

Asian Development Bank

AIDE MEMOIRE

LOAN REVIEW MISSION, 3–7 November 2014

For ADB Loan 2968-VIE: Low Carbon Agriculture Support Project

I. INTRODUCTION

1. On 12 December 2012, ADB approved the provision of a loan in the amount equivalent to SDR48,170,000 (\$74 million equivalent) to the Socialist Republic of Viet Nam for the Low Carbon Agriculture Support Project. The Loan Agreements were signed on 7 March 2013 and became effective on 5 June 2013 with the closing date of 30 June 2019.

2. A loan review mission (the Mission)¹ from the Asian Development Bank (ADB) visited Viet Nam from 3 to 7 November to discuss outstanding issues on project implementation with the CPMU. The Mission met with the representatives of the Central Project Management Unit (CPMU) within the Agriculture Projects Management Board (APMB), each of the participating financial intermediaries (PFIs)—Co-operative Bank of Viet Nam (CO-OPBANK) and the Viet Nam Bank for Agriculture and Rural Development (VBARD), the International Cooperation Department (ICD) of the Ministry of Agriculture and Rural Development (MARD), and the Provincial Project Management Unit of Bac Giang Province. A wrap-up meeting between MARD and the Mission was conducted on 7 November 2014, chaired by Deputy Director General Chu Van Chuong of ICD, MARD. A list of persons met and attendees at the wrap-up meeting is given in Annex 1.

3. The Mission and the Government discussed the status of Project components, implementation strategies, the overall Project implementation schedule and its implementation arrangements; the status of ongoing procurement and consultant recruitment packages; and agreed on the specific Project implementation plan and targets for the next 6 months of implementation. This Aide Memoire summarizes the Mission's findings and understanding reached through discussion with the project team. It is understood that the agreements recorded in this Aide Memoire are subject to the approval of higher authorities of the Government and ADB.

II. MISSION DISCUSSIONS AND FINDINGS

A. Overall Progress

4. Per ADB records based on withdrawal applications submitted to ADB, as of 31 October 2014 (more than 16 months since Loan Effectiveness), the Project has awarded approximately \$415,000 worth of contracts and disbursed a total of approximately \$3.8 million² (0.56% and 5.12% of the loan net amount, respectively).

¹ The Mission comprised Nao Ikemoto, Senior Environment Specialist, Environment, Natural Resources and Agriculture Division (SEER), ADB/Mission Leader; Giap Minh Bui, Natural Resources and Agriculture Economist, SEER; Khuc Thi Lan Huong, Project Officer (Agriculture and Rural Development), Viet Nam Resident Mission (VRM); and Oscar Amiel A. Badiola, Project Analyst, SEER.

² The funds disbursed to the Project includes the advance made by ADB to the CPMU's imprest account amounting to US\$3.5 million.

B. Project Implementation Progress by Component

Output 1: Expanded Use of Livestock Waste Management Infrastructure

5. As of Q3/2014, the Project has organized: (i) 351 training courses on biogas plant operation for 11,827 farmer households; (ii) 07 study tours to study and exchange experience of biogas technology for 167 staff; (iii) 20 workshops on disseminating policies, institutions and standards of biogas technology and comprehensive livestock management for more than 10,000 farmers; and (iv) 13 training courses for 80 masons and 475 technicians. Through these trainings, a total of 7,805 biogas plants have been constructed under the Project; 3,717 of these households have received financial support after their biogas plants were certified by the PPMUs. The Mission discussed and agreed with the CPMU to reassess the current provincial budget allocations for the Project's financial subsidy provisions to allow for a more effective demand/performance-based system of allocation for this Project activity.

6. The Mission visited Bac Giang province and met the PPMUs and Hiep Hoa district staff and the beneficiaries for the small biogas digester plants. The PPMU conducted a demand survey and identified 20 farmers who expressed interest in constructing large scale biogas digesters. Bac Giang province is one of the leading livestock producing provinces. The Mission noted a good potential for expanding the biogas digester support for the small, medium and large scale plants. The PPMU also shared its ideas for pilot demonstrations. As environmental pollution and food safety are growing concern, the PPMU expressed its interest in organic fertilizer and demonstrating the feasibility of growing rice and vegetables using organic fertilizer to increase productivity. Feasibility studies to examine the effect of organic fertilizer on the different plant growth and the economic viability of organic fertilizer production would be in line with the Output 3 activities being considered by the CPMU.

7. The requisite environmental monitoring of biogas plant construction has been a growing concern for MARD. The relevant agencies under MARD that has been given this oversight function is the Viet Nam Academy for Agriculture Sciences (VAAS) and National Institute for Animal Sciences (NIAS). This development has been communicated with the ADB Mission and the CPMU has agreed to facilitate the preparation of the formal request to amend the Project's implementation arrangement to include these institutes as implementation agencies under the Project. The Mission clarifies that this request will need to justify the agencies' direct implementation involvement and should include specific terms of reference to define the roles and responsibility of each as it relates to the environmental monitoring activities to be carried out under the Project.

8. The Mission was informed of the new regulation [circular, minister's decision?] introduced in [when?] indicating a change in the subsidy level for the small-scale digester support and requested to adjust to be in line with the government policy. Increasing the current subsidy level from 3 million to 5 million VND per small-scale biogas value chain (BVC) construction needs to be carefully examined to consider other ongoing project initiatives offering similar biogas digester support. If the Government aims to adjust the financial support provisioned for this purpose, the Mission requests that an official request (endorsed by the Ministry of Planning and Investment) be made citing the regulation; along with a justification presenting the reasons why the Government's counterpart resources will be unable to account for the shortfall and from which loan category the increased budget provision will be reallocated from.

Output 2: Credit Lines for Biogas Value Chains

9. The subsidiary loan agreements between the Ministry of Finance (MOF) and the participating financial intermediaries (PFIs) to extend subloans (\$34.17 million, about 48% of ADB Loan) to eligible beneficiaries have been finalized on 15 August 2014 (for CoopBank) and 15 September 2014 (for VBARD). Initiatives to secure the necessary documentation requesting appropriate fund advances to each of the PFIs imprest accounts have begun. ADB expects to receive these withdrawal applications on or before 30 November 2014.

10. During consultations conducted with each of the PFIs, consistent concerns have been raised on the decreasing demand for the Project's household biogas credit line. The decreased demand poses a substantial threat to the likelihood that the Project disburses the loan allocation for this output in its entirety (i.e., \$34.17 million). Disbursing this amount over the remaining 4 years (with the reduced demand) will be a big challenge for the Project. The PFIs requested the Mission to consider the increase in the ceiling of subloans for small-scale biogas value chain from \$2,500 to \$5,000 and agreed to submit a formal request to include justifications of the increase for ADB consideration.

Output 3: Enhanced Climate Smart Agricultural Waste Management Practices Technology Transfer

11. **Investment Scope.** Recruitment of a short-term international agribusiness specialist was planned to assist the CPMU in developing a research strategy and detailed implementation plan for the Output 3. Due to time constraints, the CPMU informed the Mission that the CPMU will develop the intended output of this planned consultancy by itself in consultation with the Technical Support Unit (TSU), PPMUs and other relevant technical departments within MARD. The Mission requested the CPMU to submit the following documents by Quarter 1 2015 to facilitate implementation of Output 3, namely: (i) the proposed detailed design of the entire Output 3 that incorporates (a) related sector context and overall fundamental justifications for ADB to finance activities or cluster of activities under Output 3, (b) proposed activities or clusters of activities to be financed under Output 3, (c) detailed cost estimate and financing plan (with ADB and counterpart fund segregated), (d) economic, financial, and social justifications for proposed activities or cluster of activities, (e) implementation arrangements and phased implementation plan for each activity or cluster of activities, and (f) strategies for up-scaling and/or replicating the proposed activities or clusters of activities; and (ii) based on the proposed design above, the preparation of associated procurement packages and approval of proposed changes to the procurement plan before procuring goods, works, and services for Output 3.

12. **NDF Grant.** NDF reserved 4.1 million Euro to the Project on 6 March 2013 to support the demonstration and technology research activities related to biogas and bio-slurry and the preparation of documents necessary for the Project's participation to the Clean Development Mechanism. ADB processing to secure this grant allocation was not possible within the set timeframe. The Mission suggested MARD to prepare a new proposal and submit to NDF for consideration given the NDF's continued interest in the subsector.

Output 4: Effective Project Management

13. Three key consultancy engagements are currently being recruited by the CPMU (i.e., project management consulting services, baseline surveys, and audit). The Mission however notes that the rate by which these consultancy recruitments are progressing requires that increased urgency be applied to ensure that the assignments are fielded sooner. The Mission

has proposed to work closer with APMB's procurement/consultant recruitment unit to explore ways to collaborate and work in parallel with each institution's review requirements. An updated schedule of specific recruitment milestones for each of the consulting packages are presented in Annex 2.

14. **Procurement Plan.** An updated procurement plan has been submitted by the CPMU identifying additional packages needed under the Project. A draft of what has been initially agreed with the CPMU is presented as Annex 3. ADB will work with the CPMU in finalizing the details to include these packages and initiate its procurement.

15. **Project Reporting.** ADB received the Project's progress report (for Q3 2014) on 28 October 2014. The Mission suggested some improvements to the report and requested that increased efforts be made to submit these requirements within 30 days after the end of each reporting period. The progress reports should include attachments/appendixes such as updates on the loan covenants, updates on the action plan for all activities under each component, status of achievement of DMF indicators, and computation of overall implementation progress.

C. Projected Contract Awards and Disbursements

16. **Quarterly Projections.** The CPMU shared with the Mission the Government's projections relating to anticipated contract awards and disbursements for 2015 (presented as Annex 4). The achievement of these targets are contingent on the CPMU's efficient compliance with submission requirements for procurement/consulting recruitment, as well as MARD/APMB's cooperation in prioritizing the review of the Project's submissions.

D. Compliance with Loan Covenants

17. The Mission finds the loan covenants to be generally complied with. An updated schedule of covenants is given in Annex 5.

IV. CONCLUSIONS

18. The Mission and the CPMU agree that discussions will need to be continued in further defining needed activities especially for Output 3.

19. The next review mission is proposed in February 2015 to discuss project progress as well as the status of follow up actions agreed during this review mission. These agreed actions are listed in the Table 1.


Table 1: Agreed Follow-up Actions

No	Issue	Agreed Action	Time-frame	Responsibility
1	Implementation arrangements for Output 1	Submit ADB a request with justification for the proposed change in the implementation arrangement	By 30 November 2014	CPMU
2	Mobilizing Output 2 activities	Work with the PPMUs to assess the demand	As soon as possible	MOF/PFIs
		Submit a letter requesting the increase in the subloans ceiling for small-scale BVC	As soon as possible	PFIs
		Submit the 6-month projection and the first WAs to request for an advance	By 30 November 2014	PFI/ADB
3	Design of Output 3	Submit the proposed detailed design of	By Q1/2015	CPMU

V ACKNOWLEDGMENT

19. The Mission wishes to express its sincere appreciation for the cooperation and assistance extended by MARD, APMB, the PFIs, and the Bac Giang DARD during the Mission.

Signed in Ha Noi, 7 November 2014 by



Nao Ikemoto
Project Officer
Environment, Natural Resources, and
Agriculture Division
Southeast Asia Department
Asian Development Bank

Appendix 1

LIST OF PARTICIPANTS

WRAP-UP MEETING OF ADB MISSION
AND LOW CARBON AGRICULTURE SUPPORT PROJECT (LCASP)
Hanoi, 07th November 2014

No.	Name	Unit	Position
1	Nao Ikemoto	ADB	Expert
2	Bui Minh Giap	ADB	Expert
3	Oscar Badiola	ADB	Expert
4	Nguyen The Hinh	LCASP	Director
5	Hoang Thai Ninh	LCASP	Deputy Director
6	Vu Tien Dung	LCASP	Deputy Director
7	Tran Huy Hoang	LCASP	Accountant
8	Tran Thuy Duong	LCASP	Accountant
9	Nguyen Thi Ngoc Lan	LCASP	Administrative staff
10	Do Ngoc Diep	LCASP	Administrative staff
11	Nguyen Dinh Dieu	LCASP	Chief Accountant
12	Nguyen Thi Minh Huong	LCASP	Planning staff
13	Tran Diem My	LCASP	Planning staff
14	Nguyen Van Chung	LCASP	Technical staff
15	Le Thi Nhung	LCASP	Consultant
16	Le Thi Thoa	LCASP	Consultant
17	Chu Van Chuong	ICD	Deputy Director General
18	Nguyen Thanh Dam	ICD	Head of Division
19	Bui Chi Kien	International Cooperation Department (ICD)	Official
20	Nguyen Van Hung	Department of Finance	Official
21	Nguyen Quynh Hoa	Department of Livestock	Official
22	Tran Minh Dang	Department of Personnel and Organization	Official
23	Do Thi Xuan Huong	Department of Science, Technology and Environment	Head of Division
24	NT Tung	Management Department of work construction (MDWC)	Official
25	Do Thanh Cuong	Management Department of work construction (MDWC)	Official
26	Nguyen Thanh Son	National Institute of Animal Science (NIAS)	Director
27	Bui Quang Dang	Vietnam Academy of Agricultural Science (VAAS)	Deputy Director
28	Le Phuong Anh	VBARD	Official
29	Ho Kim Thanh	VBARD	Official
30	Le Thu Ha	Co-opBank	Official

PROCUREMENT PLAN

Basic Data

Project Name: Low Carbon Agricultural Support Project	
Project Number: 45406-001	Approval Number: 2968
Country: Socialist Republic of Viet Nam,	Executing Agency: Ministry of Agriculture and Rural Development
Project Financing Amount: US\$ 84,000,000 ADB Financing: US\$ 74,000,000 Co-financing (ADB Administered): Non-ADB Financing: US\$ 10,000,000	Implementing Agency: N/A
Date of First Procurement Plan: 12 December 2012	Date of this Procurement Plan: 30 October 2014

A. Methods, Thresholds, Review and 18-Month Procurement Plan

1. Procurement and Consulting Methods and Thresholds

Except as the Asian Development Bank (ADB) may otherwise agree, the following process thresholds shall apply to procurement of goods and works.

Procurement of Goods and Works		
Method	Threshold	Comments
International Competitive Bidding for Goods	US\$ 500,000 and Above	
National Competitive Bidding for Goods	Between US\$ 100,000 and US\$ 499,999	
Shopping for Goods	Up to US\$ 99,999	
International Competitive Bidding for Works	US\$ 5,000,000 and Above	
National Competitive Bidding for Works	Between US\$ 100,000 and US\$ 4,999,999	
Shopping for Works	Up to US\$ 99,999	
Community Participation in Procurement for Works	Up to US\$ 50,000	

Consulting Services	
Method	Comments
Consultant's Qualification Selection for Consulting Firm	Prior Review.
Fixed Budget Selection for Consulting Firm	Prior Review.
Least-Cost Selection for Consulting Firm	Prior Review.
Quality- and Cost-Based Selection for Consulting Firm	Prior Review.
Quality-Based Selection for Consulting Firm	Prior Review.
Single Source Selection for Consulting Firm	Prior Review.
Individual Consultants Selection for Individual Consultant	Prior Review.

2. Goods and Works Contracts Estimated to Cost \$1 Million or More

The following table lists goods and works contracts for which the procurement activity is either ongoing or expected to commence within the next 18 months.

Package Number	General Description	Estimated Value (1000 USD)	Procurement Method	Review (Prior/ Post)	Bidding Procedure	Advertisement Date (quarter/year)	Comments
FI-LBP1	10 Large Biogas plant	4,390	ICB	Prior	1S1E	Q3 / 2013	Prequalification of Bidders: N Domestic Preference Applicable: N Bidding Document: Goods Comments: Procurement method to be applied would be commercial practices by end-users acceptable to ADB (through FIs). Financial Intermediaries will provide sub-loans to the end users.
FI-MBP1	40 Medium Biogas plant	8,940	ICB	Prior	1S1E	Q3 / 2013	
FI-SBP1	36,000 Small Biogas plant	28,670	ICB	Prior	1S1E	Q3 / 2013	

3. Consulting Services Contracts Estimated to Cost \$100,000 or More

The following table lists consulting services contracts for which the recruitment activity is either ongoing or expected to commence within the next 18 months.

Package Number	General Description	Estimated Value (1000 USD)	Recruitment Method	Review (Prior/ Post)	Advertisement Date (quarter/year)	Type of Proposal	Comments
Package 1	Project Management Consulting Services	2,737	QCBS	Prior	Q2 / 2014	FTP	Assignment: International Quality-Cost Ratio: 80:20 Comments: The TORs will need clearance by ADB prior to any recruitment action for the packages.
Package 2	Start-up consultants	150	ICS	Prior	Q4 / 2014	STP	Assignment: International/national pilot implementation monitoring consultants
Package 3	Baseline Survey	150	FBS	Prior	Q4 / 2014	BTP	Assignment: National Comments: The TORs will need clearance by ADB prior to any recruitment action for the packages.
Package 4	Project Auditing	200	LCS	Prior	Q4 / 2014	BTP	Assignment: National Comments: The TORs will need clearance by ADB prior to any recruitment action for the packages (the first 3 years of auditing valued at 125,000 USD); 2 contracts

4. Goods and Works Contracts Estimated to Cost Less than \$1 Million and Consulting Services Contracts Less than \$100,000 (Smaller Value Contracts)

The following table groups smaller-value goods, works and consulting services contracts for which the activity is either ongoing or expected to commence within the next 18 months.

Goods and Works								
Package Number	General Description	Estimated Value (1000USD)	Number of Contracts	Procurement Method	Review (Prior/ Post)	Bidding Procedure	Advertisement Date (quarter/year)	Comments
Package 12	Produce and publish documentary films on utilization agricultural waste to producing bio-energy, organic fertilizer and environment protection measures in agriculture production.	95	1	Shopping	Post	1S1E	Q2/2015	Procuring Entity: CPMU
Package 13	Develop database management software system for biogas plants	90	1	Shopping	Post	1S1E	Q1/2015	Procuring Entity: CPMU
Package 14	Environmental monitoring equipment and upgrade facilities for the project provinces and relevant agencies to monitor livestock environment (will also include requisite equipment for carbon credit monitoring).	880	Up to 3 lots	NCB	Prior	1S1E	Q1/2015	Procuring Entity: CPMU
Package 18	Equipment and software of networked e-library system for research agencies to share information on researching and applying CSAWMP technologies	610	1	NCB	Prior	1S1E	Q3/2015	Procuring Entity: CPMU
Package 19	Upgrading map sets for seven agro-ecological regions to forecast potentiality and current situation of agricultural waste using for producing renewable energy and organic fertilizers, and provide support for agricultural waste management planning.	90	1	Shopping	Post	1S1E	Q4/2015	Procuring Entity: CPMU
Package 20	Develop and publish documents on CSAWMP	92	1	Shopping	Post	1S1E	Q3/2015	Procuring Entity: CPMU
Package 21	Project Monitoring and Evaluation software for CPMU and 10 PPMUs	30	1	Shopping	Post	1S1E	Q 1/2015	Procuring Entity: CPMU

B. Indicative List of Packages Required Under the Project

The following table provides an indicative list of goods, works and consulting services contracts over the life of the project, other than those mentioned in previous sections (i.e., those expected beyond the current period).

Goods and Works							
Package Number	General Description	Estimated Value (cumulative) (1000 USD)	Estimated Number of Contracts	Procurement Method	Review (Prior/Post)	Bidding Procedure	Comments

C. List of Awarded and On-going, and Completed Contracts

The following tables list the awarded and on-going contracts, and completed contracts.

1. Awarded and Ongoing Contracts

Goods and Works							
Package Number	General Description	Estimated Value (1000 USD)	Contract Value (1000 USD)	Procurement Method	Advertisement Date (quarter/year)	Date of ADB Approval of Contract Award	Comments
Package 9 (in ADB's no objection named package 6)	Vehicles	400	360.517	NCB	14 th February 2014	25 th April 2014	Completed
Package 10 (in ADB's no objection named package 7)	Office equipment for CPMU and PPMUs	200	192.487	NCB	25 th March 2014	15 th May 2014	Completed
Package 11 (in ADB's no objection named package 8)	Accounting software	80	33.610	Shopping	24 th January 2014	Post review	On-going

Consulting Services							
Package Number	General Description	Estimated Value (1000 USD)	Contract Value (1000 USD)	Recruitment Method	Advertisement Date (quarter/year)	Date of ADB Approval of Contract Award	Comments
Package 6 (in ADB's no objection named package 5b)	National agribusiness consultant	60	28.377	ICS		29 April 2014	On-going
Package 7 (in ADB's no objection named package 5c)	Project Administration Manual/Project Implementation Manual (PAM/PIM) development consultant	10	8.522	ICS		17 March 2014	Completed

Package 8 (in ADB's no objection named package 5d)	Training consultant	30	22.644	ICS		17 March 2014	On-going
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D. National Competitive Bidding

1. General

The laws to be followed for national competitive bidding are set forth in (i) the Law on Procurement No. 61/2005/QH11 of 29 November 2005, (ii) the Construction Law no. 16/2003/QH11 of 26 November 2003, (iii) the Amendment Law No. 38/2009/QH12 of 19 June 2009 amending and supplementing key articles of the above-mentioned two laws, and (iv) the processes described in Decree No. 85/2009/ND-CP of 15 October 2009 on “Guiding Implementation of Procurement Law and Selection of Construction Contractors under the Construction Law”. Whenever any procedure in the national procurement laws is inconsistent with the ADB Procurement Guidelines (March 2013, as amended from time to time), the ADB Procurement Guidelines (March 2013, as amended from time to time) shall prevail, amongst others on the following.

2. Registration

- (i) Bidding shall not be restricted to pre-registered firms and such registration shall not be a condition for participation in the bidding process.
- (ii) Where registration is required prior to award of contract, bidders: (i) shall be allowed a reasonable time to complete the registration process; and (ii) shall not be denied registration for reasons unrelated to their capability and resources to successfully perform the contract, which shall be verified through post-qualification.
- (iii) Foreign bidders shall not be required to register as a condition for submitting bids.
- (iv) Bidder's qualification shall be verified through pre- or post-qualification process.

3. Eligibility

- (i) National sanction lists may only be applied with approval of ADB1.
- (ii) A firm declared ineligible by ADB cannot participate in bidding for an ADB financed contract during the period of time determined by ADB.
- (iii) A firm which has been engaged by the borrower to provide consulting services for the preparation or implementation of a project, and any of its affiliates, shall be disqualified from subsequently providing goods, works, or services, resulting from or directly related to the firm's consulting services for such preparation or implementation.

4. Prequalification and Post qualification

- (i) Post qualification shall be used unless prequalification is explicitly provided for in the loan agreement/procurement plan. Irrespective of whether post qualification or prequalification is used, eligible bidders (both national and foreign) shall be allowed to participate.

- (ii) In the event where pre-qualification is used, interested firms shall be given no less than 42 days to prepare their pre-qualification submission.

1 Section 52 of the Integrity Principles and Guidelines allows ADB to sanction parties who fail to meet ADB's high ethical standards based on the decisions of third parties, such a decision can only be made by the Integrity Oversight Committee on the basis of ADB's own independent examination of the evidence. As such, the process should follow the normal assessment and investigative processes prescribed by the Integrity Principles and Guidelines. <http://www.adb.org/Documents/Guidelines/Integrity-Guidelines-Procedures/integrity-guidelines-procedures-2006.pdf>

- (iii) When pre-qualification is required, the evaluation methodology shall be based on pass/ fail criteria relating to the firm's experience, technical and financial capacities.
- (iv) Qualification criteria shall be clearly specified in the bidding documents, and all criteria so specified, and only criteria so specified, shall be used to determine whether a bidder is qualified. The evaluation of the bidder's qualifications should be conducted separately from the technical and commercial evaluation of the bid.
- (v) In carrying out the post-qualification assessment, the Employer/ Purchaser shall exercise reasonable judgment in requesting, in writing, from a bidder missing factual or historical supporting information related to the bidder's qualifications and shall provide reasonable time period (a minimum of 7 days) to the bidder to provide response.

5. Preferences

- (i) No preference of any kind shall be given to domestic bidders or for domestically manufactured goods.
- (ii) Regulations issued by a sectoral ministry, provincial regulations and local regulations which restrict national competitive bidding procedures to a class of contractors or a class of suppliers shall not be applicable.
- (iii) Foreign bidders shall be eligible to participate in bidding under the same conditions as local bidders, and local bidders shall be given no preference (either in bidding process or in bid evaluation) over foreign bidders, nor shall bidders located in the same province or city as the procuring entity be given any such preference over bidders located outside that city or province

6. Advertising

- (i) Invitations to bid (or prequalify, where prequalification is used) shall be advertised in Government Public Procurement Bulletin. In addition, the procuring agency should publish the advertisement in at least one widely circulated national daily newspaper or freely accessible, nationally-known website allowing a minimum of twenty-eight (28) days for the preparation and submission of bids and allowing potential bidders to purchase bidding documents up to at least twenty-four (24) hours

prior the deadline for the submission of bids. Bidding of NCB contracts estimated at \$500,000 or more for goods and related services or \$1,000,000 or more for civil works shall be advertised on ADB's website via the posting of the Procurement Plan.

- (ii) Bidding documents shall be made available by mail, or in person, to all who are willing to pay the required fee, if any.
- (iii) The fee for the bidding documents should be reasonable and consist only of the cost of printing (or photocopying) the documents and their delivery to the bidder. (Currently set at 1 Mln VND, increase subject to approval of ADB)

7. Standard bidding documents

- (i) The Borrower's standard bidding documents, acceptable to ADB, shall be used. The bidding documents shall provide clear instructions on how bids should be submitted, how prices should be offered, and the place and time for submission and opening of bids.
- (ii) Bidders shall be allowed to submit bids by hand or by mail/ courier.

8. Bid Opening

- (i) All bids received after the deadline for submission indicated in the bidding documents will be rejected.
- (ii) All bids received before the bid submission deadline shall be opened except those with proper notice of withdrawal.
- (iii) A copy of the bid opening record shall be promptly provided to all bidders who submitted bids.

9. Bid Evaluation

- (i) Merit points shall not be used in bid evaluation.
- (ii) Bidders shall not be eliminated from detailed evaluation on the basis of minor, non-substantial deviations.²
- (iii) Except with the prior approval of ADB, no negotiations shall take place with any bidder prior to the award, even when all bids exceed the cost estimates.
- (iv) A bidder shall not be required, as a condition for award of contract, to undertake obligations not specified in the bidding documents or otherwise to modify the bid as originally submitted.
- (v) Bids shall not be rejected on account of arithmetic corrections of any amount. However, if the Bidder that submitted the lowest evaluated bid does not accept the arithmetical corrections made by the evaluating committee during the evaluation stage, its bid shall be disqualified and its bid security shall be forfeited.

10. Rejection of All Bids and Rebidding

- (i) No bid shall be rejected on the basis of a comparison with the owner's estimate or budget ceiling without the ADB's prior concurrence.
- (ii) Bids shall not be rejected and new bids solicited without the ADB's prior concurrence.

11. Participation by Government-owned enterprises

Government-owned enterprises shall be eligible to participate as bidders only if they can establish that they are legally and financially autonomous, operate under Enterprise law and are not a dependent agency the contracting entity. Furthermore, they will be subject to the same bid and performance security requirements as other bidders.

2 Minor, non-substantial deviation is one that, if accepted, would not affect in any substantial way the scope, quality, or performance specified in the contract; or limit in any substantial way, the Contracting entity rights or the Bidder's obligations under the proposed contract or if rectified, would not unfairly affect the competitive position of other bidders presenting substantially responsive bids.

12. Participation by Foreign contractors and suppliers. Joint Ventures and Associations

- (i) Foreign suppliers and contractors from eligible countries shall, if they are interested, be allowed to participate without being required to associate or form joint ventures with local suppliers or contractors, or to subcontract part of their contract to a local bidder.
- (ii) A bidder declared the lowest evaluated responsive bidder shall not be required to form a joint venture or to sub-contract part of the supply of goods as a condition of award of the contract.
- (iii) License for foreign contractors operation in Vietnam would be provided in a timely manner and will not be arbitrarily withheld.

13. Publication of the Award of Contract. Debriefing.

- (i) For contracts subject to prior review, within 2 weeks of receiving ADB's "No-objection" to the recommendation of contract award, the borrower shall publish in the Government Public Procurement Bulletin, or well-known and freely-accessible website the results of the bid evaluation, identifying the bid and lot numbers, and providing information on: i) name of each bidder who submitted a bid; ii) bid prices as read out at bid opening; iii) name and evaluated prices of each bid that was evaluated; iv) name of bidders whose bids were rejected and the reasons for their rejection; and v) name of the winning bidder, and the price it offered, as well as the duration and summary scope of the contract awarded.
- (ii) For contracts subject to post review, the procuring entity shall publish the bid evaluation results no later than the date of contract award.

- (iii) In the publication of the bid evaluation results, the borrower shall specify that any bidder who wishes to ascertain the grounds on which its bid was not selected, should request an explanation from the procuring entity. The procuring entity shall promptly provide an explanation of why such bid was not selected, either in writing and / or in a debriefing meeting, at the option of the borrower. The requesting bidder shall bear all the costs of attending such as debriefing. In this discussion, only the bidder's bid can be discussed and not the bids of competitors.

14. Handling of Complaints

The national competitive bidding documents shall contain provisions acceptable to ADB describing the handling of complaints in accordance with Chapter X of Decree No. 85/2009/ND-CP, read with Articles 72 and 73 of the Law on Procurement No. 61/2005/QH11.

15. ADB Member Country Restrictions

Bidders must be nationals of member countries of ADB, and offered goods, works, and services must be produced in and supplied from member countries of ADB.

16. Fraud and Corruption

ADB will sanction a party or its successor, including declaring ineligible, either indefinitely or for a stated period of time, to participate in ADB-financed activities if it at any time determines that the firm has, directly or through an agent, engaged in corrupt, fraudulent, collusive, or coercive practices in competing for, or in executing, an ADB-financed contract.

17. Right to Inspect/ Audit

Each bidding document and contract financed from by ADB shall include a provision requiring bidders, suppliers, contractors to permit ADB or its representative to inspect their accounts and records relating to the bid submission and contract performance of the contract and to have them audited by auditors appointed by ADB.