

IV. PROCUREMENT CAPACITY ASSESSMENT REPORT AND RECOMMENDATIONS

Proposed Project Name: Credit for Better Health Care Project (the Project)	Proposed Amount: (to be in Japanese Yen) or US\$50million equivalent
Executing Agency: Development Bank of the Philippines (DBP)	Source of Funding: Asian Development Bank's (ADB's) Ordinary Capital Resources.
Assessor: Candice McDeigan (Procurement Specialist COS2, Central Operations Services Office)	Date: 21 September 2007

Expected Procurement

Procurement
The Executing Agency (EA) will procure primarily consulting services. The subprojects will procure civil works (rehabilitation and construction) and to a lesser extent equipment (medical and non-medical), vehicles, and medical reagents and drugs in accordance with ADB's *Guidelines for Procurement*, applicable to development finance institutions. The civil works will be implemented under the supervision of the subprojects. DBP will be responsible for the preparation and the updating of the procurement plans, and will provide procurement supervision. ADB's approval is required for the procurement plan and its updates. DBP may work in a tripartite setting with medical equipment leasing cooperation to lease medical equipment for specific hospitals. ADB will conduct a review at the project preparatory stage of DBP's capacity for procurement supervision.

Consulting Services
DBP will engage international and national consultants individually or as firms, in the area of health, economics, statistics, and finance. Recruitment of consultants will follow ADB's *Guidelines on the Use of Consultants* and other arrangements acceptable to ADB for national consultants. ADB's Single Source Selection (SSS) or Consultant Qualification Selection (CQS) methods may apply for consulting firms. Further refinement on the mode of procurement will be made and agreed to in the procurement plan.

Assessment of the National Environment
The Guidelines governing the "**Loans to Financial Intermediaries**" in para 3.12 of the ADB Procurement Guidelines shall govern procurement related activities under the facility. (see section below **Agency Procurement Processes: Goods and Works**)

Subborrowers which are government agencies may use the procurement regulations and procedures for national competitive bidding set forth in the Republic Act No. 9184 of the Republic of the Philippines, effective 26 January 2003, and Implementing Rules and Regulations effective 8 October 2003, incorporating amendments as of August 2006.

ADB has included the following clarifications and modifications to the Republic Act No. 9184 described in the following paragraphs which are required for compliance with the provisions of the Procurement Guidelines.

1. Eligibility
 - (a) Eligibility screening as described in the Implementing Rules and Regulations shall not be applied. However, bids that do not contain the following documents will not pass the documentary compliance check if they are a specific requirement of the bidding documents (i) evidence of the required financial, technical or production capability; (ii) audited financial statements; (iii) credit line or cash deposit certificate; (iv) bid security, if required; and (v) authority of the bid signatory.
 - (b) National sanction lists may be applied only with prior approval of ADB.
2. Advertising
Bidding of NCB contracts estimated at \$500,000 or more for goods and related services or \$1,000,000 or more for civil works shall be advertised concurrently with the general procurement notices on ADB's website.
3. Price Ceiling
The approved budget for the contract (ABC) may be published, but it shall not be stated or implied that bid prices shall not exceed the ABC, or that bid evaluation will in any way take into account the ABC. The ABC, budgetary allocation, ceiling price, or similar estimates of contract value shall not be used to reject bids without prior concurrence of ADB.
4. Preferences
 - (a) No preference of any kind shall be given to domestic bidders or for domestically manufactured goods.

- (b) Suppliers and contractors shall not be required to purchase local goods or supplies or materials.
- (c) Foreign suppliers and contractors from ADB member countries shall be allowed to participate, if interested, without first being required to associate with, or enter into joint venture with, local firms.
- (d) Foreign suppliers and contractors from ADB member countries shall be allowed to bid, without registration, licensing, and other government authorizations, leaving compliance with these requirements until after award and before signing of a contract.

5. Experience Qualification

For a works contract, the experience qualification requirement shall be: (i) at least one previous contract at 80% of the estimated cost of the contract being procured; and (ii) an annual turnover from all works averaged over the last three years equal to 100% of the estimated cost of the contract being procured.

6. Bid Security

Bid security, if required, shall be in the form of a bank guarantee from a reputable bank.

7. Contract Amendment

ADB's concurrence shall be obtained before approving modifications to contracts under implementation where (i) the value of the modification exceeds 15% of contract amount, or (ii) it results in material changes to the conditions of contract.

8. Member Country Restrictions

Bidders must be nationals of member countries of ADB, and offered goods must be produced in member countries of ADB.

Introduction of Philippine Government Electronic Procurement System (PhilGEPS)

In 28 August 2006, the Procurement Service-Department of Budget and Management launched the new Philippine Government Electronic Procurement System (PhilGEPS). The PhilGEPS is the central portal of all public procurement activities that provides both government agencies and suppliers a more open, transparent and competitive environment. On 5 January 2007, World Bank and ADB conditionally agreed to accept PhilGEPS for application on ADB and WB funded national competitive bidding. The fulfillment of these conditions is still in progress.

General Agency Resource Assessment.

The DBP is the Executing Agency. The DBP will administer the financing facility services to be made available for capital investment for civil works and equipment and for working capital offered to private corporations, private, missionary, non-government and government health facilities, health maintenance organizations (HMO), microfinance institutions and non-government organizations (NGOs). A project coordination and supervision unit will be created under the health program's office at the DBP. The Project director will be at the Senior Vice President level, and the project manager will be at the Vice President level. The day-to-day operations will be under a full-time Manager, also from the health program division at the DBP. The operations team will receive support from the functional departments i.e in the case of procurement from the Program Department (PD) of the DBP.

The PD is staffed by 44 staff members is the procurement department of the DBP responsible for the procurement of goods, works and consulting services for all ODA funded lending programs, A technical support services unit has been created to coordinate the procurement functions of the various program units of the PD. The head of the PD reports to the Chief Operating Officer. Currently the PD manages the following donor funded projects:-

The overall resource assessment of DBP to manage the network of marketing units and oversee that procurement is undertaken in accordance with is satisfactory, however there is need for technical support and backstopping with respect to training of marketing units, drafting of operating guidelines with respect to procurement, review of specifications for civil works and specialized hospital equipment.

Agency Procurement Processes: Goods and Works

Not applicable. The EA applies the Guidelines of relevant funders. Under ADB Guidelines DBP will be subject para 3.12,

“Procurement in Loans to Financial Intermediaries”. Para 3.12 provides that where ADB financing provides funds to an intermediary institution or a development finance company, to be re-lent to beneficiaries..... **the procurement is usually undertaken by the respective beneficiaries in accordance with established private sector or commercial practices, which are acceptable to ADB.**

The EA must also satisfy requirement of the Procurement Guidelines that:

Goods and Works to be procured:

- (a) are of satisfactory quality and are compatible with the balance of the subproject;
- (b) will be delivered or completed in timely fashion; and
- (c) are priced so as not to affect adversely the economic and financial viability of the subproject

In addition, DBP should be aware that International Competitive Bidding (ICB) may be the most appropriate procurement method for the purchase of large single items or in cases where large quantities of like goods can be group together for bulk purchasing.

DBP should require standardized procedures for beneficiaries under the subprojects to ensure that procurement undertaken is in accordance with established private sector or commercial practices acceptable to ADB. These procedures should be outlined in DBP’s Operating Policy Guidelines (OPGs) issued to marketing units and incorporated in loan documents with subproject beneficiaries.

Agency Procurement Processes: Consulting Services

Not applicable. The EA applies the Guidelines of relevant funders. Consulting Services will be required to support DBP’s institutional capacity to oversee utilization of the funds disbursed to subproject beneficiaries. **DBP will require consultant support in particular for the following activities:-**

- (i) **Design and drafting of the Operating Policy Guidelines to include guidance on competitive procedures, direct contracting for all procurement related activities;**
- (ii) **Training of account officers and other pertinent staff in marketing units in procurement as set out in the Operating Policy Guidelines approved by the ADB;**
- (iii) **Technical backstopping support (on an ‘as needed basis’). Consultants can be engaged on an individual basis or through consulting firms through Indefinite Service Delivery Contracts to support DBP. Consultants would be required to review technical matters including specifications and designs of procurement of civil works and equipment above an established monetary threshold to ensure that specifications are appropriate meet commercially acceptable standards;**
- (iv) **Monitoring and Evaluation, including on-site monitoring and reporting of utilization of funds**

Process Control and Oversight

The DBP will adhere to its own systems of control and oversight in administering the facility. In particular DBP has in place the system in which recommendations of credit applications made through an account officer are reviewed by the credit committees of the marketing units. The details of the project and recommendations are then sent to the Program Office at DBP for review through **a Project Evaluation and Examination Report (PEER)**. The DBP will coordinate activities via information collected its marketing units as well as its information received in the PEER. The estimated turnaround time from receipt of all relevant documents by the account officer to approval of the loan is 45 days.

Copies of the PEER are maintained at the DBP Program Office.

In order to ensure that procurement related activities are captured in the PEER, the PEER form should be updated to include a section on the capacity of the subborrower to undertake procurement including, for example, require information on past procurements undertaken for civil works, understanding by subborrowers of competitive procurement processes etc.

Records Keeping and Audit

As a minimum ADB, requires that documents related to procurement be retained for at least two years after project completion at the PMO and made available for inspection.

Summary Assessment and Recommendations

Standardization

The Operating Policy Guidelines for marketing units should contain standardized procurement procedures which are in accordance with established private sector or commercial practices, acceptable to ADB. The procurement procedures should be brief and clear and in accordance with the principles of transparency, economy and efficiency. These guidelines should apply to private and public subborrowers. It may be a condition of the loan that subborrowers will comply with requirement for commercially acceptable procurement. If a subborrower is an LGU or public sector entity, procurement guidelines which are based on prevailing RA 9187 governing that LGU are acceptable to ADB provided that the exceptions outlined in section “**Assessment of the National Environment**” above are followed by the LGU or public sector entity.

For purchase of goods or civil works which exceed USD 5 million, ADB may require that ICB be undertaken.

Training

Training of account officers and pertinent staff in procurement related matters is necessary for understanding of competitive procurement procedures (with certain exceptions) contained in the Operating Policy Guideline and in the preliminary assessments of capacity of subborrowers in procurement of civil works or equipment.

Coordination

DBP will rely on its own systems for coordination and oversight. Where necessary DBP will strengthen those systems to ensure better control and oversight of the facility. The DBP will update its PEER form to include a category for procurement related assessments and recommendations to ensure that an evaluation of the capacity of subborrowers is carried out in light of the principles of transparency, economy and efficiency and appropriate utilization of funds.

Technical Backstopping

There is a clear need for technical backstopping of the DBP in its oversight and monitoring functions. This need however will arise on an intermittent basis, therefore DBP should have access to the relevant expertise of consultants to support the administration of the project. These consultants may be engaged as individuals with specialized expertise or through a firm on an as needed basis. Examples of where consultants input will support the DBP include, training, drafting of policy guidelines and procurement plan review of specifications, on-site evaluation and monitoring and evaluation, improvement of coordination systems. DBP have discussed their preference to have firms on an indefinite delivery services contract which will ensure that the services of firms are accessed only where there is a specific requirement. This modality may be suitable for some aspects of backstopping however for others a time based contract may be more feasible. The appropriateness of consulting selection and contracting modalities will be examined at a later stage during the procurement plan.

Record Keeping

DBP should require that records of procurement of civil works and procurement of goods are maintained by DBP and/or the marketing units for investigation and audit purposes. Copies of all documents related to loans under the facility (including PEER) should be maintained for at least 2 years after project completion.

DBP will be undertaking the role of financial intermediary and will onlend to subborrowers. DPB will carry out an oversight role and coordination role of the marketing units. DBP has prior experience in donor funded procurement. It has understanding of ADB's Guidelines for recruitment of consultants and procurement. DBP through its PD has relevant know-how on procurement related matters. DBP capacity to manage the procurement related matters under this loan has been assessed as 'satisfactory'.

Specific Recommendations, Project Implementation

Capacity Constraint	Recommended Action	Responsibility and comment
Coordination of marketing units	DBP to review its coordination of information and monitoring and evaluation of marketing units to ensure that it meets additional requirements of the facility.	DBP

<p>Insufficient knowledge of procurement related matters by account officers in marketing units</p> <p>Brief training for pertinent staff in the marketing units.</p> <p>Training to be delivered by DBP upon completion of the Operating Policy Guidelines</p>		
<p>General Recommendations, EA Capacity</p>		
<p>Capacity Constraint</p> <p>The only capacity constraint may relate to the current human resources available at the PMO to provide technical support and to manage and supervise the marketing units.</p>	<p>Recommended Action</p> <p>Engagement of consultants as individuals or through a firm.</p> <p>Assessment of current requirements and drafting of TORS for consultants based on requirements for support</p>	<p>Responsibility and comment</p> <p>DBP</p>
<p>General Recommendations, Procurement Environment</p>		
<p>Capacity Constraint</p> <p>Ensuring that the public and private sector entities comply with requirements of the facility. Differing levels of compliance associated with whether public or private entity.</p>	<p>Recommended Action</p> <p>To be discussed with the project officer as associated risk</p>	<p>Responsibility and comment</p> <p>DBP and ADB</p>