



ASEANSAI

Research Project Report on
Public Procurement Audit

AGO

ASEANSAI
ASIAN SINGAPORE INSTITUTE OF AUDITING



Research Project Report on Public Procurement Audit

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The Research Project on Public Procurement Audit was one of the ASEAN Supreme Audit Institutions Audit Institutions (ASEANSAI) Knowledge Sharing Committee activities endorsed in the Committee's Work Plan 2014-2017 in the 2nd ASEANSAI Assembly in Brunei Darussalam in November 2013 which was planned for 2015. A total of eight (8) member SAIs joined this research. The participating SAIs were Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines and Thailand.

Three (3) Focus Group Discussions (FGDs) were conducted in 2014 and 2015 in Johore, National Audit Academy and Sabah, Malaysia to discuss the design and framework of the research project. Each SAI was requested to prepare a country paper on the practices of public procurement audit to supplement the research. It was unanimously agreed that a general Auditing Guidelines on Public Procurement will be developed with the assistance from the Malaysian Subject Matter Expert (SME) on Procurement Audit. The purpose of the guidelines is to facilitate procurement auditing and to assist the SAIs in conducting an effective audit of public procurement.

SAI Malaysia, as the project lead would like to express its deep gratitude to the heads of the participating SAIs who provided the full support and cooperation for the completion of the research project as well as the high commitment from the team members and the Malaysian SME on public procurement audit.

I. PROJECT BACKGROUND

1. Introduction

The ASEANSAI Knowledge Sharing Committee (KSC) Work Plan 2014 and 2017 was approved during the ASEANSAI 2nd Assembly in Brunei Darussalam in November 2013. Audit on Contract and Procurement is one of the projects planned in 2015 and the project lead is SAI Malaysia. The selection of the project was based on the needs survey conducted among the ASEAN-SAIs.

Sixteen (16) participants from eight (8) SAI members, i.e. Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines and Thailand as well as four (4) facilitators from SAI Malaysia participated in the project. Three (3) Focus Group Discussions (FGDs) were held to discuss the objectives, scope, methodology, contents as well as expected outputs. It was agreed that the topic of the project will be "Audit of the Public Procurement". The outputs would be the project report and the ASEANSAI Guidelines on Public Procurement Audit.

The FGD were held on the following dates and venues:

1.	1 st FGD on 18-20 June 2014 in Johore, Malaysia
2.	2 nd FGD on 15-17 June 2015 in Negeri Sembilan, Malaysia
3.	3 rd FGD on 7-9 September 2015 in Kota Kinabalu, Sabah

2. Project Objective, Scope and Approach

Procurement has been cited as one of the areas most prone to corruption and procurement shortcomings have been frequently highlighted in the audit reports. There is a need for ASEAN SAIs to collaboratively address the issue to overcome the shortcomings and promote best practices in public procurement audit. This study aims to enhance the audit capability of the ASEANSAI member countries

in auditing public procurement by:

- ❑ Exchanging and sharing of knowledge and current practices; and
- ❑ Developing a general guidelines on the audit of public procurement.

The scopes of the project include the audit of public procurement on:

- ❑ Supply of goods e.g. purchasing or lease of commodities, equipment, etc.;
- ❑ Works i.e. contracting for construction such as infrastructure or any civil works; and
- ❑ Services e.g. engagement of consultants, contracting for design or construction supervision for civil work.

To achieve the objectives, the participating member SAI was required to write a country paper to provide the background information on the public procurement audit conducted by the SAI. The outline of the country paper includes the SAI's mandate, rules and regulations, auditing standards/manuals/guidelines, types and objectives, scope and methodology, common audit findings, recommendation and actions taken. Each aspect mentioned in the country paper was further deliberated and clarified by the project team. In parallel, the project team developed the guidelines on public procurement audit. The tasks of writing up the content in the guidelines were distributed among the participating member SAIs. The chapters of the guidelines were thoroughly discussed in the three meetings.

3. Summary of Project Findings

SAI maturity in auditing the public procurement varies depending on the SAI's emphasis and skills. The public procurement audit is in accordance with the SAI's respective laws, rules and regulations, memorandum and/or circulars. Four SAIs i.e. Indonesia, Malaysia, Philippines and Thailand developed specific auditing manual/guidelines while SAI of Brunei developed the standard checklist to facilitate the public procurement audit.

The SAIs conduct the public procurement audits within the financial, compliance and performance audits. It is reported that the scopes of public procurement audit encompasses the planning, tendering and awarding process, implementation and monitoring, and quality control phases. It is observed that three SAIs i.e. Indonesia, Malaysia and Philippines utilised the risk-based assessment approach in planning the audit of public procurement.

The most common findings of the public procurement audit in terms of process, cost, time, quantity and quality are irregularities in the bidding process, limited competition, splitting of contracts, delayed project completion, white elephant projects, ghost projects, defective projects, short/under delivery, project completion/goods supplied not in accordance with specifications, excessive project cost, bloated claims/payments, incorrect deductions, non-imposition of liquidated damages, sub-standard/poor quality work and failure to correct defects.

The SAIs made recommendations for improving the procurement policies and practices. The recommendations ranged from fairly minor compliance issues to the need for the auditee to draft and implement the procurement policies or establish a committee or dedicated Procurement Unit. Follow-up mechanisms are in place to monitor on the progress with implementing the recommendations.

The common challenges faced by the auditors in carrying out the audits of public procurement are related to financial regulations and budget issues, auditing capacity and cooperation from auditee. The most important lesson learnt is that the auditors need to use risk-based approach to help ensure that the audit is focused on areas of most significance.

Several best practices on public procurement audit have been identified in this research such as introducing the certification programme for procurement auditors, involvement in the committees to improve government procurements/post implementation review

of the projects implemented, developing the online dashboard to monitor the actions taken by the auditees, implementing the integrated results and risk-based audit approach, using citizen's participatory audit and development of database on audited entities in awarding contracts.

4. Project Limitations and Further Consideration

The research report summarizes and presents the practices on the audit of public procurement based on the country papers and discussions in the meetings. This approach somehow affects the accuracy of the facts and information in the report because the maturity of SAIs varies. Language also posed a challenge in conducting the research as it limits the team from obtaining the detailed information.

The project team only focused on audit of public procurement of supplies, works and services in general. In the future, the project team proposes further work to develop specific auditing guidelines on each type of procurement, for example, procurement on infrastructure (constructions/works), procurement on information technology and procurement on consultancy services.

II. PUBLIC PROCUREMENT AUDIT

This part provides the definition and principles of public procurement, definition of public procurement audit, the SAI's mandate in auditing the public procurement, the related procurement rules and regulations; the auditing standards/manuals/guidelines, the types and objectives, and the scope and methodology of public procurement audit.

1. Definition of Public Procurement

Public procurement is defined as the process of acquisition of items being conducted by ministries/institutions/local government units. The process of procurement starts from planning of needs up to the delivery/completion of goods/services/works/maintenance.

Procurement is classified into four (4) types, (1) goods; (2) works; (3) services; and (4) consultants.

All public procurement must be governed by the following principles of public procurement:

i. Public Accountability

All public procurement must be carried out in a responsible manner in accordance with policies and regulations. There should be system accountability where both the public officials directly or indirectly involved in the procurement process as well as in the implementation of procurement contracts, and the private parties that deal with government are, when warranted by circumstances, investigated and held liable for their actions relative thereto.

ii. Transparency

There should be transparency in the procurement process and in the implementation of procurement contracts through wide dissemination of bid opportunities and participation of pertinent non-government organisations. All policies, rules and procurement processes that are implemented should be clear, known and understandable and should adhere to policies and regulations.

iii. Value for Money

Management acquisition should give the best return for money spent.

iv. Open Competition

Procurement process shall provide equal opportunity to all eligible and qualified parties to participate in the public bidding.

2. Definition of Public Procurement Audit

Public procurement audit is conducted on the transactions involving procurement of goods; works such as infrastructure and any civil

works; services; and consultancy and management services. The depth of the audit depends on the SAI's mandate and emphasis.

3. Audit Mandate

The SAI must have sufficient authority to carry out the public procurement audit. It is observed that the audit on public procurement is in conformity with the respective provisions of the SAI's Constitution and Audit Act/Law which give the Auditor General a wide discretionary powers in deciding what, how and when to audit and to report.

COUNTRIES	CONSTITUTION/ACT/LAW
Brunei	<input type="checkbox"/> Constitution of Brunei Darussalam 1959 <input type="checkbox"/> Audit Act
Cambodia	Procurement Law 2012
Indonesia	Presidential Decree Number 54/2010, 35/2011, 70/2012, 172/2014 and 4/2015
Lao PDR	Prime Minister's decree No.174/PM
Malaysia	<input type="checkbox"/> Federal Constitution <input type="checkbox"/> Audit Act 1957
Myanmar	The Auditor General of the Union Law (2010)
Philippines	<input type="checkbox"/> 1987 Philippine Constitution <input type="checkbox"/> Presidential Decree No. 1445: Ordaining and Instituting a Government Auditing Code of the Philippines.
Thailand	<input type="checkbox"/> Constitution of the Kingdom of Thailand <input type="checkbox"/> Organic Act of State Audit, B.E. 2542 (1999)

4. Rules and Regulations

Public procurement practices regarding the authority, mode of procurement, receipt and payment in the ASEAN countries are governed by the respective SAI's financial rules and regulations, memorandum and/or circulars. The rules and regulations are to ensure the transparency of public procurement; achieve regularity

and uniformity of procurement procedures of government entities and state enterprises; achieve efficiency and economy in the procurement of goods, works, maintenance and services; guarantee all economic sectors fair and equal treatment in competitive bidding for the supply of goods, works and services to government entities and state enterprises.

COUNTRIES	RULES AND REGULATIONS
Brunei	<input type="checkbox"/> Financial Regulations 1983 <input type="checkbox"/> Prime Minister's Office Memorandum/Circulars <input type="checkbox"/> Ministry of Finance Circulars/Notification Letters <input type="checkbox"/> Treasury's Circular <input type="checkbox"/> Public Work's Department Circulars <input type="checkbox"/> State Tender Board's Letter
Cambodia	<input type="checkbox"/> Rules and Regulations Governing Public Procurement, 2010 <input type="checkbox"/> Other regulations issued by Government
Indonesia	<input type="checkbox"/> Law Number 17/2003, 1/2004, 32/2004 <input type="checkbox"/> Government Regulations <input type="checkbox"/> Head of National Public Procurement Agency Circulation <input type="checkbox"/> Ministry of Internal Affairs Regulation <input type="checkbox"/> Ministry of Work Circulars
Malaysia	<input type="checkbox"/> Financial Procedures Act 1957 <input type="checkbox"/> Government Contract Act 1949 <input type="checkbox"/> The Treasury Instructions/Circulars/Letter
Philippines	<input type="checkbox"/> Republic Act (R.A.) 9184 and its Implementing Rules and Regulations (IRR) <input type="checkbox"/> Government Procurement Policy Board (GPPB) Resolutions, Circulars, Policy and Non-Policy Memoranda <input type="checkbox"/> Administrative Orders issued by the Office of the President <input type="checkbox"/> Department Orders of the Department of Public Works and Highways (DPWH); Department of Budget Management (DBM) <input type="checkbox"/> COA Circulars

Thailand

- ☐ Regulations of the Prime Minister on Procurement 1992
- ☐ The Engineer Estimating Guidelines 2007
- ☐ Circulars

5. Auditing Standards/Manuals/Guidelines

The public procurement audits are carried out in conformity with the SAI's respective national auditing standards which are prepared in line with International Auditing Standards (ISA) or International Standard of Supreme Audit Institutions (ISSAI). SAI of Indonesia, Malaysia, Philippines and Thailand have developed specific auditing manual/guidelines to facilitate the public procurement audit whilst SAI of Brunei developed the Standard Checklist. Other SAIs like Cambodia and Myanmar followed the general auditing guidelines whilst SAI of Lao PDR used the draft Procurement Manual developed with the assistance of Asian Development Bank (ADB).

6. Audit Types and Objectives

Generally, SAIs of Brunei, Cambodia, Indonesia, Malaysia, Myanmar and Philippines conducts the procurement audits within the financial, compliance, performance and special purpose(Indonesia) audits. It is observed that each SAI conducted quite a large number of audits on public procurement annually either on goods and supplies or works. It is noted that procurement audit in the State Audit Office of Lao PDR is relatively new where they just started conducting two audits in two ministries i.e. Ministry of Health and Ministry of Agriculture and Forestry.

The objectives of the financial and compliance audits are to ascertain:

- Public procurement activities are in accordance with the prevailing rules and regulations.
- Adequate/existence of effective internal control framework is in place all over the procurement activities.

- The utilization of procured goods.
- Controls over the supply, delivery, installation and storage of the deliverables related to stores in compliance with financial regulations.
- Payments have been done correctly and properly in accordance with rules and regulations, and supported by relevant documents.
- Existence of the structure and financial administration system effectively.
- All related/relevant records and supporting documents are properly managed, kept, maintained and updated.

The objectives of the performance audits are to:

- Examine and evaluate whether all government resources are being managed with due regard for economy, efficiency and effectiveness considering the ability/capability and limitations of the organizations.
- Evaluate whether the projects/activities/programs were carried out/performed/executed to achieve the objectives/aims/purposes accordingly (as planned).

7. Audit Scope and Methodology

The scope of public procurement audit conducted by SAI of Brunei, Cambodia, Malaysia, Myanmar, Philippines and Thailand encompasses several phases of procurement: planning, tendering and awarding, as well as implementation and monitoring, and quality control, as enumerated hereunder:

1. Planning Phase

- Review of the procurement plan which comprises the needs identification of items to be procured, value, procurement method, procurement milestones e.g. expected time for advertisement, bidding, signing of contract, delivery/accomplishment of goods/services/works and payment.

2. Tendering and Awarding Process Phase

- Review the tender/bid documents to determine whether these contain all the necessary information that prospective bidders need in the preparation of their bids.
- Examine whether the adopted procurement procedures and conditions comply with rules and regulations to ensure that goods/works/services are procured in an efficient and effective manner.
- Verify whether the conditions/requirements and procedures for the award, entering into and approval of contract are in accordance with the rules and regulations.

3. Contract Implementation and Monitoring Phase

- Examine whether the infrastructure project may be completed in accordance with the terms of the contract with regard to time, quality, cost, subcontracting and other standards.
- Examine whether the terms and conditions of the contract, preparation of preliminaries such as performance bond/banker's guarantee/insurance/contract specifications/documentations/monitoring/supervision of work, workmanship, quality control are complied.
- Verify that all payments for additional work made under the contract are in accordance with contract terms, and that Variation Orders are justified, necessary, duly approved and the costs are reasonable.
- Review of the application and approval for Extension of Time (EOT) to check if these are in accordance with rules and regulations
- Review whether Liquidated Ascertained Damages (LAD) for delays in work progress have been imposed in the case of substantial delays in the prosecution and completion of the work.

- Examine the payments for goods/works to contractors/suppliers and professional fee or Consultant are in accordance with the work accomplished, items delivered and/or services rendered.

4. Quality Control Phase

Verify whether work/items/services requirements as stated in the contract are strictly complied with.

It is observed that SAI of Indonesia, Malaysia and Philippines integrate risk-based assessment approach at the planning stage of the public procurement audit. Generally, the approach and methodology in public procurement audit done by the SAIs involve the following tasks:

- Reviewing relevant documentation on the procurement processes and ascertaining whether proper procurement methods have been employed.
- Obtaining and confirming information by interviewing key/relevant officers to obtain a further understanding on specific aspects of the procurement contract and contracting process.
- Performing physical checks or field observations and inspections of the entities office or project site (installations).
- Conducting test (e.g. Roof thickness) and reviewing of test results (e.g. User Acceptance Test), Acceptance Certificates for ICT projects; piling records, fresh and harden concrete tests including slump tests, etc. for construction contracts.
- Getting professional advice and recommendations, such as consulting advice.
- Prepare questionnaire on user of supplies or services acquired to obtain user's views and feedbacks.
- Analysis.

III. COMMUNICATION AND REPORTING

This part depicts the common audit findings observed by various SAs in the audit of public procurement, the recommendations given and the actions taken by auditees on the audit findings.

1. COMMON AUDIT FINDINGS

COUNTRIES	AUDIT FINDINGS
Brunei	<p>The common audit issues observed during the conduct of public procurement audits are as follows:</p> <ol style="list-style-type: none"> Inadequate management control framework to support contracting and procurement activities and non-compliance to rules and regulations on procurement. For example, <ul style="list-style-type: none"> Tender fee was collected by the consultant and the revenue from the tender fee was not accounted into Government's revenue. Tender evaluation and recommendation were submitted late to the State Tender Board. Lack of adequate and proper documentation relating to contracting activities and project management. Inappropriate approvals for contract agreements. The officers signing the contracts on behalf of the Government did not have the authority to sign the contract amount. The importance of Performance Bond/Banker's Guarantee was not given enough attention whereby some contracts did not have a provision for Performance Bond/Banker's Guarantee or the validity period of the Performance Bond/Banker's Guarantee did not cover the whole contract period.

vi. Contract implementation was not well administered and monitored. Examples are:

- A Project Manager was not appointed officially to manage and monitor the project.
- Whereby an officer was appointed as the Project Manager, the officer did not have the right knowledge and skills to manage and monitor the project. In addition, Terms of Reference for the person made in-charge of the project was not specified.
- There was no monitoring mechanism in place to ensure adherence to key terms and conditions in the contract. As such, some critical clauses in the contract were not complied with.
- Negligence of the Consultants resulted in variations to the project which caused an increase to the contract sum. However, the Consultants were paid in full without any penalty.
- Changes were made to the contract specifications without Variations Orders and there was no documentation to show application has been made for the changes or its approval.
- Extension of Time (EOT) was not applied timely when it was identified that the project could not be completed according to the schedule and as such there was a delay in the approval for the EOT.
- Final Accounts were not completed timely (within 10 weeks) from the date of the practical completion.
- Documentation relating to audited contracts was inadequate and not properly filed and kept.

	<ul style="list-style-type: none"> • Liquidated Damages were not enforced or could not be enforced to the contractors for failing to complete the works/ services due to lack of contract/project supervision on the part of the Government agency or lack of project management documentation. • Issues on payments to suppliers/contractors such as delays in payments, payments were Made for goods and services which have not been delivered, claims were submitted without adequate supporting documents. • Procured goods were not utilised as their intended purposes, and in the case of some audits on system development projects, some modules of the application system were not used. • Regulations relating to control of Stores were not complied with, for example, received goods were not inventoried/recorded in a register.
Cambodia	<ul style="list-style-type: none"> <input type="checkbox"/> A number of Procurement plan of Government's ministries and institutions have lately submitted to Ministry of Economy and Finance <input type="checkbox"/> Advertising for bid in short period <input type="checkbox"/> Approved Budget for the Contract is not realistic <input type="checkbox"/> Delay in delivering goods/services <input type="checkbox"/> Received goods/products are not matched to specifications in contract <input type="checkbox"/> Duplicate payment <input type="checkbox"/> Split Purchase <input type="checkbox"/> Collusive Bidding

Indonesia	<p>BPK categorise its audit findings into 6 groups which are findings of:</p> <ul style="list-style-type: none"> <input type="checkbox"/> State/local government loss <input type="checkbox"/> Potential loss <input type="checkbox"/> Revenue shortage administration <input type="checkbox"/> Inefficiency <input type="checkbox"/> Ineffective <p>The explanation about those categories are as follows:</p> <p>1. State/local government loss</p> <p>State/Local Government Loss is a condition where there is a real and definite loss or money, securities/ bonds or goods caused by unlawful acts either intentionally or negligently. There are 8 type of findings related to state/local government losses, as follows:</p> <ol style="list-style-type: none"> a. Fictitious procurement b. Billing the government for incomplete works conducted by third party (contractor/consultants/ vendors, etc.) c. Excess of payment caused by deficiency on goods and works volume d. Excess of payment caused by others factors aside from deficiency on volume of goods and works e. Price Mark up f. Specification of goods/services received are not in accordance with the contract g. Expenditures does not meet or exceed the provisions
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In 2013, number of audit finding categorised as state/local government financial loss finding are as follows:

Num.	State/Local Government Financial Loss Findings Related to Procurement	Number of Cases in 2013	Value in Million IDR
1	Contrived/fictitious procurement	116	69,983.91
2	Billing the government for incomplete/unfinished works conducted by third party (contractor/consultant/vendors)	26	51,472.78
3	Excess of payment caused by deficiency on volume of goods and works	624	380,880.08
4	Excess of payment caused by other factors aside from deficiency on volume of goods and works	486	335,389.25
5	Price Mark up	156	376,072.23
6	Specification of goods/services received are not in accordance with the contract	109	125,224.66
7	Expenditure does not meet or exceed the provisions	336	224,909.23
Total Financial Loss		1,853	1,563,932.14

2. Potential Loss

Potential loss is a potential government loss that might be happen in the future caused by unlawful acts intentionally or negligently. There are 4 types of findings under this category that related to procurement, which are:

- a. Works are not in accordance with the contracts, but it has not been fully paid.

- b. Spoiled/damaged goods/works during maintenance period because third party does not conducting their maintenance obligation.
- c. Performance bonds provision, goods usage, and facilities provision are not on accordance with the regulation.

In 2013, number of audit findings categorised as potential loss findings are as follows:

Num.	State/Local Government Financial Loss Findings Related to Procurement	Number of Cases in 2013	Value in Million IDR
1	Works are not accordance with the contracts, but it has not been fully paid	675	355,420.58
2	Spoiled/damaged goods/works during maintenance period because third party does not conducting their maintenance obligation	23	15,080.89
3	Performance bonds provision, goods usage, and facilities provision are not on accordance with the regulation	19	9,290.32

3. Revenue Shortage

Revenue shortage is realised when state/regional revenue or penalty for delay of work is not/was not determined or collected/received/paid to the state/regional government.

In 2013, there are 545 audit findings with the value of Rp197.973 million that are categorised as revenue shortage finding.

4. Administration

Administration findings reveal incompliance with laws but it does not cause the loss of government revenue being unpaid, and no activities hold back. Examples of findings are as follows:

- a. Works performed before the contract agreed and budget period.
- b. Procurement process is not comply with the regulation, but there is no state loss
- c. Contracts splitting to avoid bidding
- d. Proforma Bidding

5. Inefficiency

Inefficiency exists when the government procures goods or performed works exceeds their needs. It also happens when the government squander on their procurement.

In 2013, there are 55 cases with values Rp101.064.08 million categorised as Inefficiency findings.

6. Ineffectiveness

Ineffectiveness exists when the procured works or goods are not/has not been used.

In 2013, there are 53 cases of finding with values of Rp480.035.79 million.

Malaysia

- ☐ About 19% of the issues raised is about the work done not in accordance with specifications or does not comply with standards and quality of construction. This issue has caused the project delay and increased the cost of the project.

- ☐ Contracts were not signed to safeguard the interest of the Government.
- ☐ Failure of contractors to issue bona-fide, insurance policies and guarantees
- ☐ Works on maintenance or construction of buildings and other infrastructure were abandoned
- ☐ Indents and local orders issued without quotation
- ☐ Falsification of documents
- ☐ Work done not in accordance with Local Order or Work Indent
- ☐ Contractor facing difficulties/insolvent
- ☐ Excessive time and cost overruns allowed without clear justifications
- ☐ Projects not fit for purpose
- ☐ Unutilised facilities upon completion
- ☐ Beside the issues on contract work, there are also issues on the equipment supplied and services rendered not in accordance with specification.
- ☐ Equipment and facilities are not utilised/underutilised.
- ☐ Certain equipment was placed in inappropriate places which could affect the quality and their life span.
- ☐ Maintenance schedules were not provided by contractors resulted in equipment not maintained regularly.
- ☐ Improper payment made for equipment not supplied, work done and services not rendered.
- ☐ Avoidance of quotation or tenders by breaking down value and scope of works.
- ☐ Issues on supply services; price offered by contractor exceeded market price due to failure to carry out market price survey;
- ☐ Equipment supplied not utilised/optimally used;
- ☐ Quantity purchased in excess of needs;
- ☐ No testing and commissioning done prior to final payment.
- ☐ Unrealistic prices

Myanmar	<ul style="list-style-type: none"> <input type="checkbox"/> Unsound procurement practices <input type="checkbox"/> Lack to collect fine for being late of receiving material than specific date mentioned in the Contract <input type="checkbox"/> Differences in prices with the prices list prescribed by the local authorities <input type="checkbox"/> Weakness in the completeness of the preparing the contract agreement (e.g. there is not mentioned the clause regarding the fine for being late of receiving material date in the contract) <input type="checkbox"/> Failure to comply with requirement of instructions for procurement 	<ul style="list-style-type: none"> 7. Claims and payments made on early accomplishments were bloated; the contractor eventually abandoned the project 8. Unnecessary work items 9. Incorrect deductions of retention from progress payments due to failure to validate conformance with project schedule 10. Advance payment not recouped or not fully recouped 11. Ghost projects 12. Defective projects 13. Unauthorized honoraria of BAC members, TWG and Secretariat 14. Excess construction materials not turned over to the Government 15. Scrap materials/salvaged construction materials not turned over to the Government 16. Sub-standard or poor quality work Causes: <ul style="list-style-type: none"> <input type="checkbox"/> Approved Budget for the Contract (ABC) not realistic <input type="checkbox"/> The BAC failed to conduct proper post-qualification 17. Excessive project cost Causes: <ul style="list-style-type: none"> <input type="checkbox"/> Inadequate detailed engineering activities <input type="checkbox"/> Overestimated quantities of work items <input type="checkbox"/> Overestimated quantities of materials <input type="checkbox"/> Overestimated construction duration <input type="checkbox"/> Excessive prices of materials <input type="checkbox"/> Excessive labor and/or equipment rental rates
Philippines	<ul style="list-style-type: none"> 1. Projects have been left unused Warning Signs: <ul style="list-style-type: none"> <input type="checkbox"/> No Bids and Awards Committee (BAC) <input type="checkbox"/> The BAC has no Technical Working Group (TWG) <input type="checkbox"/> The BAC has no Secretariat or inexperienced BAC Secretariat <input type="checkbox"/> No feasibility study was conducted <input type="checkbox"/> The project was not included in the Annual Procurement Plan (APP) <input type="checkbox"/> Right of Way is not available 2. Claims and payments made on early accomplishments were bloated; the contractor eventually abandoned the project 3. Unnecessary work items 4. Incorrect deductions of retention from progress payments due to failure to validate conformance with project schedule 5. Advance payment not recouped or not fully recouped 6. Ghost projects <ul style="list-style-type: none"> <input type="checkbox"/> The project was not included in the Annual Procurement Plan (APP) <input type="checkbox"/> Right of Way is not available 	

- ☐ Unnecessary variation orders
- ☐ Price escalation granted not in accordance with the prescribed formula

18. Delayed project completion

Causes:

- ☐ Right of way acquisition not considered
- ☐ Bidding documents were not issued according to the required schedule
- ☐ Pre-procurement conference was not conducted even if required
- ☐ Criteria for eligibility screening and bid evaluation were not clearly defined
- ☐ Bidding process exceeded the maximum period allowed by the law or regulations
- ☐ Delays in the award, contract signing, contract approval and/or issuance of Notice to Proceed
- ☐ Time extensions granted not justified
- ☐ Issuance of variations orders
- ☐ Suspension orders issued not justified
- ☐ Delayed resumption of work
- ☐ Peace and order situation
- ☐ Non-verification of conformance with specifications
- ☐ Non-performance of the activities required when slippage occur (calibrated action on project slippage)
- ☐ Contractor not qualified (technically and financially of completing the project)

19. Limited competition

Causes:

- ☐ Non-posting of the Invitation to Apply for Eligibility and to Bid (IAEB) in a newspaper of general nationwide circulation
- ☐ Inadequate posting of the IAEB
- ☐ Limited issuance of eligibility forms (only to favored/selected contractors)

20. Limited competition

Causes:

- ☐ Non-posting of the Invitation to Apply for Eligibility and to Bid (IAEB) in a newspaper of general nationwide circulation
- ☐ Inadequate posting of the IAEB
- ☐ Limited issuance of eligibility forms (only to favored/selected contractors)

21. Improper post-qualification

22. Irregularities in the bidding process

- ☐ Eligibility envelopes received beyond the deadline set for submission
- ☐ Observers were not invited
- ☐ Improper submissions by bidders
- ☐ Violation of the “no-contact” policy
- ☐ Non-validation of compliance with the Disclosure provision
- ☐ A repeat order made on a previous contract resulting from a rigged/simulated bidding
- ☐ The prices in the repeat order are higher than the prevailing market price, which is lower than the price in the original contract
- ☐ A repeat order was made exceeding the quantity in the original order
- ☐ A repeat order was made beyond the 6-month requirement (from the date of the Notice to Proceed arising from the original contract)
- ☐ Quotations were submitted by fictitious suppliers

23. Non-validation of the safety and health program submitted by the bidder (DOLE DO No. 13)

24. Project accomplishments were not in accordance with the specifications (Cause: absence of tests)

25. Contractor failed to correct defects during the defects liability period

	<p>26. Non-imposition of liquidated damages despite delays in project completion</p> <p>27. Splitting of contracts</p> <p>28. Failure to avail volume discounts</p> <p>29. Delivery of a product different from the one specified in the Purchase Order or contract</p> <p>30. Short/under delivery</p>
Thailand	<ul style="list-style-type: none"> <input type="checkbox"/> Over purchased (Purchase more than needed, or no real need) <input type="checkbox"/> Overestimation the cost of Construction Project (Ex: cost of Material, cost of work, number of work etc.) <input type="checkbox"/> Dividing purchase (to alter power or to change the procurement method) <input type="checkbox"/> Manage without authorities or exceed authorities <input type="checkbox"/> Work in tendering is not what in the procurement plan <input type="checkbox"/> Qualification of bidders is restricted and not open for competition <input type="checkbox"/> Condition and Specification in tender documents is not conform with related laws and regulations <input type="checkbox"/> There are obstructing act in tendering process <input type="checkbox"/> Best Bidder is not show to signing contract <input type="checkbox"/> Condition and specification in contract is not the same as in tendering process <input type="checkbox"/> Signing Contract before budget approved <input type="checkbox"/> Let the contractor does his work before contract <input type="checkbox"/> Goods & services are not in compliance with contract (Quality, Quantity, Time, etc.) <input type="checkbox"/> Inappropriate extend of the contract period in which mean to help the contractor to reduce or omit a fine <input type="checkbox"/> Supervising committee reporting fraud (such as: reported the work is completed but in fact it does not, In case of overdue contract the committee help reduce fine for contractor, etc.)

<ul style="list-style-type: none"> <input type="checkbox"/> The project failed to meet its objectives <input type="checkbox"/> Lack of appropriate maintenance <input type="checkbox"/> Do not use FIFO in controlling of inventory which leads it to expire <input type="checkbox"/> There is repairing cost although it is in the guarantee period
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2. RECOMMENDATIONS AND ACTIONS TAKEN

According to the respective SAI's Audit Acts and laws, the SAI has the right and obligation to report the results of the public procurement audit and the recommendations thereof to the respective public body. The status of the auditees implementation of the auditors' previous finding should be notified. The report must be timely and must disclose the relevant auditing standards observed. It should be publicly available.

The SAI provides concrete, specific and practical recommendations to the shortcomings observed in the public procurement audits to improve compliance and controls. Generally, the auditees are receptive to the recommendations and take the necessary actions to correct the shortcomings.

COUNTRIES	RECOMMENDATIONS
Brunei	<ul style="list-style-type: none"> i. To ensure compliance to the rules and regulations governing procurements in order to ensure procurement activities are proper and in order. ii. To strengthen control framework over the management of the contract such as: <ul style="list-style-type: none"> • Appointment of a Steering Committee and a Project Manager to monitor the progress of the work including development of clear Terms of References.

- Effective monitoring of contract works to ensure works are carried out according to the agreed plan/milestones.
 - Contract documentation is maintained.
 - Clauses for Performance Bond and Liquidated Ascertained Damages are provided for in the contract agreement to ensure adequate measures were taken to avoid loss to Government.
- iii. To ensure controls exist over the purchase, supply, delivery and safe-keeping of goods and provisions in the Financial Regulations concerning Stores are adhered to, such as recording of the receipt of all goods/stores, issuance of goods and utilisation of goods as intended.
- iv. To maintain a payment ledger to control claims made by the contractor, especially for progress claims.
- v. To ensure adherence to terms and conditions, and specifications stated in the contract agreements such as clauses on provision for Banker's Guarantee, Insurance, tests and quality control reports.
- vi. To establish adequate internal controls in the administration of the contract to ensure:
- Consultant services are monitored mainly on high risk matters such as financial matters.
 - Payments are made in accordance with the terms specified in the contract following relevant Financial Regulations.
 - Variation Order is prepared.
 - Data related to works/payments of works are recorded accurately.

- vii. To ensure changes in specification/design/scope of the contract were governed and controlled, examined thoroughly and ascertained from the design stage to minimise the changes that may adversely affect the control of project costs.
- viii. To apply the extension of time (if needed) as soon as the works cannot be completed on schedule.
- ix. To pay suppliers/contractors timely in accordance with the terms of payments stipulated in the contract and in compliance with the Financial Regulations 1983.
- Requesting new Performance Bonds from the Contractors for the period not covered by the previous Performance Bonds, or renewing the Banker's Guarantee for the contract period not covered.
 - Immediately obtaining from the Contractors due deliverables which have not been supplied or delivered.
 - Preparing checklists to ensure the goods supplied/to be supplied conformed to specifications defined in the contract.
 - Terminating the supply of goods from the Contractor for failure to supply. However, for completed/expired contracts, some Audit's recommendations could not be immediately implemented, and therefore, would only be done in future (procurement) contracts or projects.
- | | |
|----------|---|
| Cambodia | <p>i. Establishing Procurement Website-Advertising through Web</p> <p>ii. Making budget adjustment among items/accounts in budget</p> |
|----------|---|

	<ul style="list-style-type: none"> iii. Taken action by management (Penalty, terminate contract) iv. Return goods to suppliers v. Refund by Supplier/Contractor and strengthening its control vi. Put collusive companies to blacklist of Government vii. Issue additional regulations to fulfill the loophole of existing rules or regulations
Indonesia	<ul style="list-style-type: none"> i. Punishment for auditee employee whose neglect their responsibility ii. Payment by third party for the state/local government loss iii. Blacklist the third party (vendor/contractor/ consultant) who were underperform iv. Fine for delayed works
Malaysia	<ul style="list-style-type: none"> i. Overview of the market price of such of goods/ equipment should be carried out as a reference in determining the price of the procurements and also confirms the price offered by the supplier/contractor. ii. Creating a unit/division specialised in procurement in all ministries and departments in accordance to the procurement value and size of the agency. For this purpose, the number and competency of the responsible officers must commensurate with the work load. iii. Develop a practice to reinforce consistent application of authorizations, approvals and segregation of duties in all procurement and contracting processes. iv. Develop a practice to ensure appropriate documentation is retained in order to justify sole source selection and rationale for requiring temporary help or investigative services.

	<ul style="list-style-type: none"> v. To ensure Government gets value for money, it is recommended that the Ministry prepare a clear maintenance/repair scope of work to facilitate reference for officers at clinics and District/Division Health Offices as instructions without a clear scope of work may result in ineffective monitoring. vi. In addition, the portal My Procurement is also improved to become a major website for the procurements. The portal will release new version of tender results and price benchmarks that may give clearer views on government spending. vii. The Compliance on the Prime Minister's Circular Letter dated 8 March 2010 and 10 September 2013 given warnings any accounting and support viii. received from government leaders, influential individuals or any person should never be used as a basis, merit or qualification on the consideration of Government's decisions. ix. The government also has taken steps toward tightening the content of government procurement agreement for the acquisition of control of corruption and fraud that exists in the procurement process has been described as one of the paragraphs in the agreement.
Philippines	<ul style="list-style-type: none"> i. Excessive Contract Cost – the excessive amount is disallowed in audit. In cases where the contractor/ supplier was not yet fully paid at the time the audit findings were furnished to the agency, the deficiency is deducted from the supplier's/contractor's claim ii. Non-compliance with the plans and specifications – a correction of the work is recommended, and if not possible, the project is recommended not to be accepted. Thus, any payment is disallowed in audit.

- iii. Delayed Completion of the project – liquidated damages are being imposed to the contractor. This recommendation is being implemented by the auditees since their performance are also adversely affected.
- iv. Failure to conduct thorough evaluation post-qualification – Once the justification by auditees for this failure was evaluated to be of no legal basis and/or the award is not advantageous to the government, a payment to the contract is then disallowed in audit.
- v. Failure to prepare/follow the APP-There should be proper procurement planning to come up with a realistic and doable APP.
- vi. BAC Composition/Observers/Bidding procedures/bidding documents adopted not in accordance with the rules- Attendance to trainings and seminars on the procurement law by those involved in government procurement.

IV. CHALLENGES AND LESSONS LEARNT

The auditors experienced varying degrees of challenges in carrying out the audits of public procurement. The common challenges faced by SAI of Brunei, Cambodia, Indonesia, Malaysia and Philippines are:

a. Financial Regulations and Budget Issues

- Financial regulations are not up-to-date and in line with the development in technology and procurement methods.
- SAI has limited budget in conducting the audit.

b. Auditing Capacity

- Lack of skills, experience or expertise in procurement activities, rules and regulations pertaining to procurement as well as

technical aspects of the contract works or project. As a result, the audit opinions or recommendations are affected.

- Absence of a guideline on auditing procurement contract and procurement activities for references which renders auditing a challenge especially for new auditors.
- Broad audit scope and the audit is not conducted in-depth
- Limited competent experts, laboratory facilities and technical tools
- Limited time to audit
- Auditing the public procurement process tend to be complex and complicated.
- Risks of life of auditors in areas of conflict

c. Cooperation from Auditee

- Difficulty in obtaining documentation relating to the procurement contract or poor documentation and improper record keeping which at times delay the audit work.
- Lack of co-operation from the audited agencies during the field work
- Information provided by Auditees (sometimes) is not accurate.
- The officers' in-charge of the project is not knowledgeable about the contracts/projects as there is no proper handover from the previous officers.

The lessons learnt from the audit on public procurement are:

- a. The team should review lessons learned on earlier procurement efforts during initial planning phases.

- b. There is a need to conduct a risk analysis in each phase of the procurement process to identify areas of concern or weakness.
- c. Technical team needs to perform the acceptance and validation of the delivered items that are defined in the planning.
- d. The agreement or contract is an important document to safeguard government interest and public money. Contracts are a huge part of project procurement, and picking up their types and language is a lesson learned. Getting stuck with the wrong type of contract can waste public money.

V. BEST PRACTICES

COUNTRIES	BEST PRACTICES
Indonesia	In order to equip its auditor with expertise in procurement, SAI of Indonesia has been providing trainings to certify its auditors as procurement certification expert until September 2012 is 1.187 auditors. The certification procurement expert is a certification from the National Public Procurement Agency.
Malaysia	<ul style="list-style-type: none"> • Involvement in the Special Committee on Government Procurement <p>The Government has set up a special Committee for the Improvement of Government Procurement to recommend measures to enhance the Government procurement system and procedures. NADM has been involved in this committee whose recommendations have subsequently been endorsed by the Federal Government with some of them reflected in the Government Transformation Programme report.</p> <ul style="list-style-type: none"> • Involvement in Value Review <p>In 2009, the government introduced value management, a systematic and innovative multi-disciplinary approach to achieve better value for money for projects valued</p>

at RM50 million and above. It maximizes the functional development from concept to completion of a project through comparison and audit of all decisions against a value system involving 3 phases of value assessment, value engineering and value review.

Phase 1 of the value assessment involves decision to invest on need of the project, project concept and scope (form of project) and outline design (major elements).

Phase 2 on value engineering is about making it “fit for purpose” – project design; design of project elements and removal of “gold plating”. Phase 3 is on value review which is the post implementation review on the lessons learned in term of improvement of project design & implementation, outcome and value for money. In 2013, SAI of Malaysia is given the responsibility for the last phase of the value review.

- **Monitoring through the Auditor General's Online Dashboard**

The Auditor General's Online Dashboard is developed to provide monitor the status of actions taken by the auditees on all audit report findings and the status are reported as “no action”, “action in process” and “action has been taken”.

Philippines

- **Implementation of the Integrated Results and Risk-based Audit (IRRBA) approach**

The Integrated Results And Risk-based Audit (IRRBA) aims to integrate the different audit services provided by COA, namely: Financial and Compliance Audit; Agency-based Performance Audit; and Fraud audit into a common audit approach. The IRRBA approach will provide for a consistent set of processes that will guide the COA auditors in performing COA's audit services.

	Citizen's Participatory Audit (CPA) The Citizen Participatory Audit is a medium for tapping into the power of the people as the ultimate stakeholders in public accountability. While It seeks to bring closer to the people a better understanding of what the Commission on Audit (COA) does thereby enhancing transparency, it also provides a mechanism for collectively answering day-to-day questions regarding government projects and operations and altogether realizing the prize for vigilance. Citizen Participatory Audit is therefore about shared goals/objectives. (Chairperson's Memorandum dated Nov. 5, 2012)
Thailand	In order to support principles of transparency and citizen engagement, OAG provides the database of audited entities in awarding of contract which all audited entities have to submit copy of contract to OAG. This database, known as Public Procurement Watch with OAG, will show contract information as contract value and name of contractor through http://procurement-oag.in.th/

VI. CONCLUSION AND WAY FORWARD

Procurement is critical for public entities. To be effective and efficient, controls for the procurement of goods, works and services should be properly designed and applied to ensure the procurement activities are performed in compliance with relevant legislations and related policies. The research showed that there are considerable room for entities to improve their procurement policies and practices. Notable areas for improvement included the principles of procurement, legal and ethical aspects of procurement, risk management and guidance on procurement planning and processes. For complex procurements, communication and coordination among those involved in the procurement are crucial.

The audits of public procurement play a vital role in assuring efficiency, effectiveness, accountability and good governance in the government administration. The ways forward to enhance the audit of public procurement are:

- The SAI should provide adequate resources and facilities for the proper discharge of public procurement audit;
- The need to develop the auditing guidelines on public procurement audit;
- Enhance the SAI audit capability with systematic and proper trainings using case studies and lessons learnt particularly on complex public procurement;
- The need for the auditors to keep abreast with the new methods of analysing the procurement activities and learn new auditing tools such as saving methodologies, forensic examination of processes or procurement data analysis;
- There is a need for the SAI to consider having its own laboratories to carry out the necessary testing in the public procurement audit;
- Cooperation between the external and internal auditors to assess the risks in procurements to ensure the money is well spent in public administration.

LIST OF TEAM MEMBERS

Team Members		Participating SAI
1.	Mr. Zulkipli Abdullah	Facilitators, Research Division, Malaysia
2.	Dr. Masiah Ahmad	
3.	Mr. Zaaba Zainuddin	Facilitators, SME of Public Procurement, Malaysia
4.	Dr. Nor Haiza Abdul Aziz@Juned	
5.	Ms. Norasmah Haji Ali	Brunei Darussalam
6.	Ms. Habibah Salleh	
7.	Ms. Azimah Haji Sulaiman	
8.	Mr. Hauv Dara	Cambodia
9.	Ms. Aurora Magdalena	Indonesia
10.	Ms. Latifah Dewi Tutiana	
11.	Mr. Sompathana Chindavong	Lao PDR
12.	Mr. Santisouk Phengthavongsa	
13.	Mr. Mohd Iskandar Amran	Malaysia
14.	Mr. Rajimin Mohd Yaakob	
15.	Ms. Siti Aisyah Ahmad Kamal	
16.	Ms. Khin La Pyae Aye	Myanmar
17.	Ms. Myat Phyu Pyar Kyi	
18.	Ms. Maria Cecilia G. Alonzo	Philippines
19.	Ms. Eleanor V. Echano	
20.	Mr. Chakkrit Kanchan	Thailand
21.	Mr. Somathut Nithithirut	

Country
Papers

CONTRACT PROCUREMENT AUDIT: SAI BRUNEI DARUSSALAM

1. BACKGROUND

1.1. Introduction

Public spending for procurement of goods and services have always been one of the areas being scrutinised by and of great concern to Jabatan Audit of Brunei Darussalam in view of the huge sums of money allocated for public expenditure and the high risks of mismanagement, fraud, embezzlement, wastage and extravagance in procurement practices. Furthermore, misspent public money in low quality goods and services can bring great risks to both the financial and operational integrity of an organisation.

In 2010, Jabatan Audit had stepped up its efforts in promoting good governance and public accountability in the procurement practices by auditing procurement contracts for Information and Communication Technology (ICT) and e-government projects, and increasing the number of audits on construction contracts.

1.2. Audit Mandate

The audits on procurement contracts conducted by Jabatan Audit of Brunei Darussalam are in accordance with the Constitution of Brunei Darussalam 1959 and provisions in the Audit Act which give the Auditor General wide discretionary powers in interpreting and applying his mandate, in deciding what to audit, how to audit and when to audit.

- ❑ **Articles 67 and 68 of the Constitution of Brunei Darussalam 1959**

Powers and Duties of Auditor General

Articles 67:

(1) The accounts of Brunei Darussalam shall, subject to this Constitution and any written law, be audited and reported upon by the Auditor General, who, with his subordinate staff, shall at all times be entitled to have access to all books, records, returns and reports relating to such accounts.

(2) The Auditor General shall perform such other duties and exercise such powers in relation to the accounts of Brunei Darussalam and to the accounts of other public authorities and bodies administering public funds as may be provided by any written law.

Reports of Auditor General

Article 68:

The Auditor General shall submit his reports to His Majesty the Sultan and Yang Di-Pertuan who may cause the reports to be laid before the Legislative Council.

- ❑ **Sections 5 and 6 from Chapter 152 of the Audit Act**

Powers and Duties of Auditor General

Section 5:

(1) The Auditor General shall examine, enquire into and audit the accounts of accounting officers.

(2) The Auditor General, if it is so provided by any written law, audit the account of any public body exercising powers vested in it by any written law and, if it is not so provided by any written law, may with the consent of His Majesty the Sultan and Yang Di-Pertuan in Council, if so requested, audit the accounts of

other public bodies, the fee for such audit in every case being a charge upon the funds of the public body concerned.

(4) Notwithstanding the provisions of any law relating to the accounts and audit of any public body exercising powers vested in it by any written law, His Majesty in Council may, if he is satisfied that the public interest so requires, direct that the accounts of such authority be audited by the Auditor General.”

Section 6:

(b) Whether issues and payments of moneys subject to his audit were made in accordance with proper authority and payments were properly chargeable and are supported by sufficient vouchers or proof of payment; and

(c) Whether the provisions of the Constitution and of the Constitution (Financial Procedure) Order and of any other written law relating to moneys or stores subject to his audit have been in all respects complied with.

1.3. Rules And Regulations On Procurement

Procurement practices within the Government of His Majesty are governed, amongst others, by the following rules and regulations:

- i. **Financial Regulations 1983** (applicable to Government Public Account)
 - Regulations on Authority for Expenditure, Control of Expenditure, Controls relating to Stores (for example, Purchase, Receipt and Control of Stores), Payments, Tenders and Write-Off (of Stores).
- ii. **Treasury's Circular No. 12/1987 dated 29 August 1987**
 - Instruction for tender price for goods to include Customs Tax.

- iii. **Public Work's Department Circular No. 07/1995 dated 10 April 1995**
 - Reminder for non-construction item in the project not to be included in any tender document or instruction to tenderers.
- iv. **Public Work's Department Circular No. 20/1993 dated 3 July 1993**
 - Notification regarding Extension of Time for delays in contract implementation.
- v. **State Tender Board's Letter No. LTN/4(46/1995) dated 4 January 1996**
 - Notifications on the period tenderers which have withdrawn after the tender closing date are banned from participating in future tenders.
- vi. **State Tender Board's Letter No. LTN/4 (39/1997) dated 15 November 1997**
 - Guideline on the banned period for any tenderer/contractor which has withdrawn or terminated a contract after acceptance of tender.
- vii. **Ministry of Finance's Circular No. 3/2004 dated 26 October 2004**
 - Instruction for all Ministries to set up a Mini Tender Board and notification on the revised amounts which can be approved by Heads of Departments, Mini Tender Board and State Tender Board.
- viii. **Prime Minister's Office Circular No. 6/2007 dated 17 April 2007**
 - Notification regarding powers and general guidelines for signing of contracts.

- ix. **Prime Minister's Office Letter Ref. BS/LTK/1/2007 dated 29 January 2008**
 - Notification on the format for submission of tender evaluation and recommendation.
- x. **Ministry of Finance's Notification Letter No. KKW/X/91 dated 28 August 2008**
 - Notification regarding an increase in the Threshold Amount for Tenders and Quotations.
- xi. **Prime Minister's Office Memorandum Ref. JPM/S/LTK/1/2008 dated 9 September 2008**
 - Notification regarding an increase in the Threshold Amount for Tenders which requires approval by the Mini Tender Board and the Threshold Amount for Quotation under the control of the Heads of Department as Controlling Officers.
- xiii. **Ministry of Finance's Circular No. 2/2009 dated 25 July 2009**
 - Guideline on standard tender fee to be charged and rates for Performance Bond to be charged to awarded contractors of Government tenders for services, construction or development, and procurement of goods.
- xiii. **E-Government National Centre's Notification Letter No. 03/2010 dated 12 April 2010**
 - Procedures for Procurement of Microsoft Software.
- xiv. **Prime Minister Office's Letter No. JPM/JPKE/SUT/DOIM:20 dated 30 May 2011**
 - Guideline for approval of Variation Order for projects under National Development Plan.

- xv. **Ministry of Finance's Circular No. No. 1/2014 dated 20 March 2014**
 - Notification regarding revised rates for Performance Bond to be charged to contractors.

1.4. Number and Frequency of Audit of Contract Procurement

The number of audits on contract procurement that have been conducted for the last three years by Jabatan Audit are stated in **Table 1** below:

Table 1: Number and Frequency of Procurement Contract Audits

Financial Year	Number of Audits
2011/2012	37
2012/2013	45
2013/2014	64
Total	146

[Source: Annual Corporate Plan]

1.5. Auditing Guidelines Used

In the performance of audits on procurement contracts, the audit teams refer to standard checklists which had been prepared internally. The audit criteria were developed based on the relevant regulations in the Financial Regulations 1983, prevailing Circulars and Notifications and leading/best practices. However, no formal guidelines have been prepared for these audits.

2. AUDIT OBJECTIVES

The main purpose of the audits on procurement contracts is to assess the appropriateness and effectiveness of the control framework in place to support contracting and procurement activities. The audits carried out by Jabatan Audit are compliance and value-for-money in nature.

The objectives for procurement contracts audits are to ascertain whether:

- i. Procurement activities are in accordance with the prevailing rules and regulations;
- ii. Contract works and project are implemented and managed in conformance with the terms and conditions in the contract, and other relevant rules and regulations;
- iii. Adequate control framework is in place over the procurement activities, the receipt and controls of goods, and utilisation of procured goods;
- iv. Payments for contract works have been done correctly and properly in accordance with rules and regulations, and supported by relevant documents; and
- v. Objectives of the project have been achieved.

3. AUDIT SCOPE AND METHODOLOGY

3.1. Audit Scope

The scope of procurement contract audit covers the Planning, Implementation and Monitoring phases and focuses on the following matters:

- Preparation of tender documents
- Tender evaluation, approval, award and acceptance
- Preparation and signing of contract document
- Implementation of contract works (adherence to the terms and conditions of the contract, preparation of preliminaries such as performance bond/banker's guarantee/insurance/contract specification)

- Management of the contract implementation (documentation, monitoring/supervision of work, workmanship, quality control)
- Variation/changes to contract specifications
- Application and approval for Extension of Time (EOT)
- Imposition of Liquidated Ascertained Damages (LAD) for delays in work progress
- Completion of work and delivery
- Payments for goods/works to contractors/suppliers and professional fee or Consultant

Audits on procurement contracts which are carried out by Jabatan Audit are usually newly signed contracts, contracts whereby the works are still under implementation and contracts which have been completed or have expired. However, priority is given to projects which cannot be completed according to the agreed plan or milestones, projects which have been delayed with a number of extensions of time requested, and contracts which have been terminated.

3.2. Audit Approach and Methodology

The approach and methodology practiced in the procurement contract audits follow the Government Auditing Standards 2002 which was prepared in line with International Auditing Standards. The tasks normally involve, but not limited to, the followings:

- Reviewing relevant documentation on the procurement processes and ascertaining whether proper procurement methods have been employed.
- Examining the contract files and documents, including payment vouchers.

- Obtaining and confirming information by interviewing key/relevant officers to obtain a further understanding on specific aspects of the procurement contract and contracting process.
- Performing physical checks or field observations and inspections of the entities office or project site (installations).
- Reviewing of test results, for example User Acceptance Test, acceptance Certificates for ICT projects; piling records, fresh and harden concrete tests including slump tests, etc for construction contracts.
- Conducting tests, for example on roof thickness.

3.3. Types of Procurement Contracts

Under Regulations 337 of the Financial Regulations 1983, heads of Departments are required by to provide a copy of every contract immediately after its signing has been concluded.

The main types of procurement contracts, of which copies have been provided to Jabatan Audit, can be categorised as below:

- **Goods contract** – Agreement made for purchase of equipment, stationery, supplies, etc.
- **Construction contract** – Agreement entered into for construction (new), demolition, repairs and maintenance or renovation of structure or works.
- **Consultancy service contract** – Agreement signed for preparation of design and detail engineering, supervision of construction work, consultancy for advisory services or activities.
- **Supply and installation contract** – Agreement signed for supply and installation of application system, portal, equipment, etc.

- **Management contract** – Agreement entered into for management works.
Due to limitation of skills and expertise of the auditors, the contracts most commonly audited are the goods contracts, construction contracts and supply and installation contracts.

4. AUDIT FINDINGS

The common audit issues observed during the conduct of procurement contract audits are as follows:

- i. Inadequate management control framework to support contracting and procurement activities and non-compliance to rules and regulations on procurement. For example,
 - Tender fee was collected by the consultant and the revenue from the tender fee was not accounted into Government's revenue.
 - Tender evaluation and recommendation were submitted late to the State Tender Board.
- ii. Lack of adequate and proper documentation relating to contracting activities and project management.
- iii. Inappropriate approvals for contract agreements. The officers signing the contracts on behalf of the Government did not have the authority to sign the contract amount.
- iv. The importance of Performance Bond/Banker's Guarantee was not given enough attention whereby some contracts did not have a provision for Performance Bond/Banker's Guarantee or the validity period of the Performance Bond/Banker's Guarantee did not cover the whole contract period.

v. Contract implementation was not well administered and monitored. Some examples are:

- A Project Manager was not appointed officially to manage and monitor the project.
- Whereby an officer was appointed as the Project Manager, the officer did not have the right knowledge and skills to manage and monitor the project. In addition, Terms of Reference for the person made in-charge of the project was not specified.
- There was no monitoring mechanism in place to ensure adherence to key terms and conditions in the contract. As such, some critical clauses in the contract were not complied with
- Negligence of the Consultants resulted in variations to the project which caused an increase to the contract sum. However, the Consultants were paid in full without any penalty
- Changes were made to the contract specifications without Variations Orders and there was no documentation to show application has been made for the changes or its approval
- Extension of Time (EOT) was not applied timely when it was identified that the project could not be completed according to the schedule and as such there was a delay in the approval for the EOT
- Final Accounts were not completed timely (within 10 weeks) from the date of the practical completion.

vi. Documentation relating to audited contracts were inadequate and not properly filed and kept.

vii. Liquidated Damages were not enforced or could not be enforced to the contractors for failing to complete the works/ services due to lack of contract/project supervision on the part of the Government agency or lack of project management documentation.

viii. Issues on payments to suppliers/contractors such as delays in payments, payments were made for goods and services which have not been delivered, claims were submitted without adequate supporting documents.

ix. Procured goods were not utilised as their intended purposes, and in the case of some audits on system development projects, some modules of the application system were not used.

x. Regulations relating to control of Stores were not complied with, for example, received goods were not inventoried/ recorded in a register.

5. RECOMMENDATIONS AND ACTIONS TAKEN BY AUDITEES

5.1. Recommendations

Recommendations are forwarded to the Auditees to add value to their management in the proper use of resources by suggesting remedial action for immediate action and future corrections, and to ensure that accountability exists at each and every stage of procurement and implementation of contract works and projects.

Generally, the findings made by Jabatan Audit have required some significant improvements and management controls over the procurement activities in the audited Government agencies. Some of the recommendations put forward to the management of the audited Government agencies are:

- i. To ensure compliance to the rules and regulations governing procurements in order to ensure procurement activities are proper and in order.
- ii. To strengthen control framework over the management of the contract such as:
 - Appointment of a Steering Committee and a Project Manager to monitor the progress of the work including development of clear Terms of References.
 - Effective monitoring of contract works to ensure works are carried out according to the agreed plan/milestones.
 - Contract documentation is maintained.
 - Clauses for Performance Bond and Liquidated Ascertained Damages are provided for in the contract agreement to ensure adequate measures were taken to avoid loss to Government.
- iii. To ensure controls exist over the purchase, supply, delivery and safe-keeping of goods and provisions in the Financial Regulations concerning Stores are adhered to, such as recording of the receipt of all goods/stores, issuance of goods and utilisation of goods as intended.
- iv. To maintain a payment ledger to control claims made by the contractor, especially for progress claims.
- v. To ensure adherence to terms and conditions, and specifications stated in the contract agreements such as clauses on provision for Banker's Guarantee, Insurance, tests and quality control reports.

- vi. To establish adequate internal controls in the administration of the contract to ensure:
 - Consultant services are monitored mainly on high risk matters such as financial matters.
 - Payments are made in accordance with the terms specified in the contract following relevant Financial Regulations.
 - Variation Order is prepared.
 - Data related to works/payments of works are recorded accurately.
- vii. To ensure changes in specification/design/scope of the contract were governed and controlled, examined thoroughly and ascertained from the design stage to minimise the changes that may adversely affect the control of project costs.
- viii. To apply the extension of time (if needed) as soon as the works cannot be completed on schedule.
- ix. To pay suppliers/contractors timely in accordance with the terms of payments stipulated in the contract and in compliance with the Financial Regulations 1983.

5.2. Actions Taken by Auditees

Generally, the Auditees are in agreement with Jabatan Audit and accepted Jabatan Audit's recommendations. Auditees usually take immediate and necessary actions to rectify and improve procurement activities and to ensure controls are in place. Examples of the actions taken by the Auditees are:

- i. Requesting new Performance Bonds from the Contractors for the period not covered by the previous Performance

Bonds, or renewing the Banker's Guarantee for the contract period not covered.

- ii. Immediately obtaining from the Contractors due deliverables which have not been supplied or delivered.
- iii. Preparing checklists to ensure the goods supplied/to be supplied conform with specifications defined in the contract.
- iv. Terminating the supply of goods from the Contractor for failure to supply.

However, for completed/expired contracts, some Audit's recommendations could not be immediately implemented, and therefore, would only be done in future (procurement) contracts or projects.

6. CHALLENGES AND LESSONS LEARNT

6.1. Challenges

More often than not, our auditors experience varying degrees of challenges in carrying out the audits of contract procurement. Some of these challenges are:

- Auditors lack the skills, experience or expertise in procurement activities, rules and regulations pertaining to procurement, some technical aspects of the contract works or project. As such, providing Audit opinions or recommendations were sometimes difficult.
- Absence of a guideline on auditing procurement contract and procurement activities for references which renders the auditing a challenge especially for new auditors.
- Difficulty in obtaining documentation relating to the procurement contract or activities from the Auditees due to poor documentation and improper record keeping which at times delay the audit work.

- Lack of co-operation from the audited agencies during the field work.
- Financial Regulations 1983 is not up-to-date and in line with the development in technology and procurement methods.
- Information provided by Auditees (sometimes) is not accurate.
- Officers' in-charge of the project was not knowledgeable about the contracts/projects as there was no proper handover from the previous officers.
- Some procurement environments tend to be complex.

These challenges have potential negative impacts on the performance of procurement audits. Elimination of these challenges will assist the auditors in ensuring the proper functioning of public procurement activities.

6.2. Lessons Learnt

To cope with the challenges faced during audits on procurement activities, arising from complex public procurement environments, it is essential for the auditors to keep themselves well informed about new methods of how to analyse procurement activities to ensure an effective procurement audit. Furthermore, difficulty in performing the audit highlights the need for a guideline for audits on procurement contracts, and enhancing audit capacity with more training on procurement contract audits.

7. WAY FORWARD

It is worth to note that audits of procurement contracts performed by Jabatan Audit have helped strengthened procurement practices within the Government agencies. Recognising that audits of procurement contracts play a vital role nowadays in assuring efficiency, effectiveness, accountability and good governance in Government

administration, Jabatan Audit strives to perform more effective audits of procurement activities and pledged to continuously increase its capacity-building activities through professional development, trainings, seminar, attachments and joined research projects.

It is hope that through research/joined project activities and seminars on contract procurement such as this Focus Group Meeting, knowledge, experiences and best practices can be shared and a Guideline on Contract Procurement Audit will materialise to be shared and used by all ASEAN audit institutions.

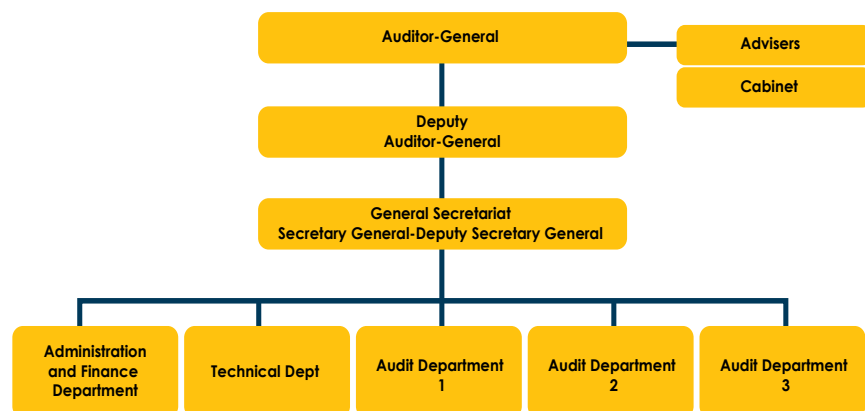
CONTRACT PROCUREMENT AUDIT: SAI CAMBODIA

1. INTRODUCTION

In 1996, the Asian Development Bank provided the Technical Assistance project for developing the draft of the Law on Audit. The Audit Law was approved by the National Assembly in March 2000. The National Audit Authority (NAA) commenced its operations at the beginning of 2002. Since its establishment, the National Audit Authority continued to obtain significant assistance from development partners for its operations and improved capacity building by the local and oversea professional training courses. NAA became a member of INTOSAI in December 2002, a member of ASOSAI in March 2004 and ASEANSAI in 2011.

The National Audit Authority (NAA) is governed by an Auditor-General and two Deputy Auditor-Generals, and assisted by the Secretariat-General. The structure of NAA consists of five departments as follows:

- Financial and Administrative Department
- Technical Department
- Audit Department-1
- Audit Department-2
- Audit Department-3



The Secretariat-General is responsible for planning, controlling, coordinating, and monitoring departments' works and preparing final audit reports; working out policies, objectives, goals and following up its implementations; making proposal to promote staff and determine the salaries, fringe benefits, payment and bonus for the officers and staffs; communicating and facilitating with national and international cooperation.

The Financial and Administrative Departments responsible for facilitating administrative affairs, personnel, protocols, security, supplies and salaries.

The Technical Department is responsible for making research and development and preparing legislation, litigation, library, computerizing and training the professional skills for NAA.

All the three Audit Departments are responsible for auditing on the ministries, institutions, agencies, authorities, national bank, state financial institutions, state and private sector-joint venture financial institutions, public enterprises, public establishments, municipal, provincial and local government offices, contractors, suppliers of goods and services to the Royal Government under contracts, and other organizations received financial assistance and concession from the Royal Government of Cambodia.

2. AUDIT MANDATE

National Audit Authority is independent in its operations and shall be responsible for external Audit of the institutions, that are subject to audit Law, include ministries, agencies, authorities of national treasury, and public financial institutions and public financial joint-ventures, public enterprises, municipalities, provincial and local government offices, contractors or suppliers of goods and services to the government under contracts, and other organizations that have received financial assistance from the government and loans, tax and duty exemptions and concessions granted by the government to non-profit organizations and private investment enterprises.

Under article 18 of the Law on Audit of the Kingdom of Cambodia which was promulgated by Royal KramNo.CS/RKM/0300/10, dated March 3rd 2000, the Auditor-General and the two Deputy Auditor-Generals shall be appointed by royal decree on the recommendation of the Royal Government and approved by majority votes of all members of the National Assembly. The Auditor-General and the Deputy Auditor-Generals shall be appointed for a term of five (5) years and may be reappointed for another five (5) year term only upon the completion of the first term.

The NAA shall have its own separate budget provided by the National Budget. The revenues and expenditures and asset management of the NAA shall be subject to the Law on Financial System.(Article 17).

According to Article 3 of Audit Law, NAA has rights to conduct the following types of audit such as audit on financial statements (FA), audit on management systems and operations of all institutions (CA), audit on evaluation, efficiency and effectiveness of operations (PA), audit on the management of credit project financed by external sources and Special request.

After the completion of each audit assignment, the Auditor-General shall prepare an audit report and send the draft of that audit report

to the head of the audited entity. If the head of the audited entity response in the written comments to the Auditor-General within twenty-eight (28) days after receiving the draft of report, the Auditor-General must consider those comments before preparing a final audit report. Otherwise, if the head of the audited entity has not replied within the time period specified above, the draft of audit report shall be considered valid. The final audit report shall be submitted to the National Assembly, the Senate, the Council of Ministers, the Ministry of Economy and Finance and other relevant ministries. The reports issued by the Auditor-General shall be deemed to be public documents.

3. AUDIT OBJECTIVES

Current practice by NAA, contract procurement audit is considered as compliance audit. For conducting contract procurement audit, NAA is not only concentrated on contract management but also focus on value for money whether goods received or constructions are fulfilled the demand of users and consume them in efficient and effective manner.

To conduct audit on contract procurement, audit team should follow audit law (Audit Mandate) and compliance audit guideline approved by AG on Nov. 2013. A number of criterion is considered in auditing contract procurement include Procurement Law 2012 and Implementing Rules and Regulations Governing Public Procurement, June 2010 and other relevant regulations issued by Government.

4. SCOPE AND METHODOLOGY OF AUDIT

According to Implementing Rules and Regulations Governing Public Procurement issued by Ministry of Economy and Finance, June 2010 classified public procurement in four types such as procurement on goods, procurement on construction, procurement on services and procurement on consultant.

Common types of audit on contract procurement have been done by NAA are procurement on goods/products and procurement on construction.

5. AUDIT FINDINGS

In conducting contract procurement, common audit findings have been detected as below:

- Advertising for bid in short period
- Approved Budget for the Contract is not realistic
- Deliver goods/services delay
- Received goods/products are not matched to specifications in contract
- Duplicate payment
- Split Purchase
- Collusive Bidding

6. RECOMMENDATIONS AND TAKEN BY AUDITEES

Audit recommendations have been proposed by NAA, audited entities have taken their improvement as following:

- Establishing Procurement Website-Advertising through Web
- Making budget adjustment among items/accounts in budget
- Taken action by management (Penalty, terminate contract)
- Return goods to suppliers
- Refund by Supplier/Contractor and strengthening its control

- Put collusive companies to blacklist of Government
- Issue additional regulations to fulfill the loophole of existing rules or regulations

7. CHALLENGES AND LESSONS LEARNT

In conducting contract procurement audit, NAA has faced a number of issues as follows:

- Less experiences and competence of auditors
- Outsourcing (Professional Experts) not an option as of now- limitation of budget
- A specific audit manual/guideline on contract procurement audit has not been developed
- Not fully cooperation from auditees

CONTRACT PROCUREMENT AUDIT: SAI INDONESIA

A. BACKGROUND

The Audit Board of Indonesia (BPK) is mandated by the article 23E of the 1945 Constitution of the State of the Republic of Indonesia to examine the management and accountability of state finance. The Law also stated that BPK is a free and independent institution and the result of any examination of state finance shall be submitted to the House of Representatives, the Regional Representative Council, and the Regional House of Representatives in line with their respective authority.

According to article 6 of the Law Number 15 Year 2006 of the Audit Board, the Audit Board of Indonesia (BPK) has mandate to conduct audit of state finance management and accountability undertaken by the central government, local government and other state institutions. The law also stated that BPK has 3 types of audit namely Financial Audit, Performance Audit, and Special Purpose Audit.

1. Financial Audit is an audit of government's financial statements. It's a mandatory audit for BPK to audit state/local government and other institution that manage state finance. Every year BPK has to audit around 600 entities, from central government, ministries/agencies to local governments¹.
2. Performance Audit is audit of government program, activities, or entities to assess whether the resources are being managed economically, efficient, and effectively.
3. Special Purpose Audit is an audit that is not financial audit and performance audit. The types of audit, among other things are

¹ Indonesia has 530 local governments (provinces, cities, and regencies), 34 ministries and 88 agencies.

compliance audit, investigative audit, internal control audit and other financial related audit.

Article 2 and 3 of the Law Number 15 Year 2004 of the Audit of State Financial Management and Accountability, state that BPK conduct an audit of state finance management and accountability. The law also states that the state finance covers all elements of state finance. Therefore, based on the mandate, BPK has the authority to audit any expenditures incurred to procure goods, services, or works.

Generally, BPK conducts audit of contract procurement within financial audit, performance audit, or special purpose audit. In those audits, auditors examine procurement contract according to its audit objectives.

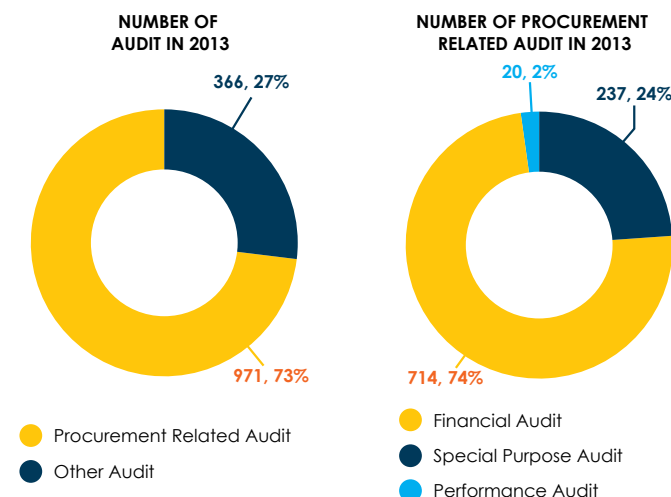
During 2013, BPK has completed around 1.337 audits which consist of 714 financial audits, 167 performance audits and 456 special purpose audit.

Table 1: Number of Procurement Related Audits in 2013

Types of Audit	Number of Audit in 2013	Procurement Related Audit
Financial Audit	714	714
Special Purpose Audit	456	237
Performance Audit	167	20
Total	1337	971

From the 1337 audits, 971 audits or 73% of it are procurement related audit and most of the procurement related audits are conducted during the financial statements audits. The numbers of the procurement related audit in 2013 based on the types of audit can be seen in the Chart 1 below.

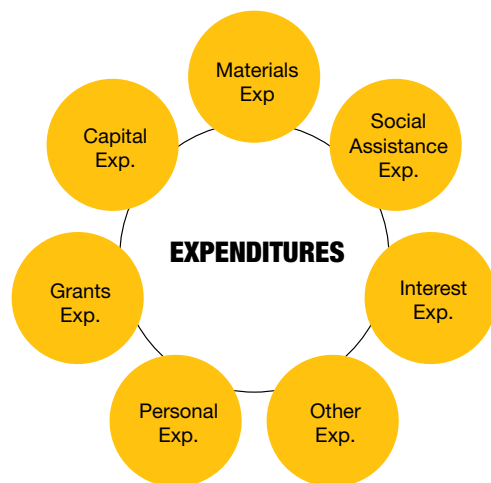
Chart 1: Number of Procurement Related Audits in 2013



In Financial Audit, one of the objectives is to assess the compliance of financial information presentation with the laws/regulations. One of the financial information assessed by the auditor is expenditures information. Auditor assesses the fairness of expenditures presentation by assessing the procurement expenditures.

In Indonesia government financial budget structure, expenditures consist of: 1) personnel expenditures (related to payroll), 2) material expenditures, 3) capital expenditures, 4) interest payment, 5) subsidy/grant expenditures, 6) social assistance expenditures, and 6) other expenditures. Procurement exist mostly in the expense of capital, material, and social assistance expenditures. Therefore, the procurement audit assesses the expenditures on procuring goods/services/works.

The picture below describes types of expenditures in Indonesia budget framework. The pink circles are expenditures that majority of it is to procure goods/services/works.



In special purpose audit, procurement audit is performed under several name of audit, such as audit of expenditures, audit of capital expenditures, audit of infrastructures, and audit of procurement. These special purpose audits are performed during the second semester each year. The objective of the audit is to provide conclusion on the subject matter (expenditures) whether it is comply with the regulations and to assess the economic, efficiency, and effectiveness aspect of the procurement.

Within the audit of expenditures/capital expenditures/infrastructure audit/audit of procurement, one of the procedures is examining the procurement contract. In fact, during the audit, the BPK auditors rely on the information in procurement contract and compare it with the implementation.

B. RULES AND REGULATIONS ON INDONESIA PROCUREMENT

Procurement funded using state finance must comply with the Presidential Decree Number 54 of 2010 on the Government Procurement and along its regulatory changes, which are:

1. Presidential Decree Number 35 of 2011 as the first amendment of Presidential Decrees Number 54 of 2010
2. Presidential Decree Number 70 of 2012 as the second amendment of Presidential Decrees Number 54 of 2010
3. Presidential Decree Number 172 of 2014 as the third amendment of Presidential Decrees Number 54 of 2010
4. Presidential Decree Number 4 of 2015 as the fourth amendment of Presidential Decrees Number 54 of 2010

Under this presidential decree, procurement is defined as an activity to procure conducted by ministries/institutions/local government units which it process started from needs planning until the end of the process that the goods/services is procured. The presidential decree divides procurement into four types, which are procurement of goods, works, consultant service, and other services.

Besides those presidential decrees, there are also several rules and regulations related to the procurement, which among others are:

1. Law number 17 year 2003 regarding State Finance
2. Law number 1 year 2004 regarding State Treasury
3. Law Number 32 Year 2004 regarding Local Government and its amendments
4. Government regulation related to Financial Management Guidelines
5. Government regulation Number 6 of 2008 regarding State/Local Assets management
6. Government Regulation Number 29 Year 2000 related to Work Procurement
7. Head of National Public Procurement Agency Circulation Number 1 of 2015 related to E-Tendering

8. Ministry of internal Affair Regulation Number 17 of 2007 regarding the Local Assets Management Guidelines
9. Other Circulation from the head of National Public Procurement Agency or Ministry of Work or other certain ministries.

C. AUDIT MANUAL AND GUIDELINES

BPK has a Standard of State Finance Audit (Standard Pemeriksaan Keuangan Negara) as a standard that should be followed by the auditor when auditing. BPK also has a Guideline on Audit Management which guides the auditor on the matter of planning and administrating the audit

BPK also has manuals to guide its auditor to conduct the procurement audit, which is called Procurement Audit Manual in 2009 and the Guidelines of Procurement Audit on Infrastructure (construction/works) in 2013.

D. AUDIT OBJECTIVES, SCOPE AND METHODOLOGY

The primary objective of procurement audit is to assess compliance of the procurement process, which started from needs planning to the usage of the goods/services/works procured, with the related regulation. The audit objectives include assessing the aspect of economic, efficiency and effectiveness of the procurement and the adequacy of internal control system of the procurement. Some examples of detailed audit objectives are:

1. The general procurement plan is prepared based on entity's factual needs and it has consider the quality, quantity, and time required to achieve the programs' objective.
2. Budget preparation has considers the general procurement plan.
3. The procurement process has comply with applicable law and regulation related to procurement.

4. The provider has fulfilled their obligation to hand over the work/good/services in required time and meet the quality and quantity standard.
5. The entity has utilised the good/service in line with the procurement objective.
6. Internal control system deficiencies and irregularities exist during procurement process.

Audit Methodology

The audit methodology that BPK performed on the procurement audit consisted of planning, executing, and reporting.

1. Audit Planning

The steps on performing audit planning are:

- i. Understanding the audit's objective and expectation
- ii. Understanding entity's procurement process
- iii. Assessing risk and internal control system
- iv. Determining audit criteria
- v. Preparing audit program and individual working program.

2. Audit Execution

The steps in audit execution are:

- i. Audit evidence collection and analysis Steps on collection the evidence are:
 - a. Document review
 - b. Interview
 - c. Physical observation
 - d. Analysing

- ii. Composing audit findings
 - a. Analyze the evidence testing result to identify the existence of a significant gap between conditions and criteria
 - b. Identify the impact of arising gap to know the cause and the effect of the gap, if there are significant gap between conditions and criteria
 - c. Compose the audit findings
- iii. Audit findings delivery

3. Audit Reporting

- i. Drafting the audit report
- ii. Obtained responses Action planned
- iii. Compose and submission the final audit report

Audit Focus

The decision on which procurement to be audited (audit focus) is usually based on the level of procurement value (amount of money), procurement venue, types of procurement complexity, level of risks, the impact of the project for community, or other considerations. However, based from the experience so far, procurement of works (infrastructure/construction) is a favorite for BPK auditor to audit. Here are some examples of the audit focus that are common in BPK:

a. Goods/Services Expenditure

Based on the preliminary audit, the substantive test on goods/services expenditure will be focused on:

1. Travel expenditures of the government officers
2. Maintenance expenditures
3. Services expenditures

b. Capital Expenditure

Based on the preliminary audit, the substantive test on capital expenditure will be focused on:

1. Procurement of transportation mode (vehicles)
2. Road construction
3. Building construction
4. Bridges construction

E. AUDIT FINDINGS IN PROCUREMENT AUDIT

BPK categorise its audit findings into 6 groups which are findings of:

1) state/local government loss, 2) potential loss, 3) revenue shortage, 4) administration, 5) inefficiency, and 6) ineffective. The explanations about those categories are as follows:

1. State/Local Government Loss

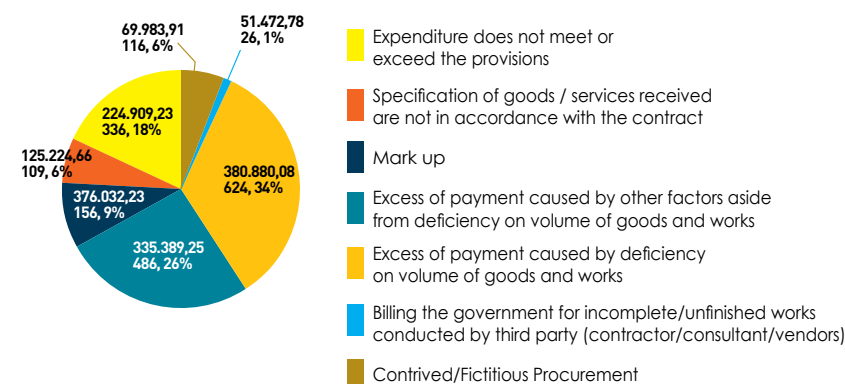
State/Local Government Loss is a condition where there is a real and definite loss or money, securities/bonds or goods caused by unlawful acts either intentionally or negligently. There are 8 types of findings related to state/local government losses, as follows:

- a. Fictitious Procurement
- b. Billing the government for incomplete works conducted by third party (contractors/consultants/vendors, etc.)
- c. Excess of payment caused by deficiency on goods and works volume
- d. Excess of payment caused by other factors aside from deficiency on volume of goods and works
- e. Price Mark up
- f. Specification of goods/services received are not in accordance with the contract
- g. Expenditures does not meet or exceed the provisions

In 2013, the number of audit findings categorised as state/local government financial loss finding are as follows:

Num.	State/Local Government Financial Loss Findings Related to Procurement	Number of Cases in 2013	Value in Million IDR
1	Contrived/Fictitious Procurement	116	69,983.91
2	Billing the government for incomplete/unfinished works conducted by third party (contractor/consultant/vendors)	26	51,472.78
3	Excess of payment caused by deficiency on volume of goods and works	624	380,880.08
4	Excess of payment caused by other factors aside from deficiency on volume of goods and works	486	335,389.25
5	Price Mark up	156	376,072.23
7	Specification of goods/services received are not in accordance with the contract	109	125,224.66
8	Expenditure does not meet or exceed the provisions	336	224,909.23
Total Financial Loss		1,853	1,563,932.14

State/Local Government Loss of Procurement Related Audit Findings



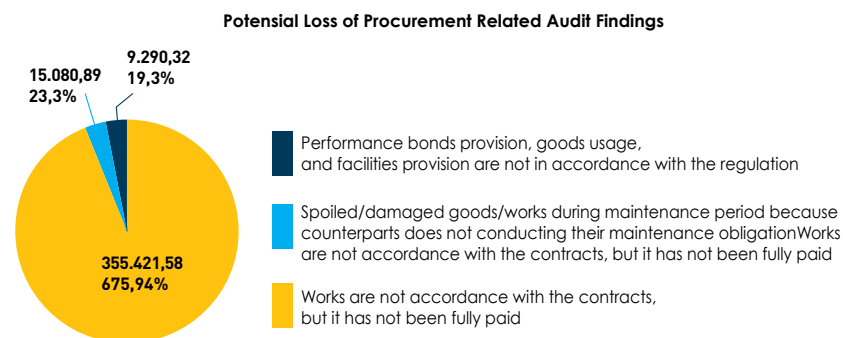
2. Potential Loss

Potential loss is a potential government loss that might be happen in the future caused by unlawful acts intentionally or negligently. There are 4 types of findings under this category that related to procurement, which are:

- Works are not in accordance with the contracts, but it has not been fully paid
- Spoiled/damaged goods/works during maintenance period because third party does not conducting their maintenance obligation
- Performance bonds provision, goods usage, and facilities provision are not in accordance with the regulation

In 2013, the number of audit findings categorised as potential loss finding are as follows:

Num.	Potential Loss Findings Related to Procurement	Number of cases in 2013	Value in million IDR
1	Works are not accordance with the contracts, but it has not been fully paid	675	355,420.58
2	Spoiled/damaged goods/works during maintenance period because counterparts does not conducting their maintenance obligation	23	15,080.89
3	Performance bonds provision, goods usage, and facilities provision are not in accordance with the regulation	19	9,290.32



3. Revenue Shortage

Revenue shortage is realised when State/Regional revenue or penalty for delay of work is not/was not determined or collected/

received/paid to the State/Regional Government. In 2013, there are **545** audit findings with value of **Rp197.973 million** that are categorised as revenue shortages finding.

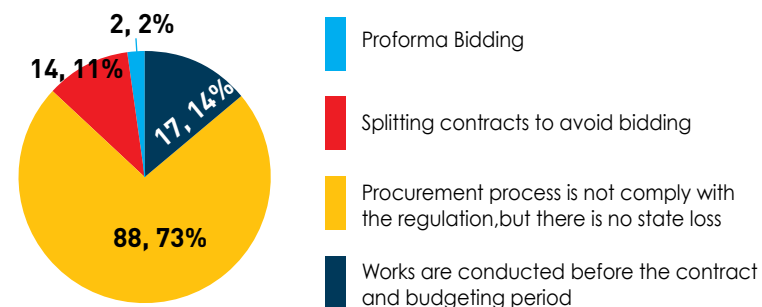
4. Administration

Administration findings reveal incompliance with laws but it does not cause the loss of government assets, no potential losses might occur in the future, no government revenue being unpaid, and no activities hold back. Examples of findings are as follows:

- Works performed before the contract agreed and budget period
- Procurement process is not comply with the regulation, but there is no state loss
- Contracts splitting to avoid bidding
- Proforma Bidding

In 2013, there are 121 cases of audit findings categorised as administration findings, as describes on the picture below:

Administration Finding of Procurement Related Audit



5. Inefficiency

Inefficiency exists when the government procures goods or performed works exceeds their needs. It also happens when the government squander on their procurement.

In 2013, there are **55** cases with values of **Rp101.064.08 million** categorised as inefficiency findings.

6. Ineffectiveness

Ineffectiveness exists when the procured works or goods are not/has not been used. In 2013, there are **53** cases of finding with values of **Rp480.035.79 million**.

F. RECOMMENDATIONS AND ACTIONS TAKEN BY THE AUDITEES

The recommendation for the audit findings generally are in form of:

1. Punishment for auditee's employee whose neglect their responsibility.
2. Payment by providers for the state/local government loss
3. Blacklisting the providers who were underperformed.
4. Fine for delayed works
5. Give an administrative sanctions to procurement officers who neglect the procurement related regulation and law when doing their tasks
6. Require the auditee to amend the contract if the contract is still on going
7. Require the auditee to terminate the contract and blacklist the provider for the procurement in the future

The auditee must follow up all the recommendation given by BPK because it is mandated by laws. If the action were not taken by the entities, it would affect their audit opinion.

For finding related to fraud/corruption, even though the third party has paid the state loss, the legal process will still continue. The finding will be reported by BPK to the law enforcement institution.

G. CHALLENGES OF PROCUREMENT AUDIT

Challenges on performing procurement audit are as follows:

1. Lack of Audit Scope Focus

The scope of audit was too wide, therefore the procedure of audit works were not comprehensive. Most of the time auditor only comparing the contract and as build drawings with the real implementation. A difference between the two, was considered as audit findings. Auditors seldom dig more information the reason behind the difference.

2. Lack of Technical Background

BPK's auditor is mostly an accountant, while most of the procurement of goods/works/services needs knowledge/information/understanding aside from accounting, such as engineering, information and technologies, etc. Therefore, most of the time, the results of BPK audits are being challenged by the third parties who argue on the BPK methods.

3. Limited Competent Expert and Laboratory Facilities

BPK has considering the use of experts to help the audit of BPK. However, the challenges are there are no databases of competence expert/laboratory facility. As for remote areas in Indonesia, auditors do not have the luxury of availability of consultants/expert/laboratory.

To overcome the challenges, BPK developed procurement audit guidelines that propose the auditor to audit on the process

of the procurement, from planning the budget until the goods/work/services are procured and the maintenance period.

In order to equip its auditors with expertise in procurement, BPK has been providing trainings related to procurement. Every year BPK's training center held around 15 trainings related to procurement. The trainings normally would covers trainings on technical matters (construction, infrastructure), audit methodology, and procurement process.

Besides those training, BPK provides around 4 times trainings per year that aimed to equip the auditor when they take the certification test as a procurement expert. This training taught about the procurement process according to the government regulation. The certification is given by the National Procurement Agency and valid for 3 years only. This training is in cooperation with the National Public Procurement Agency (LKPP), the body who will give the certification. The number of BPK auditor with procurement certification expert until September 2012 is 1.187 auditors. Total auditors in the Audit Board of Indonesia (BPK) are approximately 3,000, which mean almost 40% of auditors in BPK competent in procurement process.

CONTRACT PROCUREMENT AUDIT: SAI LAO PDR

1. Introduction to the SAO of Lao PDR

Regarding to international cooperation, SAO has rights to cooperate with other SAIs and International Organization to exchange experience, information technology, training to development audit capacity and techniques.

Recently SAO has cooperated with SAI of Vietnam and ASENSAI members, ASOSAI members, INTOSAI members and other International Organization.

2. The Roles of SAI Lao PDR

The roles to audit the organized manage and use the government funds includes 4 fields:

1. The audit of financial statements;
2. The compliance audit;
3. The performance audit;
4. The procurement audit.

Currently, the fields of audit of SAO mainly focused on procurment audit and compliance audit will expand scope of audit to cover the procurment audit.

The SAO is similar to SAI of other countries which has main responsibility in monitoring budget execution and utilization of public fund to assure effective public expenditure, systematic state budget, transparency by the government of the Lao PDR and donors.

Article 26 of the audit law clearly defines the entities being the subjects of the state audit are:

- The state organization, the Lao Front of National Edification, mass organizations and other organization which manage and use the public funds;
- The political-social organization which use the state budget;
- The organization under the supervision of the armed forces;
- The public investment projects financed by the local budget, loans, the government contribution funds or grants from domestic or foreign resources;
- State Owned Enterprises and joint-venture companies.

To ensure effective auditing, the SAO shall conform to the following principles:

- Independent in the conduct of audit and in the consideration of the audit findings;
- Compliance with laws;
- Authentic evidence;
- Transparency;
- Integrity.

3. With Regarding to Current Procurement Auditing Work

SAO audited state organizations particularly the Ministries importance for economic sector and those line ministries with high investment. Main objective of this audit to monitor budget execution to report to NA The coming futures will expand procurement audit .

On during previous, SAO has performed audits of procurement for 2 of the Ministry of Health and Ministry of Agriculture and Forestry, which is when the first test trial. After the draft Procurement Manual - college draft by the ADB experts

In addition, the chairman of the SAO agreed to offer SAO continue to check procure However, due to experience and learn test purchases are limited, so SAO can not procure parts organization all year.

4. The Coming Fiscal Year

SAO estimated to be examined experimentally procure 2 of the Ministry to the Handbook of experts ADB

Currently, SAO working very hard in training its staff to ready this important. In the same time, SAO attempts to learn experience from other SAs to improve it audit methodology and capacity. In addition we also audit procurment from ADB implemented in Lao.

Asides from auditing work, SAO also work closely with Economic, Planning and Finance Committee of National Assembly, State Inspection Authority in exchange of information and collaborate in the field of monitor and auditing to strengthen the anti-corruption scheme and assure transparency over the public.

CONTRACT PROCUREMENT AUDIT: SAI MALAYSIA

1. INTRODUCTION

Procurement is the acquisition of goods, services or works from an outside external source. It is favourable that the goods, services or works are appropriate and that they are procured at the best possible cost to meet the needs of the purchaser in terms of quality and quantity, time, and location. Corporations and public bodies often define processes intended to promote fair and open competition for their business while minimizing exposure to fraud and collusion.

Generally, Malaysia government procurement involves the process of buying or acquiring supplies, services and works in accordance with procedures prescribed by Treasury of Malaysia. Minister of Finance (MOF) is responsible to control and manage the public finance of Malaysia which includes Government Procurement (GP). MOF is also responsible to set the rules and procedures for GP to ensure the accountability and transparency. The rules and procedures for GP are laid in the Treasury Instructions (AP) and GP division at MOF is responsible to formulate GP policies, rules and procedures. The amendments of AP and preparing policies/procedures are explained by Treasury Circular (PP), Treasury Circular Letters (SPP), Treasury Contract Circular (STC) and Treasury Instruction Letters (SAP). All government agencies must comply with the current procurement rulings, except for decisions made by Treasury of Malaysia. Procurement are conducted by various Ministries and agencies based on 'Let managers manage' concept.

2. AUDIT MANDATE

The main mandate to carry out an audit is the Federal Constitution. The Federal Constitution, which is the pillar of the law, also

describes the appointment of the Auditor General. While, section 6(d) of the Audit Act 1957 requires the Auditor General to carry out audit to evaluate whether Government activities have been managed efficiently, economically and effectively in accordance with their stated objectives. Government procurements divided into three(3) categories: procurement of supplies, services and works. Procurement audit is performed in accordance with the Audit Act 1957, the Auditor General's Instruction, Federal Constitution, Financial Procedure Act 1957 (Revised 1972) [Act 61], Government Contract Act 1949(Revised 1973), Treasury Instruction (TI), SSP, STC, SAP and International Standards of Supreme Audit Institutions (ISSAI) respectively.

3. RULES AND REGULATION ON PROCUREMENT

A. PK1/2013 - Source of Power, GP Principles and Policies

1. Power to implement the GP is due of the Act and Regulations as follows:

a. Section 6 (1) Financial Procedure Act 1957 [Act 61]

An Act that was designed to control and manage the Malaysia public funds, and for the accounting and finance functions, including those related to collection, treatment and payment of public funds Federal and State - Land and the purchase, custody and disposal of public property and other matters connected therewith.

b. Section 5 Delegation of Powers Act 1956 [Act 358]

Legal writing authorize to the Minister to exercise any power or any duty. Subject to Section 11, by notification in the gazette, the Minister may delegate powers subject to such conditions and restrictions –what can be specified in the notification exercise of power -what it or undertake any duty to any person specified by name or office.

c. Government Contracts Act 1949 [Act 120]

This Act explained that all contracts made in Malaysia on behalf of the Government shall, if reduced to writing, made on behalf of the Government of Malaysia and may be signed by the Minister or by any public officer duly authorised in writing by the Minister.

d. Function of Minister Act 1969 [Act 2]**Order of Minister of the Federal Government (No.2) 2013 [PU (A) 184]**

Under the Function of Minister 1969 Act, the Order of the Minister of the Federal Government (No.2) 2013 [PU (A) 184], the Minister of Finance is responsible for:

- i. Formulate policies relating to the economic, fiscal, monetary and annual budget strategy of the country.
- ii. Implement the function-function and activities – activities relating to economic, financial, tax, budget, government procurement, housing loans, financial administration, companies and statutory bodies of the Minister of Finance Incorporated (MKD) and public sector financial management.

B. PK2/2013 - Government Procurement Method

This regulation explains about the important of planning the procurement. The Agency has to submit a list of procurement that will be invited for that year to their ministry respectively in December the preceding year. The Procurement list shall include the category of procurement (supplies/services), financial provisions and the date of the tender will be invited and expected to be presented at the meeting of the Procurement Board.

The Agency shall make plans for the procurement in order to control costs incurred and address problems in implementing the

procurement. Each agency is also not allowed to practice spending the allocation at the end of the year.

C. PK3/2013 - Procurement of Consulting Services

This circular describes the rules and regulation about the procurement of the consulting services that should be followed by the agency.

D. PK4/2013 - Contract Administration in Government Procurement

PK4/2013 is rules and regulation about the contract administrative in government procurement from the beginning of the process until the project or services is completed. Among the rules that stated in the PK4/2013 is contract administrative for the tender and quotation, procurement rules for government departments/agencies located outside Malaysia or abroad, variation price in the contract, procedure on the close of contracts account, guidelines on the role and responsibility of the officer, ruler in regulating the government development project, guidelines on the implementation of mutual termination (mutual termination) for contracts.

E. PK5/2013 - Electronic Procurement

This regulation explains on the electronic government procurement system known as eP-system. eP-system has been implemented from 1999 to enable government agencies to make procurement on supplies/services fully through online (end to-end) with suppliers. Among the topics of discussion that is described in this regulation is about the electronic procurement, agencies responsibilities, suppliers responsibilities, eP and payment process (factoring), flowchart of the eP process, procedures on the bidding process and the electronic central contract procedure. At this time, the modules under the system eP Supplier Registration are modular, Direct Purchase, Central Contract, Contract Ministry, Quotation, Tender and eBidding.

F. PK6/2013 - Financing Facility in Government Procurement

This regulation is related to the financing facility in government procurement that include factoring method, rules and process during the payment of factoring and other aspects related to factoring such as deed of assignment (security for contract payment method) and transfer of title deed between contractor and bank.

G. PK7/2013 - Exemption from Government Procurement Procedure

These circular describes on the aspects of exemptions given from the government procurement procedures that have been set. Among those described in this circular is the kind of procurement that is exempted, value limit and power to approve as well as conditions of the procurement. Among the types of procurement that possible to get the exemption from the government procurement procedures are procurement on services of training facility (package) and organizing of government official events/entertainments. It also explains what kind of exemptions allowed for procurement of organising government official events.

H. PK8/2013 - Noncompliance of Government Procurement

This section explains about the disciplinary action to be imposed for individuals, companies, consulting firms and enterprises registered with Ministry of Finance for offenses committed by companies and firms consultant. Among those described in this circular was types of errors made by the company and consulting firm, types of offenses that will be categorised as a violation of the terms of tender/contract and types of errors under the Criminal and Civil Liability. In addition, it is also explained types of actions/ disciplinary penalties that will be imposed subject to errors that were occurred.

I. Competition Act 2010

An Act to promote economic development by promoting and protecting the process of competition, thereby protecting the interests of consumers and to provide for matters connected therewith. The purpose of this legislation is to prohibit anti-competitive conduct and ensure that bidding process will be done more efficient, innovative and entrepreneurship, which promotes competitive prices, improvement in the quality of products and services and wider choices for consumers:

4. AUDIT OBJECTIVE

Generally, the purpose of this audit was to assess whether the works/ project has been planned and implemented in an orderly, efficient and prudent and achieve objectives. Specifically, the audit objectives are to assess whether the appropriateness and effectiveness of the management control framework in place to support contracting and procurement activities. Furthermore, assurance to the public on the effectiveness of governance, risk management and controls supporting the agencies procurement and contracting activities, including assessing:

- a. Oversight of contracting activities;
- b. Processes for soliciting bids and awarding contracts; and
- c. Management of contracts in accordance with agreed terms and conditions.

Besides that, the objective of audit also to ascertain the procurement policy that has been set by the Government is achieved. The procurement policies are:

- i. Promoting domestic industrial growth through the use of local industry/goods and services in the local sector;
- ii. Enhancing capacity of local industry through technology transfer;
- iii. Encourage Involvement of Bumiputera Entrepreneurs; and

- iv. Preserving and defending importance of Government procurement policy towards national objectives in facing challenges of globalization and liberalization.

The number and frequency of contract procurement audit conducted by National Audit Department of Malaysia (NADM) is between 15 to 18 audits per year for contract work. Whereas, auditing procurement of services and goods is between 5 and 9 studies per year.

5. SCOPE AND METHODOLOGY OF AUDITS

The scope of audit includes on the end to end contracting and procurement activities that has been selected for that year. There are three types of procurement; works supplies and services. During the process of auditing, the scope of public procurement audit focuses on the following matters:

- a. Tender document and files;
- b. Tender procedures (compliance) and adequacy of internal control;
- c. Tender evaluation, approval, award and acceptance;
- d. Preparation and signing of contract document;
- e. Enforcement and compliance/implementation of contracts;
- f. Management of contract implementation (documentation, monitoring, supervision of work, workmanship);
- g. Total amount loss or improper payment;
- h. Impact of the project;
- i. Bidders price are realistic and in conformance with market pricing;
- j. The specification of the product (especially IT product is current and up to date); and
- k. Evaluation on the usage and usefulness of the project/contract to the public/auditee.

In the planning stages, there are a number of criteria used as a basis for the selection of works/services/procurement supply to be audited

(by the ministry). The focus and the criteria are:

- a. Risk of the project/procurement;
- b. Total value of the project/procurement; and
- c. Status and impact of the project/procurement.

Specifically on the contract on works services, the contract chosen are works that are still under implementation/progress (75% and above completion) and works services that have been completed. The approach and methodology used for the audit followed the International Standards of Supreme Audit Institutions (ISSAI). Specifically, the auditing methodology is as follows:

- a. Reviewing files, records and documents relating to procurement.
- b. Hold interviews and discussions with respective officials.
- c. Go on visits and physical examination.
- d. Getting professional advice and recommendations, such as consulting advice.
- e. Prepare questionnaire on user of supplies, works or services acquired to obtain user's views and feedbacks.

6. AUDITING GUIDELINES

The guidelines that will be used as reference in performing the procurement audit are:

- a. Public Procurement Auditing Manual
- b. Contract Procurement Auditing Guideline
- c. ISSAI 4000 – Performance Auditing Guidelines

7. AUDIT FINDINGS

The weaknesses and irregularities in public procurement have been reported every year in the Auditor General Audit Report at all levels, Federal, State and Local Government as well as Statutory Bodies. Based on the observations and analysis on the audit report over the

period 2009 to 2011, the common issues on the works services procurement are as follows:

- About 19% of the issues raised is about the work done not in accordance with specifications or does not comply with standards and quality of construction. This issue has caused the project delay and increased the cost of the project.
- Contracts were not signed to safeguard the interest of the Government.
- Failure of contractors to issue bona-fide, insurance policies and guarantees.
- Works on maintenance or construction of buildings and other infrastructure were abandoned.
- Indents and local orders issued without quotation.
- Falsification of documents.
- Work done not in accordance with Local Order or Work Indent.
- Contractor facing difficulties/insolvent.
- Excessive time and cost overruns allowed without clear justifications.
- Projects not fit for purpose.
- Unutilised facilities upon completion.
- Beside the issues on contract work, there are also issues on the equipment supplied and services rendered not in accordance with specification.
- Equipment and facilities are not utilised/underutilised. For example; Ministry signed a contract amounting to RM137.78 million for the supply of course equipment and facilities

to the National Youth Skills Institute (IKBN) and as at 14 October, 2009 a total of RM100.67 million had been spent. Audit on the procurement of equipment from May to August 2009 revealed that all equipment was received by IKBN on schedule. Nevertheless there were several weaknesses as follows:

- i. Equipment valued at RM26.51 million received from September 2007 to May 2009 was yet to be used or fully utilised. The reasons, among others, were courses requiring the use of equipment have not started; equipment have not been commissioned and certain components needed for the equipment's to function were not supplied as they were not included in the contract.
 - ii. Certain equipment was placed in inappropriate places which could affect the quality and their life span.
 - iii. Maintenance schedules were not provided by contractors resulted in equipment not maintained regularly.
- Improper payment made for equipment not supplied, work done and services not rendered.
 - Full payments amounted to RM0.76 million were made although the furniture was not yet supplied and the payments were supported by falsified documents.
 - Local bidders were not invited to give their quotations and the procurement was not done through the Panel System of Central Contract.
 - Avoidance of quotation or tenders by breaking down value and scope of works.
 - Issues on supply services; price offered by contractor exceeded market price due to failure to carry out market price survey.

- Equipment supplied not utilised/optimally used.
- Quantity purchased in excess of needs.
- No testing and commissioning done prior to final payment.
- Unrealistic prices.

8. RECOMMENDATIONS AND ACTIONS TAKEN BY AUDITEES

In each report on the procurement, NADM has proposed recommendations for improvement as suggestion to demonstrate compliance to contract, opportunities to improve processes and improve the control environment. Among the recommendations are;

- Overview of the market price of such of goods/equipment should be carried out as a reference in determining the price of the procurements and also confirms the price offered by the supplier/ contractor (Ambrin 2011).
- Creating a unit/division specialised in procurement in all ministries and departments in accordance to the procurement value and size of the agency. For this purpose, the number and competency of the responsible officers must commensurate with the work load (Ambrin 2011).
- Develop a practice to reinforce consistent application of authorizations, approvals and segregation of duties in all procurement and contracting processes.
- Develop a practice to ensure appropriate documentation is retained in order to justify sole source selection and rationale for requiring temporary help or investigative services.
- To ensure Government gets value for money, it is recommended that the Ministry prepare a clear maintenance/repair scope of work to facilitate reference for officers at clinics and District/

Division Health Offices as instructions without a clear scope of work may result in ineffective monitoring.

9. CHALLENGES

Auditors face a unique range of challenges in procurement audits. Among the challenges are:

a. Lack of Staff Competence and Expertise

Auditors lack of knowledge and experience in procurement activities especially news auditors. Auditors need knowledge, experience and competence in auditing, technical aspect and have the ability to write the good reports.

b. Lack of Technical Background

Mostly the auditors are degree in accounting, while most of the contract procurement of works services/supply/IT products required knowledge in technical aspects. Thus, the guidance and advice from the technical department during the audit process is really help. However, the technical department staffs are limited due to increase in numbers of project audited.

c. Lack of Update Knowledge and Current Methodology in Auditing

Auditors required the continuous improvement through professional training in order to update the knowledge regarding the internal and external control on procurement. The updated information and adequate training can help auditors identify risks and be able to recommend appropriate improvements during the audit process.

- d. Other challenges are lack of cooperation from auditees, repeated issues and political influence or collusions during the public procurement process.
- e. The auditor also have time constraint in performing their duties.

10. HIGH IMPACT PROCUREMENT CASES AND LESSONS LEARNT

The weaknesses and irregularities in public procurement have been reported every year in the Auditor General Audit Report at all levels, Federal, State and Local Government as well as Statutory Bodies. Among the high impact procurement cases is the Port Klang Free Zone (PKFZ) issues that revealed the 'significant project costs, weak governance and weak management' have severely undermined the viability of the project (News Strait Times 2009). Weak governance and project management by the Port Klang Authority (PKA) were the two major factors that severely undermined the viability of the project. One example of weak governance stated in the report was when PKA failed to alert the cabinet about its inability to finance the project. The government was only alerted in 2007. According to the report by PricewaterhouseCoopers (PwC), PKA had realised since May 2004 that it would be unable to meet the cabinet's condition of self-financing. Compounding the issue, PKA entered other significant development agreements thereafter. Other weaknesses in governance included (NST 2009):

- Key agreements were not submitted to the board for approval. The agreements were signed under common seal without prior authorisation.
- Variation orders (approved changes in the specifications of a project) totaling RM62.5 million had been accepted to date by PKA management without referring to the board.

Drawing from experience in a variety of procurement projects including long duration, expensive efforts to relatively simple purchases for equipments, and commercial projects, the lessons learned and best can be utilised as guidance on contract procurement audit. These suggestions are based on experience in the field do not repeat but amplify recommendations or practices described in the PKFZ issues:

- a. Role and Responsibilities of Management and Board Members of Statutory Bodies must be clearly understood as spelt out in the Treasury Circular.
- b. Government Representatives on Board of Statutory Bodies must know their Fiduciary Duties.
- c. Board of Directors became spectator and the whole process of the project was handle by personality having good connection with the Minister.
- d. Steering Committee to monitor the project comprising of representative from the Treasury, Attorney General, Ministry of Transport and other governing agencies was not established.
- e. Internal Audit was ineffective and failed to play their role and responsibilities.
- f. Weak Corporate Governance and no of check and balance.
- g. Ministry in charge of Statutory Bodies must read the Audit Observations and take the necessary actions immediately.
- h. Must at all times get clearance from Treasury on matters involving finance and Attorney General on contractual matters.

Besides that, other lessons learnt that can be used as best practices are:

- The team should review lessons learned on earlier procurement efforts during initial planning phases. Besides that risks should be identified and managed.
- Procurement needs to be managed to assure the products meet the specifications and work statements. Plans need to address risk management.
- Technical team needs to perform the acceptance and validation of the delivered items that are defined in the planning.
- The agreement or the contracts is an importance document to safe guard government interest and public money. Contracts are a huge part of project procurement, and picking up their types and language is a lesson learned. Getting stuck with the wrong type of contract can waste of public money.

11. NADM CAPACITY BUILDING ON PUBLIC PROCUREMENT AUDIT

In order to develop and strengthen the skills, instincts, abilities, processes and resources that organizations and communities need to survive, adapt, and thrive in the fast-changing world, National Audit Department of Malaysia has drafted the capacity building plan of the auditor. Thus, through this capacity building, it will promote good public procurement for auditors to improve their knowledge and conduct, hereby ensuring that the public procurement get value for money. The capacity building plan can be classified to three objectives; short term, medium term and long term objectives.

a. Short-Term Objectives

- i. To sensitize all persons involved in the procurement process on procurement framework and how they are supposed to act under the framework;

- ii. Conduct specialised training courses (modular training) in subjects of relevance for professionals in procurement and disposal;
- iii. Improve participation in public procurement issues;
- iv. Develop a database and integrate all information related to procurement and disposal from other sources.

b. Medium Term Objectives

- i. Build procurement capacity in existing and potential training institutions through training of trainers programs and development of training modules, which can be used. The training of trainers to be conducted at different levels;
- ii. Develop a system for certification/examination of persons involved in the public procurement and disposal process;
- iii. Develop a quality assurance and certification system to ensure the quality and level of the training institute;
- iv. Put in place a Training of Trainers system that would enable carrying out training and capacity building for the stakeholders;.

c. Long Term Objectives

- i. Set training standards, competence levels, certification requirements and professional development paths for procurement professionals.
- ii. Undertake procurement research and surveys relevant to capacity building and development.
- iii. Training courses for each auditors.
- iv. Special training courses for advance training.

- v. Induction training for the new auditor.
- vi. Set up the programme together with donors to initiate the type of cooperation resulting in twinning programmes.

Basically, the planned training had covered the procurement and construction course.

a. Procurement Course

- i. General Information on Public Procurement
- ii. Policy, Principles and Objectives of Public Procurement
- iii. Integrity in Public Procurement
- iv. Procurement Category

b. Construction Course

- i. Procurement Process
- ii. Site Ownership/Development Order
- iii. Work on Site Monitoring
- iv. Roles & Responsibilities - Officer & Deputy Superintendent Officer
- v. Progress Payments
- vi. Changes in Work/Variation Order
- vii. Adjustments on Price Contracts
- viii. Letter of Intent, Letter of Acceptance
- ix. Bond & Insurance Works
- x. Advance Payment

- xi. Delays and Extension of Time
- xii. Non Completion/Certificate of Practical Completion
- xiii. Termination of Contract
- xiv. Liquidated and Ascertained Damages
- xv. Defect Liabilities Period
- xvi. Certificate of Making Good Defect
- xvii. Final Account

12. CONCLUSIONS

Significant effort has been made in implementing the public procurement audit that address the significant issues such as falsification of documents and equipment supplied not utilised/optimally used. NADM also has made some recommendations to the auditees with regards on the contracts and procurement issues. Several processes, procedures and improvement initiatives also have been proposed to ensure that the best practices have been followed. Nowadays, auditors face a unique range of challenges in procurement audits. Hence, to cope with the challenges arising from complex public procurement environments it is essential for auditors to keep themselves informed about auditing tools such as saving methodologies and exchange experience and practical knowledge about typical pitfalls and potential misunderstandings in the control of procurements.

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CONTRACT PROCUREMENT AUDIT: SAI MYANMAR

1. MANDATE OF THE SAI

The Auditor General of the Union Law (2010) is our SAI's mandate. The Auditor General Law of 1988 was repealed by the new Auditor General of the Union Law of 2010. In accordance with our new Auditor General Law, we adopted decentralized system of government and our office structure is changed from centralized system to decentralized system. Now, there are 14 Regional Auditor Generals for respective region and one Union Auditor General and one Deputy Auditor General for Union Level.

The audit work is performed in line with the Auditor General of the Union Law. The Union Auditor General Law (2010) was enacted in accord with section 443 of the Constitution of the Republic of the Union of Myanmar.

According to the Section 11(b) of the Union Auditor General Law, the Auditor General of the Union has to perform the duties of auditing the accounts of the receipt and payment of the Union, auditing whether or not measures have been taken to obtain fully the receipts contained in the Budget Estimates and auditing whether or not the sanctioned money contained in the Budget Estimates are utilised effectively. In addition, under the Section 11(d), the Auditor General of the Union has also to perform the inspecting of the work implementation of the Union Level Organizations, the Union Ministries, Government Departments, Government Organizations and Nay Pyi Taw Council.

The duties to conduct an audit for the Office of the Auditor General of the Union are as follows:

- a. The public expenditures are to be proposed in the Budget Estimates and to audit whether or not that expenditures are utilised actually under the Budget Estimates Framework and in accord with the Rules and Regulations.
- b. Revenue expenditures and capital expenditures are included in the public expenditures. We examine whether or not all expenditures are the actual rates, the actual measurement and quantity, the right calculation and the proper preparation of the accounts while they are utilised.
- c. We inspect the relevant vouchers, the calculation of Builder's Estimates, the prices approved by the Local Authority and the situation of the actual performance while making site visit regarding the operation as type of the expenditures.

2. TYPES OF AUDIT

SAI conducts the audit work by means of the following three types of audit;-Financial Audit, Performance Audit and Compliance Audit.

3. AUDITING GUIDELINES AND MANUAL

The following guidelines and manual are applied in our auditing work:

- Manual on Audit Documentation System (ADS)
- Audit Guidelines regarding the respective ministries

4. OBJECTIVES, SCOPE AND METHODOLOGY OF AUDIT

Our SAI has no specific Audit of Contract Procurement. The Auditor General of the Union Law does not define to submit the specific audit report concerning the procurement of each department.

However, our SAI carries out the audit on the accounts of receipt and payment of the Union including procurement according to duties and responsibilities conferred by the Auditor General of the Union Law. At our SAI, procurement audit is simultaneously being conducted while Financial Audit is being conducted.

For the purpose of procurement, the following points are focused in auditing and inspecting:

- To examine whether the tender terms and conditions are systematically followed or not
- To examine whether there is any lost part for state in tender contract
- The contract terms are rightly followed or not
- To examine whether the procurement system are compliance with laws, rules and regulations and procedures
- To examine whether there are efficient and effective manner in conducting the procurement
- To scrutinize whether there is in fulfillment of specific standards and norms
- To examine whether the management in receipt of materials is efficient and effective
- To examine whether they import materials/goods from their relatives
- To examine whether the state fund is loss and waste
- To examine whether received materials are loss and waste
- To ensure transparency in the procurement process

So, the objective of the audit regarding the procurement in our SAI tends to compliance and value for money.

5. AUDIT FINDINGS

When our SAI carries out audit on procurement of the audited entities in conjunction with the financial and compliance audit, the following facts are found:

- Unsound procurement practices;
- Lack to collect fine for being late of receiving material than specific date mentioned in the contract;
- Differences in prices with the prices list prescribed by the local authorities;
- Weakness in the completeness of the preparing the contract agreement (e.g. there is not mentioned the clause regarding the fine for being late of receiving material date in the contract); and
- Failure to comply with requirement of instructions for procurement.

The findings are put in the report of the accounts of receipt and payment of the Union. There is no specific report for procurement audit. The Auditor General of the Union submits the report on his performance and audit findings to the President of the Union and the Pyidaungsu Hluttaw (Parliament) simultaneously.

6. RECOMMENDATIONS AND ACTIONS TAKEN BY AUDITEES

In order to represent the auditor's questions in the course of audit and take necessary action on the audit findings, audit report is issued. After issuing audit report, it is necessary for the relevant entity to reply with regard to taking action within appropriate time limit.

During the audit implementation period, audit management discuss with heads of departments concerned and clarify the findings by making correction and on the immaterial/unintentional mistakes, unordered procedures and normal errors.

Moreover, our SAI conduct exit conference with the audited entities when the audit is completed. Auditors accept sufficient evidence for findings presented at exit conference for material audit findings. After conducting exit conference, our SAI conduct a meeting in the deputy minister level for the remaining material audit findings.

In the case of important findings such as fraud or misappropriation of cash or kinds that need immediate legal action, an interim report is issued thereon without waiting for the completion of entire audit as per audit programme and the issue of the final report. Furthermore, we send a management letter, which is a summary of significant findings, to higher authorities to take corrective action such as to recover the public money and property, and to discover the cause of the offence and to eliminate it not to occur again in the future.

Follow-up action is conducted timely. The OAG follows up the actions of the relevant Ministries on audit report, reminds to the relevant Ministries if they do not reply in time, and reviews continuously the replies whether the relevant Ministries actually perform their work as their replies. If some entities do not response the audit recommendations in a reasonable time we remind them again. After that we check upon these responses whether they have taken actions at the next audit.

7. CHALLENGES AND LESSONS LEARNT

- No specific guidelines and procedures with respect to audit of Contract Procurement
- Time limit to conduct specifically the audit of Contract Procurement
- Need to prescribe standardise rules and practices for procurement in the audit entities
- To strengthen the Capacity Building of our SAI staff to conduct effectively audit of Contract Procurement

CONTRACT PROCUREMENT AUDIT: SAI PHILIPPINES

I. MANDATE:

The Commission on Audit is the Supreme Audit Institution of the Republic of the Philippines whose powers, duties and functions are expressly stated in Article IX- D, of the 1987 Philippine Constitution. Under this Article, it is provided that the Commission on Audit shall have the following powers, duties and functions:

1. Examine, audit and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property owned or held in trust by, or pertaining to, the government.
2. Promulgate accounting and auditing rules and regulations including those for the prevention and disallowance of irregular, unnecessary, excessive, extravagant or unconscionable expenditures, or uses of government funds and properties.
3. Submit annual reports to the President and the Congress on the financial condition and operation of the government.
4. Recommend measures to improve the efficiency and effectiveness of government operations.
5. Keep the general accounts of government and preserve the vouchers and supporting papers pertaining thereto.
6. Decide any case brought before it within 60 days.
7. Perform such other duties and functions as may be provided by law.

Likewise, it is the State policy that “ All resources of the government shall be be managed, expended or utilised in accordance with law and regulations, and safeguarded against loss or wastage through illegal or improper disposition, with a view to ensuring efficiency, economy, and effectiveness in the operations of government. The responsibility to take care that such policy is faithfully adhered to rests directly with the chief or head of the government agency concerned. {Sec. 2 of Presidential Decree (PD) No. 1445 (Government Auditing Code of the Philippines)}

Moreover, it is also stated that “Fiscal responsibility shall, to the greatest extent, be shared by all those exercising authority over the financial affairs, transactions, and operations of the government agency”. [Section 4, P.D. No. 1445]

Because of this policy, it is the objective of the Commission “To determine whether or not the fiscal responsibility has been properly and effectively discharged” ([Section 25, P.D. No. 1445]

II. RULES AND REGULATIONS

1. Republic Act (R.A.) 9184 and its Implementing Rules and Regulations (IRR)

On January 10, 2003, Republic Act (R.A.) No. 9184, otherwise known as “The Government Procurement Reform Act” was passed by the Philippine Congress providing for the modernization, standardization and regulation of the procurement activities of the government.

This Act shall apply to the Procurement of Infrastructure Projects, Goods, and Consulting Services, regardless of source of funds, whether local or foreign, by all branches and instrumentalities of government, its departments, offices and agencies, including government-owned and/or -controlled corporations and local government units, subject to the provisions of Commonwealth Act No. 138. Any treaty or international or executive agreement affecting

the subject matter of this Act to which the Philippine government is a signatory shall be observed.

The IRR was promulgated pursuant to Section 75 of Republic Act No. (R.A.) 9184, for the purpose of prescribing the necessary rules and regulations for the modernization, standardization and regulation of the procurement activities of the Government of the Philippines (GOP).

The provisions of this IRR are in line with the commitment of the GOP to promote good governance and its effort to adhere to the principles of transparency, accountability, equity, efficiency, and economy in its procurement process. It is the policy of the GOP that procurement of infrastructure projects, goods and consulting services shall be competitive and transparent, and therefore shall go through public bidding, except as otherwise provided in the IRR.

- 2. Government Procurement Policy Board (GPPB) Resolutions, Circulars, Policy and Non-policy Memoranda, Re: Procurement of goods, infrastructure projects and consulting services,**
- 3. Administrative Orders issued by the Office of the President on the prohibition on the acquisition and use of luxury vehicles and guidelines on acquisition of motor vehicles**
- 4. Department Orders issued by the Department of Public Works and Highways, Re: Preparation of the Approved Budget for the Contract for Infrastructure Projects.**
- 5. COA Circular NO. 2012-003 dated October 29, 2012, Re: Updated Guidelines for the Prevention and Disallowance of Irregular, Unnecessary, Excessive, Extravagant and Unconscionable Expenditures.**

- 6. COA Circular No. 79-122 dated December 18, 1979, Re: Letter of Instructions No. 968 dated December 17, 1979 Ensuring that Contracts are Signed only when Supported by Available Funds**
- 7. COA CIR. 2012-001 dated June 14, 2012, Prescribing the Revised Guidelines and Documentary Requirements for Common Government Transactions**

Item 9.0 of the Circular lists down all the documentary requirements for each method of government procurement as follows:

- 9.1 Procurement through public bidding
 - 9.1.1 Infrastructure
 - 9.1.2 Consulting Services
 - 9.1.3 Goods
- 9.2 Procurement through Alternative Modes
- 9.3 For Procurement through Automatic Debit Arrangement (ADA) or direct payment

III. TYPES OF AUDIT AND AUDIT OBJECTIVES

The type of audit being conducted by COA is Integrated Results And Risk-Based Audit (IRRBA) which aims to integrate the different audit services provided, namely: Financial and Compliance Audit; Agency-based Performance Audit; and Fraud audit into a common audit approach. The IRRBA approach provides for a consistent set of processes that will guide the COA auditors in performing COA's audit services. The silo approach in the conduct of the audit will be addressed by introducing linkages of each type of audit and its results for a more effective service delivery.

Below is the brief description of the different services provided by COA, which the IRRBA intended to integrate.

- **Comprehensive Audit**

Financial Audit- This type of audit seeks to determine the accuracy of the data contained in the financial statements and reports of the agency including the reliable recording and reporting of historical financial information.

Compliance Audit- compliance audit seeks to ensure that public funds are obtained and used in accordance with law and propriety, as well as to determine whether the accountable agency has properly discharged its responsibilities in a legal and ethical manner.

Agency-based performance audit- This audit examines the economy, efficiency and effectiveness of an agency in using its financial resources.

- **Government-wide and Sectoral Performance Audit (GWSPA)**

This type of audit deals with determining the economy, efficiency and effectiveness of publicly funded projects, activities and programs among different agencies.

- **Fraud Audit**

The COA's results-based approach is used in assessing agency's performance indicators indicated in its Organisational Performance Indicator Framework (OPIF). OPIF is an expenditure management approach that links public resources towards results and accounts performance. This approach guides agencies to focus their efforts and public resources on core functions and on delivering high impact activities at reasonable costs and qualities.

The role of the COA comes in to assess the agency's performance through indicators that are initially set to account for accomplishments based on pre-determined targets and measures.

The following are the objectives in the audit of procurement of goods/works/consulting services:

1. Need Identification

- 1.1 To determine if the procurement at hand is necessary.
[COA Circular No. 2012-003 dated 29 Oct 2012]
- 1.2 To determine if the procurement at hand is extravagant.
[COA Circular No. 2012-003 dated 29 Oct 2012]
- 1.3 To determine if the procurement at hand is unconscionable.
[COA Circular No. 2012-003 dated 29 Oct 2012]

2. Procurement Process

- 2.1 To determine if the contract at hand is in order:
[COA Circular No. 2009-001 dated February 12, 2009;
COA Circular No. 2009-002 dated May 18, 2009]
- 2.1.1 To determine if the contract involving the expenditure of public funds has an appropriation, the unexpended balance of which, free of other obligations, is sufficient to cover the proposed expenditure.
[Section 88, PD 1445, "The Government Auditing Code of the Philippines"]

To determine if the proposed expenditure is for a purpose in compliance with the appropriation

law, other specific statutory authority and regulation

[COA Circular No. 2009-002 dated 18 May 2009]

- 2.1.2 To determine if the expenditure is not illegal (not in violation of a law); not in violation of RA No. 9184, otherwise known as the Government Procurement Reform Act [COA Circular No. 2012-003 dated 29 Oct 2012]

- 2.1.3 To determine if the expenditure is not irregular; not in violation of the Implementing Rules and Regulations of RA No. 9184 and other issuances of the Government Procurement Policy Board (GPPB)

“Irregular expenditure” – an expenditure incurred without adhering to established rules, regulations and procedural guidelines, policies, principles or practices that have gained recognition in laws; incurred if funds are discharged without conforming with prescribed usages and rules of discipline; there is no observance of an established pattern, course, mode of action, behavior or conduct in the incurrence of the expenditure; the transaction is conducted in a manner that deviates or departs from, or which does not comply with standards set; a transaction which fails to follow or violates appropriate rules of procedure)

[COA Circular No. 2012-003 dated 29 Oct 2012]

- 2.1.4 To determine if the contract provisions are consistent with the requirements of the

procurement and not disadvantageous to the Government; and call the attention of the auditees management regarding defects and deficiencies noted in the contract and suggest such corrective measures as are appropriate and warranted; including notification if the defect or deficiency is not susceptible of rectifications and renders the contract totally or partially void.

[COA Circular No. 2009-001 dated February 12, 2009; Anti-Graft and Corrupt Practices RA 3019 as amended by RA 3047, PD 77 and BP Blg 195]

- 2.1.5 To determine if the transaction is approved by the proper authority and duly supported by authentic underlying evidence.

[COA Memorandum No. 2009-001 dated May 18, 2009; Executive Order No. 182, s. 1987; RA. No. 9184 and its IRR as amended; issuances of the Government Procurement Policy Board]

- 2.2 To determine if the expenditure is not excessive OR if the contract cost is not excessive
 (“Excessive” - incurred at an immoderate quantity and/or exorbitant price; exceeds what is usual or proper; unreasonably high and beyond just measure or amount; in excess of reasonable limits)

[COA Circular No. 2012-003 dated 29 Oct 2012]

Technical Evaluation Objectives:

Original contract:

- To determine if the computations/estimates of the Approved Budget for the Contract (ABC) comply with the rules and regulations/policies/standards of the procuring entity and/or relevant authority

- To determine if the ABC is not excessive
- To determine if the construction period is not excessive
- To determine if the contract cost is not excessive
- To determine if the contract duration is not excessive

3. Price Adjustment

- 3.1 To verify compliance with the requirements for the grant of price adjustment, including the accuracy of the amount granted
[RA. No. 9184 and its IRR as amended; issuances of the Government Procurement Policy Board]

Technical Evaluation Objective:

- To determine if technical requirements of laws, rules and regulations in the grant of the Price Adjustment have been complied with
- To determine the accuracy of the computations for the price adjustment.

4. Advance Payment

- 4.1 To verify compliance with the requirements for the grant of advance payment, including the accuracy of the amount granted.

[RA. No. 9184 and its IRR as amended; issuances of the Government Procurement Policy Board]

5. Change Order/Extra Work Order/Supplemental Agreement

- 5.1 To validate the necessity of the Change Order/Extra Work Order/Supplemental Agreement
[COA Circular No. 2012-003 dated 29 Oct 2012]

Technical Evaluation Objectives:

- To determine if the site conditions cited to justify the Change Order/Extra Work Order/Supplemental Agreement exist and are valid bases for the issuance of the Change Order/Extra Work Order/Supplemental Agreement

- 5.2 To determine if the requirements of laws, rules and regulations on the issuance of the Change Order/Extra Work Order/Supplemental Agreement have been complied with
[COA Circular No. 2012-003 dated 29 Oct 2012; RA 9184 and its IRR]

- 5.3 To determine if the expenditure is not excessive or if the cost of the Change Order/Extra Work Order/Supplemental Agreement is not excessive
("Excessive" - incurred at an immoderate quantity and/or exorbitant price; exceeds what is usual or proper; unreasonably high and beyond just measure or amount; in excess of reasonable limits) [COA Circular No. 2012-003 dated 29 Oct 2012]

Technical Evaluation Objectives:

- To determine if the cost of the variation in work is not excessive; and the deductive cost for the deletion in work is correct.
- To determine if the additional time for the variation in work is not excessive; and the deductive time for the deletion in work is correct.

6. Suspension Order and Resumption Order

- 6.1 To validate the necessity of the Suspension
[COA Circular No. 2012-003 dated 29 Oct 2012]
Technical Evaluation Objective:
- To determine if the site conditions cited to justify the Suspension exist and are valid bases for the issuance of the Suspension Order.
- 6.2 To determine if the requirements of laws, rules and regulations on suspensions have been complied with
[COA Circular No. 2012-003 dated 29 Oct 2012; RA 9184 and its IRR]
- 6.3 To determine if the suspension time granted is not excessive
("Excessive" - incurred at an immoderate quantity and/or exorbitant price; exceeds what is usual or proper; unreasonably high and beyond just measure or amount; in excess of reasonable limits)
[COA Circular No. 2012-003 dated 29 Oct 2012]

Technical Evaluation Objective:

- To determine if the suspension time granted is not excessive.

7. Time Extension

- 7.1 To validate the necessity of the time extension
[COA Circular No. 2012-003 dated 29 Oct 2012]

Technical Evaluation Objective:

- To determine if the site condition/s cited to justify the time extension exist and are valid bases for

the Time Extension, considering the time provided for said conditions in the Instructions to Bidders/ procurement documents.

- 7.2 To determine if the requirements of laws, rules and regulations on time extensions have been complied with
[COA Circular No. 2012-003 dated 29 Oct 2012; RA 9184 and its IRR]
- 7.3 To determine if the time extension granted is not excessive
("Excessive" - incurred at an immoderate quantity and/or exorbitant price; exceeds what is usual or proper; unreasonably high and beyond just measure or amount; in excess of reasonable limits)
[COA Circular No. 2012-003 dated 29 Oct 2012]

Technical Evaluation Objective:

- To determine if the time extension granted is not excessive.

8. Payment for accomplishments

- 8.1 To verify the existence of the asset/accomplishment[PD 1445]
- 8.2 To verify compliance of project accomplishments with the plans, specifications and other contract requirements.
- 8.3 To verify the accuracy of value of the accomplishment

Technical Objectives for 8.1; 8.2; and 8.3:

- To determine if the project accomplishment as reported and paid for:

- Exists;
- Is not excessive;
- Is compliant with the approved plans and specifications and other project/contract requirements and the quality of workmanship is acceptable;
- Is accurately computed, including the deductions for liquidated damages, if any.
- To determine if the project status is in accordance with the schedule.

9. Price Escalation Payment

9.1 To verify compliance of the grant of price escalation with RA 9184 and its IRR and other relevant GPPB issuances

9.2 To verify the accuracy of the price escalation amount

Technical Evaluation Objectives for 9.1 and 9.2

- To verify compliance of the computations of price escalation granted with RA 9184 and its IRR and other relevant GPPB issuances
- To verify the accuracy of the computations of the price escalation

IV. SCOPE AND METHODOLOGY OF AUDIT

The scope of audit is the procurement activities and transactions subject to audit during the calendar year. The methodology follows the IRRBA, and the phases are the following:

1. Audit Planning & Risk Assessment

- Prepare the Agency Audit Workstep
- Understand the Agency Operations

- Assess Agency Level Controls
- Fraud Risk Assessment
- Understand the Critical Process
- Conduct Risk Assessment & Planning

2. Execution

- Design Audit Test
- Execute Audit Test
- Evaluate Audit Results
- Communicate Audit Results

3. Conclusion & Reporting

- Summarize Audit Results
- Prepare Management Letter
- Perform Overall Audit Review
- Wrap-up & Archive the Engagement
- Follow-up Agency Action Plan

4. Monitor Quality Control & Audit Services

- Conduct Quality Assurance Review

V. AUDITING GUIDELINES

1. Guide in the Audit of Procurement

The Commission on Audit, in performing its mandate, formulated a Guide in the Audit of Procurement. As such, COA Memorandum No. 2010-003, dated January 14, 2010 was issued to adopt the “Guide in the Audit of Procurement” as a reference material for audit, policy study and for other purposes.

The Guide shall be used as a reference material in the “evaluation of compliance with the requirements of applicable laws, rules and

regulations” which is a component of “auditoria review”; review of “bidding procedures, necessity and validity of other alternative mode of procurement and manner of award to the winning bidder/contractor and such other relevant requirement provided in RA 9184 and its implementing rules and regulations.

2. Revised Manual on Inspection:

COA Memorandum No. 98-023 dated August 5, 1998, prescribes the Revised Manual on Inspection which incorporates procedures in the inspection of deliveries of Supply and Materials, Repairs, and Infrastructure Projects. Basically, the focal points of inspection are quality and quantity. Quantity hinges not only on the exact amount or number of a particular delivery but also on the validation of a reported project accomplishment. Quality delves on more complex and in-depth data about the product, the project or the repair of equipment. This is where the Technical Audit Specialist play a crucial role in providing the state auditors with independent advice on compliance with technical specifications.

3. Training Handbook on Property & Supply Management System

This Handbook was developed to make available training materials for the seminar on Property and Supply Management for the auditors and the personnel of the audited agency. It can also serve as reference materials for all those involved in property and supply management. It is important that they have a common understanding of the systems, procedures, operational policies and the laws and rules that must be complied with to enable them to do their work efficiently and effectively.

The Handbook covers the following chapters:

Chapter 1. Rules on Internal Control for Property/Supplies
Chapter 2. Procurement

Chapter 3. Other Modes of Acquiring Government Property
Chapter 4. Forecasting, Ordering, Delivery, Inspection, Acceptance and Payment
Chapter 5. Custodianship
Chapter 6. Issuance and Utilisation
Chapter 7. Disposal

VI. COMMON AUDIT FINDINGS

The following are the audit findings related to government procurement (Appendix 1 of Guide in the Audit of Procurement):

1. Projects have been left unused

Warning Signs:

- No Bids and Awards Committee (BAC)
- The BAC has no Technical Working Group (TWG)
- The BAC has no Secretariat or inexperienced BAC Secretariat
- No feasibility study was conducted
- The project was not included in the Annual Procurement Plan (APP)
- Right of Way is not available

2. Claims and payments made on early accomplishments were bloated; the contractor eventually abandoned the project

3. Unnecessary work items

4. Incorrect deductions of retention from progress payments due to failure to validate conformance with project schedule

5. Advance payment not recouped or not fully recouped

6. Ghost projects**7. Defective projects****8. Unauthorised honoraria of BAC members, TWG and Secretariat****9. Excess construction materials not turned over to the Government****10. Scrap materials/salvaged construction materials not turned over to the Government****11. Sub-standard or poor quality work**

Causes:

- Approved Budget for the Contract (ABC) not realistic
- The BAC failed to conduct proper post-qualification

12. Excessive project cost

Causes:

- Inadequate detailed engineering activities
- Overestimated quantities of work items
- Overestimated quantities of materials
- Overestimated construction duration
- Excessive prices of materials
- Excessive labor and/or equipment rental rates
- Unnecessary variation orders
- Price escalation granted not in accordance with the prescribed formula

13. Delayed project completion

Causes:

- Right of way acquisition not considered
- Bidding documents were not issued according to the required schedule
- Pre-procurement conference was not conducted even if required
- Criteria for eligibility screening and bid evaluation were not clearly defined
- Bidding process exceeded the maximum period allowed by the law or regulations
- Delays in the award, contract signing, contract approval and/or issuance of Notice to Proceed
- Time extensions granted not justified
- Issuance of variations orders
- Suspension orders issued not justified
- Delayed resumption of work
- Peace and order situation
- Non-verification of conformance with specifications
- Non-performance of the activities required when slippage occur (calibrated action on project slippage)
- Contractor not qualified (technically and financially of completing the project)

14. Limited competition

Causes:

- Non-posting of the Invitation to Apply for Eligibility and to Bid (IAEB) in a newspaper of general nationwide circulation
- Inadequate posting of the IAEB
- Limited issuance of eligibility forms (only to favored/selected contractors)

15. Improper post-qualification**16. Irregularities in the bidding process**

- Eligibility envelopes received beyond the deadline set for submission
- Observers were not invited
- Improper submissions by bidders
- Violation of the “no-contact” policy
- Non-validation of compliance with the Disclosure provision
- A repeat order made on a previous contract resulting from a rigged/simulated bidding
- The prices in the repeat order are higher than the prevailing market price, which is lower than the price in the original contract
- A repeat order was made exceeding the quantity in the original order
- A repeat order was made beyond the 6-month requirement (from the date of the Notice to Proceed arising from the original contract)
- Quotations were submitted by fictitious suppliers

17. Non-validation of the safety and health program submitted by the bidder (DOLE DO No. 13)**18. Project accomplishments were not in accordance with the specifications (Cause: absence of tests)****19. Contractor failed to correct defects during the defects liability period****20. Non-imposition of liquidated damages despite delays in project completion****21. Splitting of contracts****22. Failure to avail volume discounts****23. Delivery of a product different from the one specified in the Purchase Order or contract****24. Short/under delivery****VII. RECOMMENDATIONS AND ACTION TAKEN**

For the observations noted in audit, the recommendations made by the auditors were generally for the auditees to follow strictly the provisions of the procurement law (RA 9184), its IRR and its Annexes from procurement planning until contract implementation.

In case of overpayment for undelivered items, short deliveries and payment in excess of the reported accomplishments, the auditors recommended for the refund of the amount paid. In instances where the contractor/supplier was not yet fully paid at the time the audit findings were communicated to the agency, the amount corresponding to the deficiency were deducted from the supplier's/contractor's claim.

Attendance to trainings and seminars on the procurement law by those involved in government procurement was likewise recommended for observations that arose from insufficiency of knowledge of the law.

It was also recommended that additional safeguards should be installed/observed to avoid connivance and collusion between the bidders and government procurement officials.

Actions Taken

The auditees would usually follow the recommendations offered by the auditors. In case of disagreements, the management officials would justify their actions by giving additional comments and evidences that would support their stand. In case they felt aggrieved

of any audit disallowance issued by the auditors, the management would file an appeal to overturn the audit disallowance to the COA Cluster/Regional Director.

VIII. CHALLENGES AND LESSONS LEARNT

- Lack of technical personnel to conduct technical evaluations.
- Lack of resources such as technical tools, technical expertise (for highly complex deliveries such as spare parts of aircrafts, naval vessels, etc.), no laboratory or accredited laboratory for material testing for COA; no available updated technical evaluation guide/manual.
- Risks to life of auditors in areas of conflict.
- The amounts disallowed in audit are not immediately refunded. Finality of the audit decision takes a long process as the persons liable has the right to appeal the decisions of the Auditor up to the Supreme Court.
- In order to implement audit findings while the project and or delivery is still on-going, review of contract should be undertaken at the earliest possible time.

IX. BEST PRACTICES

1. Implementation of the Integrated Results and Risk-based Audit (IRRBA) approach

The Integrated Results And Risk-based Audit (IRRBA) aims to integrate the different audit services provided by COA, namely: Financial and Compliance Audit; Agency-based Performance Audit; and Fraud audit into a common audit approach. The IRRBA approach will provide for a consistent set of processes that will guide the COA auditors in performing COA's audit services. The silo approach in the conduct of the audit will be addressed by introducing linkages of each type of audit and its results for a more effective service delivery.

2. Citizen's Participatory Audit (CPA)

The Citizen Participatory Audit is a medium for tapping into the power of the people as the ultimate stakeholders in public accountability. While It seeks to bring closer to the people a better understanding of what the Commission on Audit (COA) does thereby enhancing transparency, it also provides a mechanism for collectively answering day-to-day questions regarding government projects and operations and altogether realizing the prize for vigilance. Citizen Participatory Audit is therefore about shared goals/objectives. (Chairperson's Memorandum dated Nov. 5, 2012)

3. Capacity Building being conducted for Government Procurement Officers and Employees by Government Procurement Policy Board

Section 63 of the IRR of Republic Act No. 9184 deals with the Organization and Functions of the Government Procurement Policy Board (GPPB) and Sec. 63.1(e) thereof states, thus:

“(e) to establish a sustainable training program to develop the capacity of Government procurement officers and employees, and to ensure the conduct of regular procurement training programs by and for Procuring entities; and”

Corollary to the above provision, the GPPB created its Technical Support Office, and among its functions are as follows:

- i. Developments/implements regular nationwide procurement training programs for procurement officials/personnel;
- ii. Manages the implementation of the Professionalisation Program for Public Procurement Practitioners;
- iii. Establishes/Implements a procurement course and certificate program;

- iv. Monitors/Coordinates trainings conducted by authorised trainers nationwide;
- v. Prepares/Conducts training need assessment for procurement officials/personnel;
- vi. Conducts survey on the effectiveness of training programs;
- vii. Updates training modules/tools;
- viii. Provides resource speaker/lecturer on procurement law;
- ix. Assists procuring entities through conduct of training programs, improve their compliance on RA 9184 and its IRR; and
- x. Maintains database of trained agencies and procurement officials.

In line with this, the GPPB conducts trainer's training for procurement and maintains a pool of recognised/accredited trainers all over the country. A continuing education is provided to these recognised trainers through trainings and workshops.

4. Procurement Service (PS) and Philippine Government Electronic Procurement System (PhilGEPS)

On July 28, 2011, His Excellency Benigno S. Aquino, President of the Republic of the Philippines, issued Administrative Order No. 17 which reiterates the policy that procurement of government supplies, materials, equipment shall be done in the most transparent and competitive manner by purchasing from legally, technically, and financially capable sources in economic lot sizes by observing cost efficient specifications, and by making prompt payment.

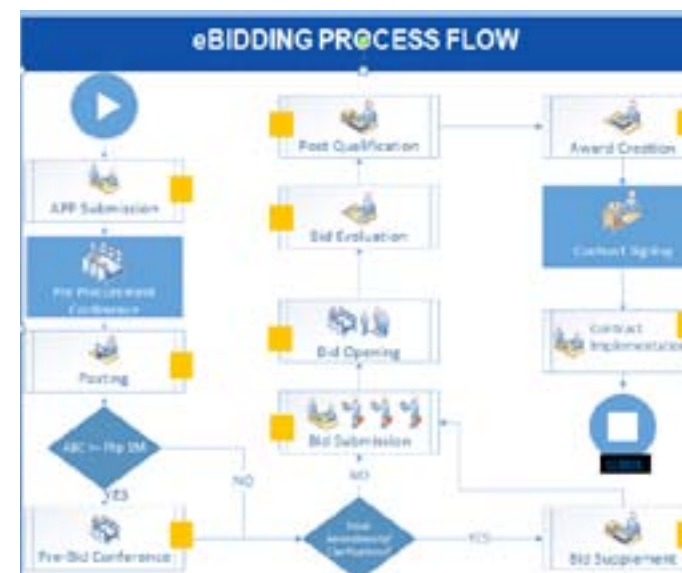
Said Administrative Order requires all government agencies (national, corporate and LGUs) to procure all their common-use supplies from the Procurement Service and use the PhilGEPS in all their procurement activities, including publishing all their bid opportunities and posting all their awards and contracts in it.

PhilGEPS presently offers the following functionalities:

- Electronic Bulletin Board
- Government Official Merchants' Registry
- Electronic Catalogue
- Automatic Bid Notification
- E-Bidding
- Electronic Payment of PhilGEPS Fees and Purchase of Bid Documents (for PS)

With the issuance of GPPB RESOLUTION NO. 23-2013, the Philippine Government Electronic Procurement System (PhilGEPS) supports the implementation of Electronic Bid (e-Bid) submission processes, which includes creation of electronic bid forms, creation of bid box, delivery of bid submissions, notification to supplier of receipt of bids, bid receiving and electronic bid evaluation. This facility shall cover all types of procurement for goods, infrastructure projects and consulting services.

The eBidding process is described as follows:



5. Capacity building/training conducted by PIDS, COA for Agency Personnel and Ladderised Training for COA Personnel:

The following are the training being offered by the PIDS, COA for Agency personnel:

a. Laws, Rules and Regulations on Government Expenditures

The course focuses on various accounting and auditing rules and regulations governing disbursements of government funds, particularly those covering personal services, traveling expenses, procurement of supplies and materials, repairs and maintenance of motor vehicles and government facilities, capital outlay and other forms of expenditures. The course aims to enable participants to understand the principles of public accountability and its meaning in terms of complying with accounting and auditing requirements. Case studies and exercises/workshops are used to reinforce the lecture and discussion and to facilitate understanding of fiscal laws and regulations on government expenditures (www.coa.gov.ph).

b. Property and Supply Management System

This course is designed to equip agency personnel with adequate understanding and working knowledge of the systems, processes, policies and other regulations pertaining to property and supply management. This course which includes updates on RA9184 is tailored for national/corporate government personnel (www.coa.gov.ph).

While for the personnel of the Commission, the training being conducted are:

i. Audit of Government Expenditures

This course will enable participants to understand the systems adopted in government expenditures. It focuses

on the various accounting and auditing requirements, rules and regulations 5 pertaining to the disbursements of funds, particularly those covering personal services, traveling expenses, procurement of supplies and materials, repairs and maintenance of motor vehicles and government facilities, capital outlay and other forms of expenditures. It likewise focuses on the appropriation and fund allotment system of the government. To avoid unnecessary suspensions and disallowances in audit, auditors are exposed to different situations through case studies which will also be used to reinforce the lecture discussion. (www.coa.gov.ph)

ii. Guide in the Audit of Procurement

This seminar/workshop is designed to guide the auditors in the “evaluation of compliance with the requirement of applicable laws, rules and regulations” which is a component of their “auditoria review”; review of “bidding procedures, necessity and validity of other alternative modes of procurement and manner of award to the winning bidder/contractor and such other relevant requirement provided in RA 9184 and its implementing rules and regulations. Review of actual bidding documents shall be done during the seminar. Course Objectives: Upon completion of the course, the participants should be able to: • review documents submitted in compliance with the requirements of applicable laws, rules and regulations; and • ensure validity of other alternative modes of procurement. (www.coa.gov.ph)

c. Integrated Results and Risk-Based Audit-IRRBA

This seminar aims to integrate the different COA audit services such as Financial and Compliance Audit, Agency-based Value-forMoney Audit, Government-wide and Sectoral Performance Audit and Fraud Audit into a common results-based audit approach. Lecture and case analysis/exercise shall be employed

in the conduct of the seminar. Course Objectives: Upon completion of the course, the participants should be able to:

- appreciate the benefits of IRRBA; and
- adopt IRRBA in the audit of agencies. (www.coa.gov.ph)

d. Law on Procurement-RA 9184 and Philippine Bidding Documents

This course explains the amendments and new policies issued by the Government Procurement Policy Board (GPPB) in connection with the procurement act. It discusses the bidding documents specific for each procurement (goods and services, infrastructure projects and consulting services). The Philippine Bidding Documents that are used by the Bids and Awards Committee, particularly in the procurement of goods, infrastructures projects and consulting services, as well as the procurement processes involved are extensively discussed. Course Objectives: Upon completion of the course, the participants should be able to apply the amendments and new policies issued in connection with procurement and likewise have familiarity with the bidding documents necessary for each type of procurement. (www.coa.gov.ph)

REFERENCES:

The 1987 Constitution of the Republic of the Philippines

The Government Auditing Code of the Philippines (P.D. 1445)

Guide in the Audit of Procurement

Web pages:

<http://www.coa.gov.ph>

<http://www.gppb.gov.ph>

<http://www.philgeps.gov.ph>

CONTRACT PROCUREMENT AUDIT: SAI THAILAND

BACKGROUND OF PUBLIC PROCUREMENT AUDIT: LEGAL FRAMEWORK

1.1. Audit Mandate

The Office of the Auditor General of Thailand (OAG) is one of the constitutional organs under Constitution of the Kingdom of Thailand which composed the State Audit Commission, the Auditor General and the office of the Auditor General.

- **Constitution of the Kingdom of Thailand**

The State audit shall be carried out by the State Audit Commission which is independent and impartial. The State Audit Commission shall have its independent secretariat, with the Auditor-General as the superior responsible directly to the Chairman of the State Audit Commission.

The State Audit Commission and the Auditor-General appointed by the guidance of the Senate from persons with expertise and experience in state audit, accounting, internal audit, finance and other fields.

- **Organic Act of State Audit, B.E. 2542 (1999)**

“Audit” means an audit of accounts, or an audit of the receipt, disbursement, utilization, retention and administration of the money, property, right and benefit of an audited agency which is obtained from budgetary appropriations, a fund external to budgetary appropriations, a loan, a subsidy, donated money and a grant from a domestic or foreign source in consequence

of the performance of duties under the law or in pursuance of the objects of the audited agency, irrespective of whether or not such money, property, right or benefit belongs to the audited agency or the audited agency has the powers or rights to disburse or utilize it, for the purpose of ensuring compliance with the laws, rules, regulations, resolutions of the Council of Ministers and practices observed in the performance of official functions, in contribution to optimal efficiency of State financial administration, thereby constituting counter-corruption measures, and shall include other inspections necessary for the aforementioned audit.

Section 15 - The Commission shall have the powers and duties in connection with the formulation of state audit policies, the prescription of standard rules for the state audit, the prescription of rules and procedures for budgetary and financial disciplines, the giving of advice, recommendations and suggestions for correction of defects in relation to the state audit, the prescription of administrative penalties, the consideration and determination, made in the capacity as the supreme organ, of budgetary and financial disciplinary liability, the consideration and selection of a person suitable to be the Auditor General and other activities as provided in this Organic Act in the following matters:

- (1) giving advice to the President of the National Assembly with regard to the powers and duties of the Commission and with regard to the state audit;
- (2) giving recommendations to administrative organs with regard to amendment of laws, rules or regulations concerning the control of state finance at the request of the Council of Ministers, the Prime Minister or the Minister of Finance or when the Commission deems it appropriate;
- (3) issuing regulations or notifications prescribing the following standards or measures in connection with the system and the control of an audited agency's budget administration audit:

- (a) standards for internal control and the professional practice of an internal auditor as guidance for an audited agency in formulating its internal control and internal audit systems to achieve efficiency and effectiveness;
 - (b) measures for loss prevention and control to be observed by one audited agency or more in the case where the Commission anticipate the likelihood of loss in connection with expenses by the audited agency;
 - (c) standards with regard to the preparation of the report, as well as the form thereof, necessary for the state audit, required to be regularly submitted by the audited agency to the Office of the Auditor General;
 - (d) other measures as deemed appropriate by the Commission;
- (4) making suggestions to an audited agency for remedying defects or performing consistently with the laws, rules, regulations or resolutions of the Council of Ministers and suggestions in other respects as deemed appropriate by the Commission, including following up the remedial action and performance in compliance with the suggestions;
 - (5) exercising supervision, and serving as the supreme adjudicatory organ, in the budgetary and financial disciplinary process;
 - (6) making nomination, to the Senate through the President of the Senate of the person who is suitable to be appointed as Auditor General;
 - (7) giving advice to the Auditor General with regard to the performance of duties under this Organic Act in relation to the following matters:
 - (a) The prescription of the audit standards for audit officials;

- (b) The preparation of the budget of the Office of the Auditor General;
 - (c) The giving of advice with regard to the preparation of the annual report on the result of work performance and the report on the result of work performance during the year of the Office of the Auditor General for submission to the House of Representatives, the Senate and the Council of Ministers;
- (13) considering a petition of the House of Representatives, the Senate or the Council of Ministers for carrying out, as a specific case, an audit of a particular audited agency and prescribing rules for the selection of audited agency;
- (14) issuing rules, regulations and notifications in accordance with the powers and duties relating to the state audit as providing in this Organic Act.

The State audit policies under paragraph one shall be submitted to the National Assembly for its information.

Section 16 - In the case where it appears that an audited agency has, willfully or by neglect, failed to comply with the standards with regard to the budget administration under this Organic Act or with the suggestion of the Commission without justifiable ground, the Commission has the power to refer its remarks and opinions, together with the conduct of that audited agency, to the President of the National Assembly for further notification to the National Assembly's committee concerned for the purposes of considering and taking action within its powers and duties as well as notification to the National Assembly's committee considering annual appropriations for the purpose of its further consideration of the annual appropriations bill.

Section 17 - In the performance of duties under this Organic Act, the Commission shall have the powers as follows:

- (1) to summon an audited agency official to give explanations for the purpose of following up on the performance of the audited agency in compliance with the suggestion given by the Commission;
- (2) to summon or contact and coordinate with the head of the government agency, state enterprise or state agency including the private sector for requesting explanations, reports and information for the consideration by the Commission.

Part 2 - Budgetary and Financial Disciplines

Section 19 - For the purpose of enabling the state audit control system to proceed in an efficient and disciplined manner, there shall be a Budgetary and Financial Disciplinary Committee, with the powers and duties to carry out the preliminary consideration and determination of an administrative fine to be inflicted upon an audited agency's official or employee who has violated a measure with respect to the state finance control prescribed by the Commission.

Section 24 - For the purpose of payment of an administrative fine as prescribed by the Commission, the decision of the Commission on disciplinary punishment shall have the same legal binding as an order reducing salaries issued by the superior of an audited agency, and the procedure of payment of that administrative fine shall be in accordance with the conditions and rules prescribed in the decision and in accordance with the rules of the Commission.

Section 25 - The decision imposing punishment with respect to budgetary and financial discipline does not deprive the punished person's superior, who is responsible for the administration of the audited agency, of his or her power to consider and impose

disciplinary punishment on the same ground, provided that such punishment shall be other than that of reducing salaries or lessening a salary scale.

CHAPTER II - The Auditor General

Section 26 - There shall be an Auditor General as the superior official responsible for the administration of general affairs of the state audit.

The Auditor General shall be a state official and a high-ranking official under the law on counter corruption.

Section 27 - The Auditor General shall be responsible for the performance of official affairs of the Office of the Auditor General under direct answerability and shall report directly to the Chairman, and shall be the superior of the officials and employees of the Office of the Auditor General, with the Deputy Auditor General as an assistant in directing and performing official duties.

The Auditor General shall be the representative of the Office of the Auditor General in its affairs involving the public. For this purpose, the Auditor General may delegate his or her power to any official in the Office of the Auditor General to perform any particular act, in accordance with the rules prescribed by the Commission and published in the Government Gazette.

CHAPTER III - Office of the Auditor General

Section 38 - There shall be the Office of the Auditor General as an independent government agency under the Constitution, which shall be a department under the law on administrative organization of the state.

Section 39 - Office of the Auditor General has the powers and duties in connection with general affairs of the Commission and shall have the following powers and duties to be responsible for secretarial works of the Commission;

- (1) To conduct the state audit, as follows:
 - (a) to audit receipt and payment, the retention, and disbursement of money and other properties belonging to or being within the responsibility of the audited agency and give opinions as to whether it is in compliance with the laws, rules, regulations or resolutions of the Council of Ministers, and to, as it wishes, audit the disbursement of money and use of other properties or the procurement under a given plan, work or project of an audited agency and give opinions as to whether they are in compliance with the objectives, economical, worthwhile and achieve their goals.
 - (b) to study and give opinions in connection with action plans, work and projects affecting the preparation of budgets;
- (3) To prepare and annual report on work performance of the Office of the Auditor General for submission to the House of Representatives, the Senate and the Council of Ministers;
- (4) To monitor the operation of the audited agency upon proposal of the Office of the Auditor General as made in the annual report on work performance or the report on work performance during the year;
- (5) To perform other duties as prescribed by laws.

Section 42 - In carrying out the state audit, the Auditor General and the audit official shall have the power to audit money and other properties, accounts, registers, documents or evidence pertaining to the disbursement and other evidence within the responsibility of the audited agency, and shall also have the following powers:

- (1) to summon the audited agency official or officials of the audited agency for inquiry or to order the audited agency

official or officials of the audited agency to furnish all accounts, registers, documents or other evidence prepared by or in the possession of the audited agency;

- (2) to attach money and properties, accounts, registers, documents or other evidence within the responsibility of the audited agency;
- (3) to summon any person to testify as a witness for the purpose of the audit or to furnish accounts, registers, documents or other evidence connected or presumably connected with the audited agency, for consideration;
- (4) to enter any premises between sunrise and sunset or during office hours for the purposes of examining, searching, seizing or attaching accounts, registers, documents or other evidence or attaching money or properties connected or presumably connected with the audited agency, as is necessary.

1.2. Regulations and Circulars on Procurement Audit

The main legislations about public procurement Audit in Thailand are as follows:

- i) The Regulation of the Office of the Prime Minister on Procurement B.E.2535 (1992) and its amendment.
- ii) The Regulation of The State Audit Commission on Budgetary and Financial Disciplines B.E.2544 (2001) as stated in Organic Act on State Audit, B.E. 2542 (1999) Part 2 Budgetary and Financial Disciplines

The main circulars are as follows:

- i) Measurement in preventing and reducing the opportunity in price corruption to government agencies

- ii) Principle on preparing of reference price of government construction project

1.3. Frequency of contract procurement audits carried out by your SAI auditing guidelines used

Audit Types of OAG Thailand

1. Financial: Financial Audit, Accounting Audit and Voucher Audit
2. Compliance: Public Procurement Audit and Investigative Audit
3. Value for Money: Performance Audit
4. Other: Environmental Audit, Audit of Collecting Revenue and Special cases Audit

For OAG Thailand, the auditing public procurement is a main audit type which OAG establishes the direct department for public procurement auditing. In our headquarter office there are procurement audit unit known as Procurement and Investigative Audit Offices. These offices perform public procurement auditing and investigative auditing.

The Regulation of the Prime Minister on Procurement of 1992 and its amendment which is the procurement law of Thailand determines that all government agencies have to submit copy of contract which valued more than 1 million Baht to OAG within 30 days after signed contract.

Numbers of contract procurement audits carried out by OAG are as follows:

Fiscal Year	Number of Contract Received	Number of Contract Audited
2012	61,285	4,582
2013	67,455	5,407

6. OBJECTIVES OF THE PROCUREMENT AUDIT

The main audit objective is to ensure that the procurement of goods and services including public works achieves its goals and is in compliance with relevant law and regulations. In addition, it needs to be transparent, freely competitive and worthwhile.

7. SCOPE AND METHODOLOGY OF AUDIT

For OAG Thailand, the auditing public procurement (purchase, hire, rent etc.) consists of three phases as following:

- 1) Audit of the procurement plan
- 2) Audit of tendering and awarding processes
- 3) Audit of contract management

In the first phase (Procurement Plan), the public procurement auditor will review procurement plan which auditees have to made up under the Notification of State Audit Commission about preparation of the procurement plan of audited entities B.E. 2546 (2003). The objective of this notification is to enhance the good governance in the procurement system of audited entities. The notification determines that all audited entities have to prepare the procurement plan and submit to OAG. The main content of the procurement plan consist of procuring items, value of good & services and public works (more than 100,000 Bath for goods & services and 2 million Bath for land purchasing & public works), selecting procurement method,

expected month of bidding announcement, expected month of signing contract, and expected payment plan.

Under this notification, the auditor will receive the procurement plan during the first month of fiscal year which in Thailand commenced on October. Therefore, the auditor can review the procurement needs from procurement plan of audited entities. In particular, the important projects like Mega Project must be appeared in the procurement plan. With this information, the auditor can prepare the audit plan for the next phase.

In the second phase (Tendering and Awarding Processes), OAG will examine the accuracy of the tendering and awarding processes. In this phase, OAG plays the key role obviously especially enhancing transparency and accountability. According to the Regulation of the Office of the Prime Minister on Procurement of 1992 and its amendment, it determines that procuring agency has to advertise its procurement in the website: www.gprocurement.go.th, and notify to five public agencies including OAG Thailand. Additionally, the ROMP stated that the procuring agency must submit awarding contracts which over than 1 million Baht to OAG. Therefore, the audit mandate of OAG is existed in the public procurement regulation which allows OAG to carry out a procurement audit under transparency and accountability of tendering and awarding processes.

Generally, the public procurement auditor will examine all documents in procurement procedures. Initially, the auditor will check main processes as followings:

- 1) The identification of needs should be clarified in the request of procurement report of procuring agency. In particular, obvious specification of procuring items should be broad and open for competition.
- 2) The bidding documents should clearly define the bid evaluation criteria. Also adequate publicity and period of time allow for the prospective bidders to respond.

- 3) The bidding documents should obviously describe in form in accordance with the standard bidding documents of ROMP.
- 4) The bidding documents have to be accurately and clearly about the scope of work, location, procuring items, date, time, working plan and schedule of delivery and installation.
- 5) Bidding process must be disclosure to the public under the concept of transparency, fairness, non-discrimination, and competitive procurement market.
- 6) The estimated cost should be accuracy fairness and reasonable.
- 7) The evaluation committee must be qualified and does not include anyone with a personal interest in the contract. In other words, the auditor will examine the conflict of interest behavior in public procurement.
- 8) The criteria and methodology for selection of awarding bidder should be accordance with the bidding documents.
- 9) The decisions and reasons of all evaluation committees have to be recorded and could notify to the third persons clearly. Under the principle of bid evaluation, the evaluation procedure will be confidential.
- 10) Terms and conditions of contract have to be the same in the invitation bidding stage.

For the third phase (contract management), it is the audit of contract management which the main objective is to examine the execution of public procurement contract. Further, the auditor could review the delivery time of supply of goods, equipment, and public works construction which should be completed within the time of contract and also the extension of contract period. Likewise, in case of price

adjustment contract² the auditor should also review the audit of the payment of the escalation sum.

8. AUDIT FINDINGS -COMMON ISSUES HIGHLIGHTED

Some examples of Audit Findings can be classified as follows:

Request for Budget

- Over purchased (Purchase more than needed, or no real need)
- Overestimation the cost of Construction Project (Ex: cost of Material, cost of work, number of work etc.)

Procurement Planning (after budget approved)

- Dividing purchase (to alter power or to change the procurement method)
- Manage without authorities or exceed authorities
- Work in tendering is not what in the procurement plan

Tender Documents/Tendering Process (manage as planned)

- Qualification of bidders is restricted and not open for competition
- Condition and Specification in tender documents is not conform with related laws and regulations
- There are obstructing act in tendering process

Awarding Contract/Contract Management (after bidding)

- Best Bidder is not show to signing contract
- Condition and specification in contract is not the same as in tendering process
- Signing Contract before budget approved
- Let the contractor does his work before contract

² adjustment contract is made in construction contracts which is aiming to make fairness and help to reduce risk in case of highly swing of construction materials.

- Goods & services are not in compliance with contract (Quality, Quantity, Time, etc.)
- Inappropriate extend of the contract period in which mean to help the contractor to reduce or omit a fine
- Supervising committee reporting fraud (such as: reported the work is completed but in fact it does not, In case of overdue contract the committee help reduce fine for contractor, etc.)

Project Benefit and Guarantee (After project accepted)

- The project is fail to meet its objectives
- Lack of appropriate caring and let assets to ruin
- Do not use FIFO in controlling of inventory which leads it to expire
- There is repairing cost although it is in the guarantee period

9. RECOMMENDATIONS AND ACTIONS TAKEN BY AUDITEES

When OAG found audit findings from the auditing public procurement, OAG will submit these cases to the State Audit Commission (SACs) in order to decide on the audited cases. The audit report will be rendered to the parliament, council of ministers and audited agency. It is also publicly available.

1. In the case where there appears, from the audit result, to the Commission a defect in consequence of non-compliance with the laws, rules, regulations or resolutions of the Council of Ministers
 - The Commission shall notify the audited agency in writing to give explanations, rectify the defect, perform correctly or comply with the laws or rules laid down in the government service or by the audited agency for applicability to their officials in charge, as the case may be
 - The audited agency shall notify the result of the performance.

2. In the case where the defect has occur due to the fact that the laws, rules, regulations or resolutions of the Council of Ministers are not appropriate to present circumstances or are unable to comply with or, if complied with, would be prejudicial to the government service
 - Notify it to the persons having powers and duties in such particular matters for taking further action.
3. In the case where there appears a defect on the part of the audited agency in consequence of the absence of any stipulation for compliance by the audited agency.
 - Notify the responsible ministry or the superior or the person supervising or taking charge of the audited agency, as the case may be, for the purpose of setting forth necessary measures to be complied with by the audited agency.
 - Any further action the responsible ministry or the superior or the person supervising or taking charge of the audited agency shall be notified.
4. In the case where there appears, a circumstance believably corruption or illegitimate exercise of powers and duties resulting in the loss or impairment of money or properties of the State.
 - Notify it to the inquiry official for initiating legal proceedings, notify audit result to the audited agency official or the responsible ministry, the superior or the person supervising or taking charge of the audited agency, as the case may be, for taking action in accordance with the laws or rules laid down in the government service or by the audited agency for applicability to the officials in charge.
 - Any action by the inquiry official, the audited agency official, responsible ministry or the superior or the person supervising or taking charge of the audited agency shall be notified.

**In case of any resistance by the audit agency, SACs will report the irregularity cases to the higher authority supervising that audit agencies. Additionally, if the audit decision is relevant to the penal offences and believable corruption in public procurement, SACs will submit these cases to anti-corruption agencies like the Royal Thai Police and the National Anti-Corruption Commissions (NACC).

10. CHALLENGES AND LESSONS LEARNT

Auditors should have knowledge, skill and experience in auditing in each step of the procurement process whereas to find out risks and leaks which is hiding in any type of the procurement job. Example, in the construction project, when you able to estimate the cost of a construction project precisely it can help to reduce the budget leaking and also when the estimation cost is more correct and properly it will help to prevent fraudulent in procurement process.

In some case, auditors may compare TOR or costs with other projects, whichever from the same entity or other entities, which is procure in the same period to find out if it is compliance and properly.

Nowadays, in order to support principles of transparency and citizen engagement, OAG provides the database of audited entities in awarding of contract which all audited entities have to submit copy of contract to OAG. This database, known as Public Procurement Watch with OAG, will show contract information as contract value and name of contractor through <http://procurement-oag.in.th/>.

REFERENCE:

Dr. Sutthi Suntharanurak, Auditing Public Procurement: Roles of the Office of the Auditor General of Thailand in ensuring Transparency and Accountability in Public Procurement



www.aseansai.org