once approved by the PPC, the procuring entities have to implement the plan as approved. Procurement plans will be updated if there are substantial changes or modifications during implementation.
71. *Fund Flow.* NTP funds flow from Government Budget to the ultimate beneficiaries through the State Treasury system, in parallel to the budget allocation. Based on the revised plan approved by the PPC, implementing units conduct NTP activities. After expenditures are incurred and work completed, contractors/suppliers send supporting documents and request for payment to implementing units. Implementing units review and transfer to provincial State Treasury to verify and make payments to contractors/ suppliers. NTP funds flow from the National State Treasury to provincial State Treasury. The MoF recognizes the need to secure Program fund in a special deposit account in State Treasury at provincial level, to manage proper budget allocation, execution and reporting of the provinces. Funds transferred from MoF to provinces are performance-based, resulted from the amount the provinces are entitled to request for advance and the amount reimbursed for DLIs achieved and verified. Funds transferred from provincial main deposit account to sub-accounts of implementing agencies follow the same principles.

Control, Reporting, and Auditing

72. With respect to the law on control, reporting and auditing, expenditures of the State budget must be controlled before, during and after payment. In order to be paid, expenditures must be listed in the approved budget estimates, in line with standards and norms of the State, approved by the authorized officer of the spending unit, and must have adequate supporting files and documents.
73. Budget spending units are required to open an account at the State Treasury and the financial agencies and the State Treasury control compliance with budget execution. The State Treasury has the power and responsibility to determine which payments can be legitimately made from the State budget. The Treasury system is the main source of control over expenditures, with Treasury records being reconciled and the SAV providing assurance of the accuracy of Treasury financial data.

74. According to the State Budget Law, budget expenditures should be directly paid by the State Treasury to suppliers and beneficiaries. An exception to this principle is made for administrative expenditures with a value less than VND 5 million (US\$250 equivalent) and other special expenditures. For transactions of this size, cash payments remain common in Vietnam. For these small expenditures, advances of funds are made to the spending units, which then make payments to the suppliers or beneficiaries and subsequently submit supporting documentation to the State Treasury. The State Treasury then verifies and records the actual expenditures against the relevant advances. This practice is expected to be applied for the Program soft activities in sanitation and hygiene promotion component.
75. The Accounting Law, which was approved by the NA in 2003 and became effective as of January 1, 2004, governs the financial accounting and reporting for government and its entities at all levels. The Law: (a) defines applicable principles and requirements and the scope of accounting; (b) prescribes the types of accounts, chart of accounts, financial statements, their disclosure and publication, their audit and inspection; and (c) assigns to the MOF the responsibility for formulating accounting standards in conformity with international financial reporting standards. An important provision of this law is the requirement for all spending units to publish their annual financial statements within 30 days of the date of approval by relevant authorities.
76. The 2005 State Audit Law requires internal auditing to be implemented in every organization that uses State budget, funds, and assets, and empowers the SAV “to direct and instruct on the internal audit profession and operation, and on the use of internal audit results of agencies and institutions”. However, there are no implementation guidelines to clearly define the internal auditing functions, roles and responsibilities, and currently no active leadership on the implementation of internal auditing within the public sector. Internal audit function, therefore, does not exist in NTP3. For the ongoing RRWS PforR, MARD Inspectorate is performing this function for the Program as assigned by Minister of MARD and required by the Bank.

Governance and Accountability

77. The system of government in Vietnam is well established. Despite the recent decentralization of authority, Vietnam’s government structure remains strongly hierarchical, though with a number of parallel systems that may duplicate functions. This system contains the basic elements of good governance, including a separation of policy making, execution and oversight functions, both between and within levels of government, and a system of regular reporting to high levels of government. As elsewhere in the world, the form of local governance in Vietnam is evolving within ongoing state wide reforms, and this process will be assisted by the Program.
78. *Legal Framework.* Activities to prevent and combat fraud and corruption in Vietnam are governed by the 2005 Anti-Corruption (AC) Law, which introduces new approaches to

anticorruption such as assets declarations for civil servants, job rotation, and a stronger focus on transparency. The law includes ambitious and all-embracing provisions on the prevention, detection, and handling of corruption, as well as the organization and mechanisms for concerned agencies (also including media, international organizations, etc.). The guideline for implementing the 2005 AC-Law was issued through Prime Minister's Decision 30/2006/QD-TTg (6 February, 2006) and Resolution No. 4-NQ/TW (21 August, 2006) of the Party's Central Committee (Session X). The AC Law has recently been updated by the AC Law of 2012, even though the changes are not significant.

79. According to the 2005 Anti-Corruption Law, each province has established its own Anti-Corruption Committee, reporting to the PPC and the National Anti-Corruption Committee. The provincial Committee is chaired by the PPC chairman and includes members from the provincial level inspectorate, police, court, prosecutor and other related agencies. The Committee is operated through a standing office, which has a status equivalent to a provincial department.
80. The 2005 Anti-Corruption Law is also complemented and strengthened by the 2011 Laws on Complaints and Denunciations (Decrees 75/ND-CP and 76/ND-CP) which regulate the process and procedures of handling and settlement of complaints. While the process will be explored and analyzed in more details below, it is important to note the clarification of roles of different government bodies in charge of handling fraud and corruption complaints, as specified in Section 2 of this Law.
81. Another related legal document is the 2004 Law on Inspection which governs the extensive Government Inspectorate (GI) system of Vietnam. The key roles of the GIs are to: (a) carry out socio-economic inspections; (b) examine and inspect the settlement of citizen's complaints and denunciations; and (c) detect corruption cases and recommend how to handle them. It is a multi-tiered system in respect to program financial management, with inspectorate bodies existing at the central, province and district administrative levels of government, together with specialist sector inspectorates at the central level (illustrated in the diagram below). Due to the establishment of numerous Inspectorates, their authority to process and settle complaints and denunciations are tightly defined *vis-à-vis* each other. If the denunciation does not fall under their jurisdiction, they must refer it to another authority.
82. The implementing units under the Program at the provincial-level PCERWASS, DoH, DoET) are therefore under direct line of inspection of:
 - (a) Oversight ministry (MARD, MoH and MoET, respectively) and their Inspectorate;
 - (b) Provincial Inspectorate under the Provincial People's Committee;
 - (c) Other provincial departments: of Planning and Investment (DPI), Finance (DoF), and Agriculture and Rural Development (DARD) for PCERWASS; and
 - (d) the Provincial Anti-corruption Committee.

83. At the central level, VIHEMA is under direct line of inspection of MoH. However, the frequency of inspection visits is not the same across these implementing agencies, underlining a concern that some units seem not to receive adequate oversight from central and provincial bodies.



84. *Complaints Handling Systems.* According to the Law on Complaints and Denunciations and the Anti-Corruption Law, citizens can provide fraud and corruption complaints to various offices, but they can be summarized into two main channels: (a) the executive agencies including People's Committee at the appropriate level; and (b) the GI agencies. In the Results-based Scaling up Rural Sanitation and Water Supply Program, complaints related to sub-project, which could include allegations of fraud or corruption, will most likely be submitted to the respective local governments (including the Provincial or District PC, the provincial DARD, DoH, and DoET), or directly to the GI of the MARD, MoH and MoET.

(i) Through the executive agencies⁶

⁶ This term of "local executive agencies" refers to a number of institutions involved in the implementation of the concerned activities, from the actual implementers (PCERWASS, DOH, DOET) to their supervising agencies (DARD,

- A complaint is often submitted in written format with full details of the complainant to the executive agencies through its Front Office or through the Citizen Receiving Unit (*Phòng tiếp dân*) which will also transfer to the Front Office to log and forward the complaint to a standing member of the agency leadership (Chairman or Vice Chairman of the PC, and Director/Deputy Director of the provincial departments). In addition to the written complaints channel, a complainant may also attend Meeting Sessions chaired by the leaders, held at least once or twice a month, to raise the issue. The complainants tend to use the same procedure to submit his/her complaint to various agencies to get their voice heard, but within this Program, the complaints will most likely be forwarded to the district PC for small cases/investments and PPC for the larger ones.
- Upon receiving the complaint, the designated leader will review and deem whether such complaint is within his authority or should be forwarded to an appropriate agency at the equal or higher level. If it is within his authority, he would demand explanation and/or clarification from respective unit or staff in charge of overseeing the concerned investment. Upon receiving the explanation from the concerned unit or individual, if the leadership considers the allegation credible, the agency Inspectorate will be asked to take the lead in the inspection. After this process, when crimes are alleged, the case file will be turned over to the police. If warranted the corruption charges can be brought by local prosecutors in Vietnam's court system. Once the case is concluded, a formal response will be sent to the complainer to inform key results and decisions made. The formal response is required to be shared with the complainant within 45 days from date of receipt. If not satisfied with the decision, the complainant reserves the right to appeal through a similar process to the higher authority.

(ii) Through the Government Inspectorates

- In addition to this system for handling complaints, citizens can also submit fraud and corruption allegation to the MARD, MoH and MoET GIs. The inspectors reserve the rights to stop construction for investigation if they see any sign of fraud and corruption. Similar to the CPC's system, the Inspectorate pass on the case to the police and prosecutor once crimes are alleged. Both of these parallel complaints handling systems contain a reporting mechanism that can capture information on the number, type and handling of fraud and corruption allegations, which they periodically report up to the national level.
- As a result, there are multiple entry points for fraud and corruption allegations. Under the Program, such complaints would be most appropriately handled by the provincial GIs under DARD, DoH, DoET or the PPCs in the implementing provinces (although for VIHEMA it would go directly to the MoH GI). According to information provided by local

Provincial People's Committee). For VIHEMA, the complaints can go to VIHEMA or MOH. All these institutions are required to receive complaints and address them or forward them to the appropriate agency to address them.

counterparts, regardless of where a fraud and corruption allegation comes in to the system, the receiving organization is charged with reviewing it and ensuring it gets to the office or agency with direct responsibility for the subject of the complaint (e.g., procurement complaint, corruption in service delivery, etc.). In those cases where crimes are alleged, allegations can be passed to the local police and prosecutors for handling.

- Neither the existing 2005 Procurement Law nor the newly revised 2013 Public Procurement Law have a separate procedure for handling allegations of fraud and corruption in procurement⁷, although they include provisions on prohibiting fraudulent and collusive practices. Legally, procurement complaints can be handled in accordance with the procedures stated in Decree No. 85/2009/NĐ-CP that require complaints to be duly signed and stamped by a legitimate representative of the complaining bidder (anonymous complaints are not considered); for complaints related to contract award, the complainant must deposit a fee which will be cashed if the complaint is not substantiated. Complaints are handled by procuring entities or program owners and appeals are reviewed by a competent agency – normally the Provincial People’s Committee. This procedure appears to be rather rigid and to discourage complaints.

85. *Anonymous complaints.* According to the Law on Complaints and Denunciations, PCs or GIs are not required to handle anonymous complaints. The inability to submit anonymous complaints may be a disincentive for citizens to provide information about fraud and corruption in the Program. However, all participating PCs/GIs maintain the practice of accepting and logging these complaints for their record. The officials noted that if anonymous complaints contained credible or serious allegations the inspectors would investigate them fully. This lack of a clear and consistent affirmative policy and procedure for these complaints is a clear weakness in the Program’s complaints handling system.

86. *Complaints consolidation under the Program.* Under the Results-based Rural Water Supply and Sanitation Program under the National Target Program, the NTPSO of the NTP3 under MARD, which serves as the key implementing agency and coordinator for this Program, has been aggregating and informing the Bank of the number of fraud and corruption allegations, as well as how they are handled (investigated, mitigated and sanctioned). This model can be applied to the Program so that the information will be collected from each relevant PC and respective PCERWASS/DoH/DoET, VIHEMA, as well as from concerned GIs under MARD, MoH, MPI, MoF, and will be done at least annually.

87. *Sanction and Debarment Process.* The abovementioned Laws on Anti-Corruption, on Complaints, and on Denunciation also regulate sanctions in line with the outcomes of the investigation carried out in the complaints handling process described above. Contractors can also be sanctioned for multiple warnings of poor performance per the Procurement Law

⁷ This is to distinguish fraud and corruption complaints with procurement petitions, for which the handling process is described in Integrity Aspects in the Procurement Section of this Assessment

(Art. 75(1) (c)). This provision provides significant discretion to the tendering authority to determine “poor performance” and if misused could lead to sanctions and debarments for reasons beyond violations of procurement rules and procedures or fraud and corruption. Counterparts met during field visits were often unable to tell the team whether there had been any “poor performance” debarments in previous infrastructure projects.

88. The outcomes of provincial/GI investigations are also reported to the provincial Department of Investment and Planning (DPI) for them to prepare the list of debarment, which is subsequently submitted to PPC / MPI on an annual basis. Provincial agencies said that they check the national debarred list of MPI / PPC when taking procurement decisions. There seemed to be a mix between “blacklisting” as a result of committing a fraudulent or corrupt act and “blacklisting” for the lack of technical performance. In the provinces we visited, the provincial agencies were not able to tell us about any recent examples of investigations and/or sanctions of serious fraud and corruption cases.

Experience under Past Bank Projects

89. Over recent years, the Bank has received several complaints related to collusion in water sector projects in Vietnam. It has not been possible to substantiate all the complaints but in each instance the Bank has worked with the client to review and resolve issues, mitigate risks and strengthen systems where necessary. Despite progress in program governance, it is acknowledged that some weaknesses remain.
90. Reviews by the Bank's Institutional Integrity Vice-Presidency (INTVP) have specifically found instances where firms have tried to take advantage of weak contract procurement and contract management capacity. In 2011, an international firm (Kellogg Brown and Root (KBR)) was debarred for two years for such practices in the Red River Delta Rural Water and Sanitation Project, implemented under MARD. The Bank found that this consultancy company had made deliberate misrepresentations in their bid in order to win a technical assistance contract and provided gifts to officials in the hope of influencing the process. The KBR case also uncovered multiple small payments made to local government officials by the consultant in connection with meetings and field surveys. Such payments should have been made in a more appropriate and transparent manner, indicating that projects must also pay more attention to the provision of necessary expenses and incentives.
91. Several previous allegations and reviews have indicated a lack of competition in the construction industry either due to collusion or due to the tendency for some SOEs to benefit from an unfair advantage. The size and influence of these SOEs can make it difficult for other local firms to win contracts and gain experience, creating a situation where it is difficult for the contractor pool to expand. Regulations aimed at preventing province-level agencies from hiring their dependent SOEs are not always followed.

C. Program Fiduciary Performance

Planning and budget allocation

92. The planning and budget development process is very much input-oriented, rather than output- or outcome-oriented, resulting in a weak link between multi-year sector plans and strategies and the annual budget. Although the overall program has clear output goals, those multi-year targets do not translate into annual proposed investment plans that are informed by information sharing among finance and treasury offices, provinces, and line ministries and spending units. Without clear guidance on likely national government budget availability for a given year and, for some provinces, weak analytical capacity, the tendency is to submit annual budget requests that are much higher than the national budget can afford. The budget estimates typically lack clarity as to purpose, tasks and priorities. Budget negotiations themselves focus predominantly on controlling budget numbers rather than on allocating resources efficiently and strategically. In the ongoing Bank- financed RRWS PforR, the provinces prepare budget proposal based on the amount of funds required to complete the expected DLIs, the entitled advance amount and entitled disbursement received for the achieved and verified DLIs in the last period. With high level of certainty of that information, the weaknesses in current NTP3 budgeting process are mostly addressed.
93. Due to the lack of funds and the usual budget revision process, the final annual budgets for NTP in some provinces are approved very late, causing delay to provincial NTP activities. Budget for 2014 was allocated by Yen Bai PPC in February 2014 and by Dak Lak PPC in April 2014. MOH normally approves budget for all programs and projects in April of the year and MARD - in February.
94. This full decentralization of budget allocation to PPC created a practice in NTP3, especially in the low income provinces as Central Highland and Northern Mountains, that: i) almost all NTP funds are allocated by PPCs to water supply component while sanitation and communication do not usually receive adequate priority and resources; and ii) the implementation of investment is mostly assigned to district and commune government instead of provincial technical agencies as PCERWASS and DoH, leading to poor performance in both investment and operation of water supply schemes and low quality communication activities. For this Program, the earlier differences between provincial budget proposals and centrally provided funds will be addressed through an improved provincial planning process, complemented by a national inter-ministry (MARD, MoH and MoET) guidance based on annual Program entitled withdrawal that have a high degree of certainty. There will be a Program Action Plan to require timely and appropriate budget allocation by PPCs, including adequate allocation to behavior change communication as indicated in inter-ministry guidance. Implementation arrangement with main focus on PCERWASS and DoH for provincial activities will be provided in the Program Appraisal Document.

95. *Costing.* Cost estimates for works and consulting services are calculated using the government's cost norms. For works under the program, cost norms are established by relevant departments (normally DoC) based on MoC's norms on construction inputs (standardized consumption of material, labor, construction machinery for a unit of a work item) and local prices of such inputs. These cost norms are regularly updated by each province (normally on a quarterly basis). Cost norms for detailed designs and construction supervision are calculated as a fixed percentage of the total construction costs. These "percentage norms" are also regulated by MoC, currently being less than 2 percent for detailed design and less than 3 percent for construction supervision for works of similar size and nature. Although over design of water supply schemes using unnecessarily high specifications is an issue in Vietnam, in contrast to this, the cost norms are considered to be unreasonably low and in many cases affect the quality of the services provided which in turn affects implementation. Experience in Bank-funded water supply projects show that the actual costs for detailed design and construction supervision approximately account for 7-9 percent of total construction costs, while the government's cost norm system only allows 4-5 percent. However, some of the risk that comes with these norms can be mitigated by the project owners. For example, detailed design may require test drilling or other work that can be a separate cost item from the design norm itself.
96. In terms of works, the government's cost norms themselves appear to be generally reasonable and comparable to the local market. However, the total cost estimate of any particular works may easily become unrealistic and incommensurate with market prices as once approved it cannot be revised or updated despite the fact that the period of time from the preparation of a cost estimate until contract award is normally long. The government's cost estimating methodology mainly considers direct costs (materials, labor, machine costs) and pays less attention to indirect costs (e.g., social and environmental protection). This may lead to inadequate cost estimates.
97. Final cost estimates are subject to appraisal and approval by relevant government agencies. Once they are approved, they would be considered contract ceilings and awards cannot be made above these ceilings. Under direct contracting arrangements, this ceiling is used to negotiate price and bidders are normally asked to voluntarily offer a discount of a few percent below the established ceiling. Under open competitive bidding, bids offering prices above the approved cost estimate are rejected. Overall, while this system seems to pragmatically control the risk of cost overruns, it poses a risk to the quality and timeliness of the program since if contractors and consultants are not allowed to have market-based contract prices, they may be unable to fully perform their contractual obligations, resulting in substandard quality of works or services delivered or delays in contract implementation. This then becomes a significant technical risk in the context of the program because poor quality or delays in implementation will inevitably lead to delays in achieving some DLIs.

Procurement Arrangements and Implementation

98. The open competitive bidding procedures described in the procurement law and regulation are found to generally adequately accommodate transparency, economy and efficiency of procurement process. The new Procurement Law mandates open competitive bidding as default method of procurement. Choice of other methods (including direct contracting, and competitive shopping) is allowed where open competitive bidding is not feasible. The law however permits direct contracting to be automatically used for contracts whose cost estimates are below the specified monetary thresholds [currently VND 1 billion (US\$48,000) for goods, works, non-consulting and VND 0.5 billion (US\$24,000) for consulting services according to the Decree on Selection of Contractors]. In practice, the permission of monetary thresholds-based direct contracting has caused excessive abuse through willful packaging into small-valued contracts. Under the Program, most major works contracts (about 90 percent) are expected to be procured under open competitive bidding given their nature and complexity. For consulting services assignments, as many of them could be of small monetary value, provinces should be encouraged to group them into a larger assignment to be procured through open competitive bidding.
99. The reviews of sample procurement transactions implemented by Program provinces under NTP found that the provinces have procedurally complied with the relevant laws and regulations. All procurement transactions were completed in a timely manner (1.5-2 months). However, in terms of cost effectiveness and economy, only insignificant savings were achieved through these transactions (about 0.3-0.5 percent of the pre-bid cost estimate on average). This modest result was because of the overuse of direct contracting and the lack of effective competition in bidding processes. There were few contracts procured through open competitive bidding; each bidding transaction received only three to four bids with bid prices being rather close to each other.
100. The reviews, however, revealed a number of procurement issues and practices that could adversely affect the timeliness, cost-effectiveness, competitiveness and compliance with applicable rules of the Program. These are:
- Procurement plans are usually not prepared for the entire project or subproject but individual works. This piecemeal approach affects the timeliness of Program implementation and service delivery. In addition, there is a risk of willful splitting of works into small contracts for use of direct contracting which adversely impacts cost-effectiveness and competitiveness.
 - The Procurement Law provides that in order for a bidder to be awarded the contract, that bidder must have a bid price not exceeding the approved pre-bid cost estimate. Though the Law does not explicitly state that bids offering prices higher than the approved estimate shall be rejected, there was a quasi-automatic rejection of such bids in practice without further evaluation of their technical and commercial proposals. Since it may be difficult to ensure the reasonableness of the cost estimate, this practice could lead to rejection of good bids or cause unnecessary rebidding.

- The Procurement Law provides that a bid shall be rejected only if it does not respond to major technical or commercial requirements of the bidding documents. The Law also permits bidders to clarify their bids (to the extent that do not substantially alter their bids) and requires that bid evaluation shall take into account such clarifications. These requirements are appropriate since there are rarely perfect bids without any deviations. However, there was a common practice in many procuring agencies of immediately rejecting bids with small insignificant errors or shortcomings (such as having some missing qualification documents, submission of non-notarized documents, etc.) without giving the bidders an opportunity to clarify the perceived issues. This practice could certainly result in the undue rejection of substantially responsive bids and reduce effective competition. Also one stage two envelope leads to a subjective rejection of bids.
- The Procurement Law provides that to be eligible to bid, a bidder shall be organizationally and financially independent of the Employer and not dependent on the same managerial agency as the Employer. While this provision is considered appropriate in order to prevent conflict of interest between bidders and project owners or procuring entities, it was found that there were cases where State-Owned Enterprises reporting to the project province's People's Committee still received awards of contracts procured by the same province. This practice could harm the integrity and fairness of procurement processes under the Program.
- The Procurement Law provides that firms and individuals debarred for their violation of the Law, including engagement in fraud and corruption shall not be allowed to bid. The Bank also maintains a similar list of debarred firms and individuals and its policy is not to permit such firms and individuals to participate in Bank-financed procurement. However, the Law does not recognize the Bank's debarment list. This gap could lead to unexpected contract awards to Bank debarred firms or individuals under the Program which would be a serious violation of the Bank's Anti-Corruption Guidelines for PforR operations.⁸

101. The above issues can be addressed through: (a) Program activities and agreed actions in the Program Action Plan; (b) through intensive capacity development measures to be carried out for Program entities, SAV, MPI Inspectorate, and other stakeholders; and (c) preparation and enforcement of a clear and hands-on Program Operational Manual.

102. MARD/MoH/ MoET are responsible for organizing such training courses as part of their capacity building responsibilities. Provinces should also hire qualified consultants to assist them in handling the procurement process. In addition, the Government has established an e-Government Procurement system (e-GP, available at muasamcong.mpi.gov.vn). This e-GP system allows procuring entities to electronically handle bidding process (e-tendering) in a

⁸ Bullet (g), paragraph 6 of World Bank's *Guidelines on Preventing and Combating Fraud and Corruption on Program-for-Results Financing* dated February 1, 2012 requires the Borrower to "ensure that any person or entity debarred or suspended by the Bank is not awarded a contract under or otherwise allowed to participate in the Program during the period of such debarment or suspension."

more transparent and fair manner with lower administrative costs. Program provinces should be encouraged to gradually adopt this electronic procurement system for the Program.

Contract Management Performance

103. Bidding documents, which follow MPI's Model Bidding Documents, include a contract form. The most commonly used forms of contracts for works are lump sum and *admeasurement* (bill of quantities); meanwhile most consulting services contracts follow lump sum form. Prior to signing contracts, procuring entities conduct contract negotiations with the selected bidder to finalize contract details. Generally, contracts signed by the Program provinces were found to be consistent with the bidding documents. They contain key conditions and terms such as performance security, insurance, advance payment and progressive payments, completion dates, liquidated damages, safety and environment, warranty obligations, etc. These forms of contracts are assessed to be adequate to be used for the Program. However, in order to move forward to international practice, at present, Public Procurement Agency is cooperating with ADB and WB to draft the harmonized NCB bidding documents. These harmonized BDs are expectedly issued by mid of the year 2015 and will be more appropriate to be used for the proposed Program.
104. One major challenge faced by PCERWASS /DoH/DoET is the extensive delay in implementation. It was reported that most contracts could not be completed within the contractual period, but had to be extended as long as twice the initial period or even longer. Three major reasons were: (a) the serious shortage of funds or unsystematic flow of funds from the program leading to frequent delays in payments to contractors, with no provision for compensation for delayed payments; (b) delays in construction of distribution systems to the household level due to social and administrative conditions (such as household willingness to connect, coordination with various local authorities, transport, and dyke safety); and (c) low-paid supervising consultants sometimes were not active in overseeing the contractor's performance. A shortage of cash flow is assessed to be one of the biggest challenges to good contract management and timely delivery of works and services under the Program. To effectively address this challenge, Program provinces would have to ensure proper management of the advance disbursement and other partial disbursements as well as to find temporary funding sources. Another option that was considered is to partially transfer this risk to contractors by asking them to advance funds for construction. This option is not recommended as it has limited applicability and may impact the fairness of bidding, the contracting process and the quality of work produced.
105. Cost overruns rarely occurred since the program implementing agencies always managed to complete works within the agreed budget as it was difficult to obtain additional budget. Contract variations or changes were also often not handled promptly as required by the conditions of contract due to lack of budget. Contract disputes were resolved according to the government's laws and regulations. In practice, if there were disputes, the program

implementing agencies and contractors tried to resolve this through negotiations. No serious disputes requiring resolution by a court were reported.

Filing and Record Keeping

106. Transactions recording, filing of supporting documents, and preparing of financial reports are done by the investment owners or spending units of the NTP. Recording and Reporting systems vary among provinces and departments within the same province (manual, excel-based or automated software). The State Treasury of every province also records the expenditures of the NTP to their system on a cash basis, using TABMIS. A separate code is given by TABMIS to each program, project, and subproject, therefore the financial reports generated by State Treasury are detailed and comprehensive but exclude work completed but not yet paid, being a cash basis system. Filing and record keeping is identified as a minor weakness, but does not significantly affect implementation.

Staffing

107. Provincial PCERWASS, DoH, and DoET in charge of program coordination and implementation have a variable number of staff. Although the PCERWASS/DoH/DoET usually have units for Administration and Planning (includes accounting and M&E functions), Technical, and Construction Management, weak capacity has been reported in some areas, mainly in M&E, sanitation promotion and behavior change, supervision of designs and construction, and fiduciary issues. The capacity of the implementation units to prepare technical specifications for bidding documents, to conduct technical revisions, or to supervise works is varied at the provincial level. This is due to a combination of factors with more or less relevance depending on the province: low technical skills, insufficient staff and recurrent budget to adequately perform these tasks.

108. Generally, PCERWASS, DoH, DoET have adequate numbers of qualified procurement staff who have attended the necessary training, possess Procurement Certificates issued by MPI, and have gained good procurement experience. They were able to self-prepare bidding documents and carry out bid evaluation without external assistance. PCERWASS/DoH/DoET also have capable technical staff who usually provided assistance in bidding process and subsequently assume the responsibility for contract administration, construction supervision and even operation and maintenance of water supply facilities. The procurement work is generally carried out by the Planning and Technical Units. Standard bidding documents and contracts that are issued by MPI are used. Staff in districts and communes generally has weaker capacity than those of PCERWASS/DoH/DoET. That said, it was observed that in some cases preparation of the design and technical specifications was contracted out to consultants.

109. The financial management duties in PCERWASS, DoH and DoETs are performed by the Chief Accountants who have adequate experience and qualification to manage government budget expenditures. They are however normally overloaded with daily work of the entities

plus various programs. In the proposed Program, PCERWASSs will be responsible for consolidating annual provincial Program financial statements, working with State Audit of Vietnam, and consolidating Program annual plan and annual budget; therefore, additional resources and capacity building are to be provided to PCERWASS' financial management personnel. Similarly, DoHs and DoETs will be responsible for financial management function of all sanitation and hygiene promotion activities in the provinces, including transactions incurred by woman union and village health workers, and therefore need additional resources and capacity.

Controls, Oversight and Accountability

110. Transactions recording, filing of supporting documents, and preparing of financial reports are done by the investment owners/spending units of the NTP (PCERWASS, DoH or Preventive Health Center, DoET and districts). Each investment owner/spending unit is wholly responsible for payments, bookkeeping and financial reports of the activities assigned by PPC in the provincial budget allocation. The investment owners approve payments to contractors and suppliers, submit documents to provincial/district State Treasury for disbursements, prepare financial reports when the construction is completed and gets it accepted by provincial DoF. Similarly, spending units of recurrent expenditures do the accounting work and prepare financial reports for their own part. The PCERWASS does not prepare consolidated financial reports for the provincial NTP expenditures. Reconciliation with State Treasury is also done by each delegated investment owner/spending unit.
111. Recurrent expenditures are accounted for in accordance with Decision 19 issued by Ministry of Finance for government administrative expenses. Capital expenditures are accounted for using Decision 214 issued by Ministry of Finance for investment owners. Those accounting policies are based on a modified cash basis. Financial statements for capital expenditures are not prepared annually, but only at the time when the construction is finished and accepted. The work in progress is not recorded. There are no consolidated financial statements for the entire NTP. There is no accounting function at the NTP Standing office.
112. There is still a gap in the timely of recording transactions, due to the cash-based methodology applied in the public accounts. For example, some revenue and expenditure amounts of one accounting year may be recorded in a different financial year (largely due to cash basis of accounting), leading to incorrect recognition of budget revenue, expenditure and deficits, and unreliable year-to-year comparisons of budget expenditures. The yearly recording of expenditures is ever more seriously distorted by the concept "budget year", i.e. expenditures are recorded to the year of allocating related budget rather than the year of expenditure incurring. This practice does not happen in Northern Mountain provinces. But in Central Highland provinces, expenditures incurred in quarter II are still recorded to the previous year to maximize the budget execution ratio.

113. Official documents to guide the internal control of the NTP are issued by all levels, from Prime Minister, ministers of MARD, MPI and MoF, to head of the investment owners and spending units, covering various areas of operation. The ultimate responsibility of ensuring the NTP funds are used for the intended purposes rests with investment owners and spending units, which are typically PCERWASS, DoH and DoET in this case.
114. The second level of ensuring proper use of funds is expenditure verification done by the provincial State Treasury on every single payment from NTP funds. The State Treasury's payment control is mainly documentation-based and the effectiveness of post-review procedures is limited by the lack of regular audit and inspections. It is difficult for the State Treasury to check if payment documentation is prepared by the spending units merely to withdraw money for purposes other than that of the activity for which the documentation is based. Pre-review of documentation for payment has been conducted by the State Treasury with some level of success, but the same is not true for the post-review procedure. The State Treasury can check the documentation sent by the spending unit, but it depends on auditing or inspection results by relevant authorities to know if the activity for which payment is made is actually implemented. However, the audits and inspections are not carried out on a regular basis, particularly in the case of small spending units. Also, a number of expenditure items are not based on expenditure norms, and hence the State Treasury does not have a basis for payment control. These factors limit the effectiveness of the Treasury payment control procedures. This practice will even face delay and confusion if the Program does not have a clear manual for the sanitation and hygiene promotion activities, which have significant amount of soft expenditures, including the cost norms and basis of payments.
115. The 37/2005 State Audit Law, Provisions 3 and 15, Articles 6 and 15 respectively, require internal auditing to be implemented in every organization using State budget, funds, and assets, and empowers the SAV "to direct and instruct on the internal audit profession and operation, and on the use of internal audit results of agencies and institutions". However, there are no internal audit units within the 19 provinces where the NTP will be implemented; this creates a significant gap in the control framework of the program.
116. Inspections performed by Provincial Inspectorate, DPI, DoF and DARD are essentially input and compliance orientated with limited attention to identification of systemic improvements. The inspection missions do not produce statements or reports on the overall assessment of internal control systems, and the effectiveness of the inspection work seems limited due to lack of staff and resources together with lack of expertise in sound auditing practices.
117. The SAV is the Vietnamese Supreme Audit Institution (SAI). The SAV operates from a relatively clear statutory base. Although the Vietnamese constitution does not make reference to the state public audit, the State Audit Law passed by the NA on June 14, 2005 which came into effect on January 1, 2006, created the legislative basis for the legal

position, functions and working modalities of the SAV. The State Audit Law sets out principles on which the SAV should operate free of influence of the executive.

118. NTP3 has been audited by SAV annually. The audit focuses on financial, compliance and some particular aspects of performance (3E: economy, efficiency and effectiveness). The audits complied with the Vietnamese Standards of State Auditing. The audit reports of the provinces visited were issued by July in the year subsequent to the fiscal year audited, contained an evaluation of the eligibility of the funds used, the compliance with laws and regulations and to some extent, the effectiveness and efficiency of the program. Where the audit reports did not follow good practices and standards, they can be improved to a level acceptable by the Bank through an agreed audit TOR. SAV also is in process of issuing auditing standards in accordance with International Organization of Supreme Audit Institutions (INTOSAI), with support from the Bank IDF Grant and other donors.
119. Findings of auditors are followed up by provinces and the Standing Office. After provinces addressed the recommendations of the auditors, SAV was invited to check the status of implementation of recommendations. Workshops including SAV, the Standing Office, and the provinces are also regularly organized to disseminate the audit findings. The key issue for NTP3 is SAV only conducted audit for 20 – 25/ 63 provinces, and only give audit reports on the provinces they visited without any review of financial statements of other provinces. There are no consolidated program financial statements. In the ongoing RRWS PforR, as required by the Bank and NTPSO, SAV performed audit on 8/8 provinces and submitted the audit report on time for the financial year 2013.

Governance and Anti-Corruption

120. *Complaints Handling Systems.* While this multiple-entry complaints system may provide a number of options for citizens, it can also be confusing and result in complaints being passed around agencies or lost in the transfer process and can make it difficult for citizens to follow up. According to the MOH GI Report on the Handling of Complaints and Denunciations in 2013, only 209 out of 2,694 (or less than 8 percent) received complaints were within their authority. The rest were forwarded to the right agencies or returned to the complainant with instructions on which agency to submit to. Staffing in the province level GI offices varied greatly: some of the implementing provinces had sufficient staff to create a dedicated complaints handling office while others had as few as two or three inspectors at the DARD level that had to cover all GI functions including complaints handling. This lack of sufficient numbers of trained staff could become a constraint on the Program's ability to collect, manage and investigate allegations in some provinces, especially if the number of cases would increase under the Program.
121. The inability to submit anonymous complaints due to their prohibition in the Law on Complaints and Denunciations may be a disincentive for citizens to provide information about fraud and corruption in the Program. However, as mentioned above, according to information provided by a number of the DARD and PCERWASS GIs, in practice these

officials do accept and record anonymous complaints when they are received. The officials noted that if anonymous complaints contained credible or serious allegations the inspectors would investigate them fully. Notwithstanding the practical handling of anonymous complaints in some of the implementing provinces, the lack of a clear and consistent affirmative policy and procedure for these complaints is a clear weakness in the Program's complaints handling system.

122. It is also important to note that, with regards to the quality of services, sometimes the citizens can provide direct feedback to PCERWASS or PMC for immediate action. For example, the Director of PCERWASS in Dak Lak Province publicizes his hotline number at water schemes under his authority so that citizens can call directly to report any issues, most often on the quality of services. While this channel is very helpful to resolve issues quickly, the complaints/feedback do not get captured systematically as a learning tool for PCERWASS to improve their services.
123. *Complaints Consolidation and Reporting.* The reporting system for the Government Inspectorate allows reporting up from districts and provinces to the State level GI. The GI system is hierarchical with lower levels reporting data and information on complaints and investigations up to higher levels until the information is aggregated at the State GI. According to a retired inspector from the State GI, the reporting system contains both routine and "urgent" reports each of which would contain details on the number and type of complaint, status of inspector's investigations and ultimate resolution. The reports also provide explanations for those complaints that are not pursued.
124. Based on the team's field visits there does not appear to be a single, unified reporting system for the GI data. Some provincial GIs told the team that information was kept manually in a log book, while others noted that results of investigations can be put on the provincial websites and are shared with the complainant (and summaries may be shared with other authorized "users" or "participants", which could include the press).
125. The lack of a common, electronic reporting system across the implementing agencies may make it difficult for the borrower to meet the ACG obligation to inform the Bank of fraud and corruption allegations and report on how they are handled (investigated, mitigated and sanctioned). The use of written log books in some implementing provinces raises questions about the quality of the data collected. In addition, the team was unable to get agreement to share data on allegations from any of the provincial GI officials interviewed during the field visits. Notwithstanding the fact that the Anti-Corruption Law requires that the findings of corruption investigations be made public, it was clear that these officials felt they did not have the authority to commit to sharing this required information with the Bank team.
126. The MARD Program Standing Office, with assistance from donors of NTP2 (the DFAT, Danish Ministry of Foreign Affairs (DANIDA) and the UK's Department of International Development [DFID]), has built in the following key controls in operation and monitoring of

the NTP to ensure achievement of the objectives: (a) annual audit by the SAV, with extended TOR covering not only financial figures but also the performance of audited provinces in achieving the NTP objective (12 indicators); (b) annual joint review of the NTP operation by donors in cooperation with MARD; and (c) regular progress meetings and training provided by the Standing Office to provinces to improve budgeting and to implement recommendations of SAV and the joint operational reviews. In addition, the State Treasury system provides a number of key controls in fund flow; and the various departments under PPCs (including the provincial Anti-corruption Committee) carry out internal inspection and supervision of the provincial NTP program.

127. *Experience in the program.* No cases of fraud and corruption under the program were reported so far. According to the Public Procurement Agency (PPA) at the central level and PCERWASS/DOHs no procurement complaints were recorded under the NTP program, either. However, experiences under other Bank-financed projects show that numerous allegations of fraud and corruption in procurement are made and have been received directly by the Bank. Most notable is the case under the Red River Delta Rural Water Supply and Sanitation Project in which a complaint to the Bank resulted in the sanctioning of an international firm for two years. In addition, during the preparation of this Fiduciary System Assessment, the health sector is investigating a corruption case in which a company is alleged to have been paid at least US\$2.2 million in bribes to health officers at the national level for the medical equipment supply contracts. Although this case is not directly related to the Program, it underlines the importance to pay attention to the governance issues to avoid similar issues.
128. Based on discussion with provincial and national officials and former officials, the lack of fraud and corruption complaints in the national systems could be due to: (a) citizen's lack of knowledge about the complaints system; (b) citizen's lack of knowledge about their rights and service standards under the NTP; or (c) citizens are more concerned about issues such as set water fees or required contributions. Under the Anti-Corruption Law, decisions based on fraud and corruption complaints are to be made public but since there have been no corruption complaints under the previous NTP programs this process has not been tested. The lack of any past use of the complaints handling system during previous NTP implementation has meant that the team is unable to identify other gaps or weaknesses that may appear only during implementation of the system.

Sanctions and Debarment

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

trained and experienced staff in its anti-corruption bodies, police, prosecutors and courts to effectively and efficiently handle all corruption allegations.

130. Lists of debarment within a given province are prepared by the provincial DPI and are submitted to the PPC and MPI on an annual basis. Under the Law, bidders prohibited from tendering are listed in the tendering newsletter and on the tendering website controlled by the MPI. Provincial officials gave the team inconsistent information regarding whether tenders consistently refer to the MPI sources and the DPI lists to determine bidder eligibility. One Program should be to ensure the sharing and use of this information across provinces.
131. The PCERWASSs do not check the national debarred list of PPA when taking procurement decisions. There seemed to be a mix between “blacklisting” as a result of committing a fraudulent or corrupt act and “blacklisting” for the lack of technical performance. Under the Procurement Law, bidders can be sanctioned for multiple warnings of poor performance (Art. 75(1) (c)). This provision provides significant discretion to the tendering authority to determine “poor performance” and if misused could lead to sanctions and debarments for reasons beyond violations of procurement rules and procedures or fraud and corruption. PCERWASS and DARD counterparts met during field visits were often unable to tell the team whether there had been any “poor performance” debarments in previous water sector projects.

D. Fiduciary Risks and Recommended Measures for Risk Mitigation

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

Planning and Budgeting

133. The risk for financial planning and budgeting cycle is assessed as Substantial before mitigation measures. With the implementation of the following actions, the residual risk can be assessed at Moderate: (a) The provincial annual budget proposals need to be realistic, follow the inter-ministry guidance on availability of fund and priority; (b) announcement of the budget centrally allocated to each province and line ministries, and the reallocation by PPC and line ministries to each investment owner/spending unit, each sub-project and activity needs to be completed in December of the previous year; c) Budget reallocation by PPC needs to be in line with the inter-ministry guidance with appropriate priority allocated to sanitation and hygiene promotion. Timely and appropriate budgeting process will be one of the Program Action Plan.

Bidding and Contracting

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

135. There are risks that existing procurement procedures and processes will result in a low level of competition in open competitive bidding that will impact on cost-effectiveness and competitiveness. Firstly, existing procedures and practices may lead to an unjustified rejection of bids due to minor deviations and omissions and as a result of bid prices exceeding cost estimates. Secondly, direct contracting procedures may be abused in ways that impact on cost-effectiveness and competitiveness. This problem occurs in the past, however with effectiveness of the new procurement law and decrees, this issue should be under effective control. Thirdly, contract awards to dependent SOEs may generate conflicts of interest and compromise the quality of works and services delivered. To mitigate these risks it is recommended that procurement actions are included in the Program Action Plan that is agreed with Government, and effectively implemented during Program execution. Additionally, provinces should be encouraged to use the e-GP system for managing procurement. MARD should provide detailed guidance on procurement matters in the Program Operational Manual.
136. Reference to the governmental unit costs in deciding contract awards adversely affects open market competition and provides room for collusion. The PCERWASS should avoid rejecting an otherwise conforming bid simply because it exceeds the cost estimate. They should utilize the mechanisms available in Vietnam for the clearance of award. As a mitigating measure in the Program, bids above the stated norms are to be considered during bid evaluation.
137. *Shortage of funds* Delays in contract performance and in payments to contractors frequently occur due to many reasons, but the most serious reason is shortage and untimely provision of funds. This could continue to be one of the biggest challenges under the NTP3 and it may adversely impact the quality and timeliness of works and services delivered under the program. Mitigation measures for this potential risk are included in the Program design and include appropriate advance payments and Program DLIs that are scalable -- allowing partial disbursement against partially achieved results.
138. *Procurement performance.* Procurement performance is audited and inspected by various government authorities such as Provincial Inspectorates, the SAV, and Government Inspection Authorities (GIA). There is a need to establish and operate a clear set of procurement performance indicators⁹ and systematic monitoring and reporting at all levels. In the Program, the Independent Verification Agent (IVA) will, as part of results monitoring, review procurement performance against the targets set in the provincial investment plans and any other requirements of the Program.

⁹ For example, Timeliness of completion of contracts, Cost-effectiveness, Effectiveness and quality of procurement planning, Competitiveness of the procurement processes, Timeliness of payments to contractors, Extent of the implementing agency's compliance with applicable rules on the use of different procurement methods, and Effectiveness of the complaint handling mechanism.

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

Expenditures Control and Financial Reporting

140. The risk of mis-recording or mis-presentation of financial statements is assessed as Substantial before mitigation measures. With the implementation of the following actions, risk can be reduced to Moderate: (a) PCERWASS is to prepare the consolidated financial statements for the provincial NTP. The format of the financial statements is to be agreed by the Standing Office, State Audit and the Bank. Financial statements are to be generated quarterly and include all sources of funds and all NTP expenditures; (b) DoH will be responsible for financial management of all sanitation and hygiene promotion activities in the province including activities performed by woman union, district health centers and village health workers. The function includes providing advances and managing advance clearances, maintaining accounting records and supporting documents, getting expenditures verified by provincial State Treasury, and prepare financial reports for PCERWAS to consolidate; and (c) reconciliation is to be done between PCERWAS, DoH and DOET and State Treasury on a quarterly basis for the statement of main account and sub-accounts balances and expenditures disbursed. Those actions will be reflected in the Program PDO and FS.

Internal Audit and Internal Audit

141. The risk of internal control and internal audit of NTP is assessed at Substantial before mitigation measures. With the implementation of the following actions, risk can be assessed at Moderate: (a) financial management manual is to be developed by NTPSO, approved by Steering Board and applied by all investment owners and spending units of the NTP. The manual needs to be comprehensive, covering all areas of financial management, including the cost norms and basis for payment of sanitation and hygiene promotion activities; and (b) MARD assigns MARD Inspectorate to perform internal audit function for this Program. Those actions are to be completed before Program negotiation.

142. NTPSO needs to agree the audit TOR with SAV to ensure that all 19 provinces are audited every year -- covering financial, compliance and performance areas -- and that the audit results are submitted to the World Bank within the agreed period. The participation of SAV to be financial auditor as well as DLIs verification agency for the Program will be reflected in the Program PDO and FS.

Governance and Anti-corruption

143. *The Lack of follow-up of Complaints.* There is a risk that a lack of clarity in the relative authority of various inspectorates and government offices may lead of a lack of follow-up of complaints. Due to the establishment of numerous Inspectorates, their authority to process and settle complaints and denunciations are tightly defined vis-à-vis each other. These shortcomings present a difficult situation for the filing of complaints to the right authority. The multiple-entry complaints system provides a number of options for citizens, but it can also be confusing and result in complaints being passed around agencies or lost in the transfer process making it difficult for citizens to follow up their complaints. The use of written log books in some implementing provinces raises questions about the quality of the data collected. However, the lack of any past use of the complaints handling system for fraud and corruption complaints has meant that the team is unable to identify other gaps or weaknesses that may appear only during implementation of the system.
144. It is therefore recommended that improved and consolidated reporting on complaints, as well as feedback from beneficiary and other stakeholders, be required on a regular basis as part of the Program Action Plan. A coordination unit for the Program should be tasked with collecting information from each PPC and respective PCERWASS/PMC, as well as from concerned GIs under MARD and MoH, and will be done at least annually. The Standing Office of the NTP3 can play this role, as they have been doing under the Results-based National Rural Water Supply and Sanitation Program under the National Target Program.
145. In order to remove a possible obstacle to effective citizen feedback and reporting on problems in the Program, the technical assistance program will support the GOV in establishing an effective mechanism for communicating to beneficiaries their rights, roles and responsibilities as related to the Program. In particular this would cover items such as how to provide timely feedback and complaints regarding the Program to agencies in the nineteen implementing provinces. The Program will contain its own reporting systems that can capture information on the number, type and handling of fraud and corruption allegations in the Program.
146. Different options that ensure the availability of “open complaint procedures” and functioning handling mechanisms of these complaints have been discussed with the government. These include:
- establishing a simple alternative route for citizens to provide feedback on the program, including anonymous complaints. For example, an easily accessible Information Technology (IT) Platform could be established at the national level through an expansion of the IT platform being developed under the Rural Water Supply and Sanitation PforR and linked to a credible follow up process;

- formalizing the process for acceptance, review and investigation of anonymous complaints at the provincial level; and
- improving citizen and bidder knowledge and access to information about rights and processes for making complaints about concerns with the Program.

147. *Anonymous complaints.* There is also a risk that the formal denial of the submission of any anonymous complaints will prevent the discovery of procurement problems and compromise that quality of procurement work. *It is recommended that all complaints, including anonymous ones, be duly considered and address, as well as recorded and reported in the Program.*

148. *Staffing.* There is also a risk that inadequate staffing of inspection agencies will constrain the ability of the Program to collect, manage and investigate allegations, especially when the Program funds will add a significant amount of work to the existing size of investments made by PCERWASS and PMCs in participating provinces. While central government GIs have numerous staff to carry out required inspections, staffing in the provincial or district inspectorate units varied greatly: some had sufficient staff to create a dedicated complaints handling unit while others had as few as two-three inspectors even at the provincial level that had to cover all functions including complaints handling. It is recommended that the adequacy of staffing is reviewed at Program midterm alongside a review of reports on complaints handling to assess whether additional capacity support or other interventions are required.

149. *Application of the Guidelines on Preventing and Combating Fraud and Corruption in Program-for-Results Financing.* Under the ACG Guidelines, Vietnam is obligated to apply the Bank's debarment lists for Program-supported investments. In addition to the application of the Bank's debarment lists, the Program will also be subject to Vietnam's national debarment procedures. Prohibition from participation in future tenders is governed by the Law on Procurement which provides a defined set of "prohibited acts" -- commission of which can lead to debarment. For procurement, initial sanctioning decisions will be made by the tendering authority. *It is recommended that specific agreements be reached with the Government to share the Bank's disbarment lists with the participating provinces, and that their compliance is supervised and audited during Program implementation.*

150. In addition, the GOV will need to provide the Bank with clear steps that it will take to assist Bank-led investigations of fraud and corruption allegations. This agreement will include identifying the participants and beneficiaries of the Program (e.g., water users at all levels, commune-level water authorities, DARDs, contractors, etc.) and providing steps that the client will take to ensure the cooperation of these participants and beneficiaries. It will further include a commitment that those authorities with enforcement and investigative rights, such as provincial DARD, DOH, DOET and national and provincial GIs as well as the police, will assist the Bank in any fraud or corruption investigation. Government will have to submit to IDA evidence of a written communication from a competent central government authority to the relevant provincial authorities which sets out the obligations of those

authorized to cooperate with any investigations under the Program, including any investigations that may be necessary by the Bank's Integrity Vice-Presidency. This communication to the provinces will need to be issued by MARD under the authorization of the Office of Government.

Monitoring Fiduciary Performance over Program Period

151. While key fiduciary areas requiring specific actions for strengthening in government systems have been listed in the Program Action Plan, it will be important to also monitor the overall fiduciary performance during the duration of the Program. Table D.1 identifies the specific indicators which will be monitored (together with the relevant baseline position) to provide the framework to measure improvements in the performance of financial management and procurement processes.

Table D.1: Monitoring Indicators for Fiduciary Performance

Indicator	Measure	Baseline
Financial Management		
Annual budget realism	Variance between annual budget proposed by provinces and budget allocated (%)	Budget allocated is less than 50% of budget proposed.
In-year budget adjustments	Significance of the budget adjustment/reallocation made by PPC versus amount approved annually	Not significant
Quality of annual financial statements	Completeness and timeliness of annual reports	Incomplete and untimely annual financial statements
Effectiveness of reconciliations	Regularity of bank reconciliations and clearance of advances and suspense accounts	Reconciliation with State Treasury is done only once a year
Availability of Program funds	Ready availability of Program funds for implementing units requesting payments for completion of Program activities	Delay in budget allocation to implementing units in quarter I every year
Effectiveness of internal audit function	Coverage, quality and management response to internal audit reports, frequency and distribution of audit reports	No internal audit function exists in 19 provinces

Effectiveness of internal controls	Existence and effective use of financial management and cost norms. Timely and accurate information system for decision making	TABMIS and cost norms effective. No financial management manual
Quality of audit report	Scope, nature and adherence to acceptable auditing standards. Audit Opinion on consolidated financial statements	Not all provinces are audited. Audit standards are not fully compliant to international standards. No Audit Opinion on financial statements
Follow-up on audit recommendations	Evidence of timely and adequate follow-up by the Program management on audit recommendations	Audit recommendations are followed up by provinces and NTPSO.
Procurement		
Procurement planning	Number of comprehensive procurement plans prepared for all sub-projects	One procurement plan prepared for each works.
Contract packaging and distribution of procurement methods used	Numbers and percentages of contracts procured under open competitive bidding and direct contracting	A typical procurement plan for a works includes one civil works contract, one consultant contract for detailed design and one consultant contract for construction supervision. This resulted in many small contracts procured through direct contracting.
Advertisement	Percentage of the invitation for bids for contracts using open competitive bidding to be publicly advertised	100 per cent
Contract award notification	Percentage of contract awards publicly disclosed	All contract awards are not publicly disclosed.
Quality of Bid evaluation practices	<p>Number of bids rejected due to offering a bid price higher than the cost estimate and/or minor deviations or omissions</p> <p>Number of contracts awarded to SOEs dependent on implementing Program provinces</p> <p>Results of checking against Government's and Bank's debarment/suspension lists shown in bid evaluation reports</p>	<p>Almost 100 percent</p> <p>Some cases found</p> <p>Occasional checking for Government's debarment lists; no checking for Bank's debarment/suspension lists</p>

Time for bid evaluation	Time taken for bid evaluation (from bid opening to contract signing)	30-45 days
Bidders' participation in open competitive bidding	Number of bidders submitting bids in each bidding process	3-4
Procurement savings	Percentages of balance between contract prices and approved pre-bid cost estimates over approved pre-bid cost estimates	0.3-0.5 percent of pre-bid cost estimates
Contract administration	Percentage of contracts completed within original completion period Percentage of payments delayed Number of variation orders required and processed	Most civil works contracts delayed Payments for civil works often delayed Variation orders frequently occurred in works contracts
Complaint handling mechanism	Number of complaints received (including anonymous ones) and number of complaints actually considered and handled	No procurement-related complaints received. Anonymous complaints not officially accepted ¹⁰
Procurement records	Percentage of contracts with complete records and systematically filed and maintained	Procurement records not properly filed and difficult to retrieve
Frequency and Quality of Procurement Performance Inspection and Audit	Number of inspections and audits (that include procurement performance review) conducted per year Number of inspection and audit reports that include detailed procurement performance assessment against agreed indicators Number of inspection and audit reports that found procurement problems or noncompliance	Inspections conducted annually. Audits conducted on ad hoc basis Past inspection and audit reports provided little information on procurement compliance

¹⁰ No procurement complaint received in the participating Program areas but in the 1st PforR did receive which covers different regions.

152. To facilitate the effective monitoring of Program procurement, the reporting system and practices should improve. It is therefore proposed that Program implementation reports by Program provinces/MARD/MoH should include the following information on procurement performance:
- a) copies of updated procurement plans;
 - b) procurement transactions completed in the reporting period which list the following information, *inter alia*:
 - i. contract title and code;
 - ii. approved cost estimate;
 - iii. procurement method followed;
 - iv. advertisement date;
 - v. participating bidders' names and their bid prices as read out and recorded;
 - vi. names of bidders rejected and reasons for rejection;
 - vii. name of successful bidder and bid price offered;
 - viii. date of contract award approval;
 - ix. contract signing date;
 - x. final contract amount;
 - xi. contractual completion date; and
 - xii. actual completion date.
 - c) procurement inspections/audits conducted during the reporting period (copies of reports attached);
 - d) dates, venues, and numbers of participants who attended procurement training and capacity building activities conducted during the reporting period (with lists of participants attached); and
 - e) emerging procurement and contractual issues that require attention and actions.
153. The Program Operational Manual should provide for development by MARD, MOH and MOET of best practice guidelines for procurement by the PCERWASS/DoH/DoET, including the following:
- a) preparation of medium-term procurement plans showing all packages to be procured by the provinces (whether or not funded by the Program) during at least an annual budget cycle. These plans would not necessarily obviate the "approval to proceed" now obtained from Provincial level immediately before initiating procurement for each package;
 - b) use of market prices as a basis for cost estimate (including for consultant fees);
 - c) ensuring adequate length of advertising, with tender documents available from the first day of advertising. If not directly forbidden by law, bidders should be permitted to examine tender documents at the PCERWASS / PCPM office before deciding to purchase. Clear procedures for disseminating information / clarifications to bidders should be introduced, perhaps including a pre-bidding meeting or site inspection for larger sub-projects;

- d) establishment of clear, objective and appropriate bid evaluation criteria which should be included in the Instructions to Bidders; and
- e) introduction of sole-sourcing procedures, particularly for recruitment of consultants, designed to ensure that the qualifications of the best available candidates are compared and evaluated and that there is an auditable record of the decision making process.

154. Capacity support should be provided to DARDs / DoHs to support them to comply with procurement rules and procedures. Further details on this support are included in the Technical Assessment.

Fiduciary Elements of the Implementation Support Plan

155. The fiduciary elements of the Program's Implementation Support Plan, the task team skills requirements and the role of partners are listed in tables D.2, D.3 and D.4 below.

Table D.2: Main Focus of Implementation Support

Time	Focus	Skills Needed	Resource Estimate	Partner Role
<i>First twelve months</i>	Implementation of the Program Action Plan (PAP); changes in operational procedures and their communication to local implementing agents; establishment of arrangements for independent verification; strengthening of the M&E system; and provincial and consolidated national planning.	Legal; fiduciary; engineering/ procurement; social; water and sanitation monitoring and evaluation; and technical (water, sanitation, economics and finance)	2 supervision missions plus 2 mini-missions 2 x 5 people x 2 weeks = 20 weeks Plus 2 x 2 people x 1 week = 4 weeks <u>Total 24 weeks</u>	Key roles for other NTP3 partners (DFAT, DFID and DANIDA) in supervision and advising particularly on M&E and verification procedures. Also to provide feedback on provincial planning and advise on links with national NTP3 implementation.

<i>12-48 months</i>	Reviewing implementation progress and cross-checking linkage between provincial planning and results, providing support in case of disputes relating to verification (national-provincial or between GoV and IVA)	Legal; fiduciary; social; environment; monitoring and evaluation; and technical (water, sanitation, economics and finance)	2 supervision missions per year 2 x 3 yrs x 4 people x 2 weeks = 48 weeks Plus mid-term review 1 x 6 people x 2 weeks = 12 weeks <u>Total 60 weeks</u>	As above plus supporting the review of PforR operation and design of mainstreaming approaches for the national program
<i>Other</i>	Independent audit/assessment of verification of results	Independent technical expertise	2 people for 4 weeks <u>Total 8 weeks</u>	Participating as observers

Table D.3: Task Team Skills Mix Requirements for Implementation Support

Skills Needed	Number of Staff Weeks	Number of Trips	Comments
Governance	6	n/a	
Fiduciary	8	3	

Table D.4: Role of Partners in Program implementation

Name	Institution/Country	Role
DFAT	Australia	Financing, planning, M&E, Coordination with other NTP support activities
DANIDA	Denmark	NTP financial planning and allocations, M&E
DFID	UK	MoH/DoH implementation of sanitation and hygiene

		components of NTP
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Actions to Meet ACG Requirements

156. *Agreement on Information Sharing and Reporting on Fraud and Corruption Allegations.*

Based on this assessment and the team's field visits, there does not appear to be a unified national system for collecting and reporting on how the authorities handle allegations of fraud and corruption. Therefore, in order to ensure that the client will be able to comply with its reporting obligations under the ACGs, the client will need to commit to providing this information from the nineteen participating provinces, as well as MARD, MoH and MoET. The Standing Office of the NTP under MARD, which serves as the key implementing agency and coordinator for NMUP, shall be tasked to aggregate and inform the Bank of the number of fraud and corruption allegations, as well as how they are handled (investigated, mitigated and/or sanctioned) per an agreed simple template. This list will also include the handling of anonymous complaints. The information shall be collected from each PPC and respective implementing agencies (PCERWASS/DoH/DoET), VIHEMA, as well as from concerned GIs under MARD, MoH, MoET and will be done at least annually as per the template below.

Type of complaint or allegation (what is being alleged)	Investigating Agency	Outcome of Investigation	Sanctioning Agency	Sanction Decision	Date Sanction Publicized
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157. *Broaden the Usefulness of the Complaints Handling Systems.* The Bank continues to engage more broadly with the client in policy discussions on expanding access to the existing systems by formally permitting the submission of anonymous complaints. In addition, with support from the Program's technical assistance component, the Program's communication strategy will include extensive outreach efforts to improve citizen and bidder knowledge and access to information about their rights under the Program including their rights to water service as well as clear information on the process for making complaints about service delivery or fraud and corruption in the Program both to Vietnamese authorities and the Bank.

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

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

E. Proposed Inputs for the Program Action Plan

Procurement

160. In accordance with the results of Fiduciary System Assessment presented above, it is recommended that the following Program Action Plan be agreed with the Government prior to the Credit negotiations and subsequently be implemented during the Program:
- a) All proposals for detailed designs, construction supervision and bids for civil works, whether below or above cost estimates, shall be evaluated; proposals and bids shall not be rejected only on the basis of minor, non-substantive deviations.
 - b) State-Owned Enterprises dependent on Program ministries/provinces/departments will not be allowed to participate.
 - c) Firms and individuals on the local, national or Bank debarment/suspension lists will not be allowed to participate.

Financial Management

161. There will be a Program Action Plan to require timely and appropriate budget allocation by PPCs, including adequate allocation to sanitation and communication as indicated in inter-ministry guidance. Implementation arrangement with main focus on PCERWASS and DOH for provincial activities will be provided in the Program detailed outline and Feasibility Study.

Governance

162. To address the governance risks above, it's recommended that a database will be set up and maintained by NTP SO to aggregate and report on the complaints and feedback received by the Program, as well as how they are handled (investigated, mitigated and sanctioned). The information will be collected from each relevant PC and respective PCERWASS/DoH/DoET, VIHEMA, as well as from concerned GIs under MARD, MoH, MPI, MoF, and will be done at least annually. This activity will publicize the existing channels for submitting complaints under the program, including the Grievance Redress Mechanism of the World Bank.