

Final Report



Small Contractor Study

Commune Sangkat Fund

**Rural Investment and
Local Governance Project -
Additional Financing
RILGP-AF**

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Table of Contents

Abbreviations	3
1 Executive Summary	4
2 Introduction	6
2.1 General	6
2.2 Purpose of assignment	7
2.3 How to read this report	8
2.4 Study methods and approach	9
3 Project description	10
3.1 The Commune Sangkat Fund	10
3.2 Programme framework	10
3.3 Procurement process	11
3.4 Prequalification and blacklisting	13
4 Mapping the stages	14
4.1 Regulatory framework	14
4.2 Project planning and design	18
4.3 Programme management	19
4.4 Prequalification and tender	21
4.5 Works implementation	22
4.6 Payment of works	24
4.7 Overall risks	25
5 Results of the field survey	26
5.1 The field studies	26
5.2 Interview methods	27
5.3 Interpretation	28
5.4 Prequalification	29
5.5 Bid preparation	29
5.6 Participation in tenders	30
5.7 Paying government officials	32
5.8 Tender evaluation and contract award	32
5.9 Work supervision	33
5.10 Certification and payment of works	34
6 Findings and Observations	35
6.1 Prequalification	35
6.2 E-bidding	38
6.3 The cost of doing business	40
6.4 Cost of collusion	42
6.5 Poor quality works	44
6.6 Unreasonably low bids	45
6.7 Business portfolio	49
7 Recommendations	50
7.1 General	50
7.2 Prequalification	50
7.3 Tender information	51
7.4 Tender participation	51
7.5 Bidding procedures	51

7.6	Work supervision	52
7.7	Payment procedures	52
7.8	Programme management	53
7.9	Training	53
Annex 1	Questionnaires	55
Annex 2	Working Paper on practical recommendations on feasible mechanisms to promote genuine competition and reduce collusion amongst the small contractors	60
Training Notes:		
Annex 3	Estimating Costs	
Annex 4	Basic Soil Mechanics	
Annex 5	Compaction	

Abbreviations

CSF	Commune/Sangkat Fund
DANIDA	Danish International Development Agency
DCP	Dynamic Cone Penetrometer
DfID	Department for International Development
EU	European Union
ExCom/PRDC	Executive Committee of PRDC
IDA	International Development Association
IFAD	International Fund for Agricultural Development
ILO	International Labour Organization
MEF	Ministry of Economy and Finance
NCDD-S	National Committee for Sub-national Democratic Development Secretariat
PDRD	Provincial Department of Rural Development
PIM	Project Implementation Manual
PID	Project Implementation Database
PFT/DFT	Provincial Facilitation Team and District Facilitation Team
P/M LAU	Provincial/Municipal Local Administration Unit
PRDC	Provincial Rural Development Committee
RILGP	Rural Investment and Local Governance Project
SIDA	Swedish International Development Agency
ToR	Terms of Reference
TSO	Technical Support Official
TSU	Technical Support Unit
UNDP	United Nations Development Programme
WB	World Bank

Exchange rate used in this report: $1 \text{ US\$} = 4,100 \text{ Cambodian Riel}$

1 Executive Summary

The Royal Government of Cambodia through the National Committee for Sub-national Democratic Development Secretariat (NCDD-S), being the implementing agent for the Rural Investment Local Government Project, has engaged a consultant to conduct a study of small contractors who carry out works for the Commune Sangkat Fund (CSF). The assignment commenced on 8 October 2010 and was completed on 26 December 2010.

The CSF has been designed as a government programme, with the intention of being a permanent facility of the government. It now operates across the entire country covering all 23 provinces and the capital, with works activities in all 1,621 Communes and Sangkats. The CSF is one of the government's main programmes for developing good governance and sustainable public service delivery at sub-national level. It is therefore important to ensure that this system of local governance is effective and reliable.

The management system of the CSF has evolved over time based on the experience acquired during its implementation. The programme has developed a comprehensive and well documented contracts management system, purpose-designed for the specific type and size of development works carried out at commune level. Guidelines include a Project Implementation Manual (PIM), technical manuals, standards drawings and work specifications, contract documents, Financial and Administration Manuals and others.

The programme has been operating since 2002, and with the technical assistance provided, it has managed to adjust to an evolving environment and new challenges. The result is that today, there is a well thought out contracts management system with good reporting and comparatively high levels of transparency.

With its rural infrastructure works programme the CSF also figures as a significant funding source for the domestic construction industry and therefore it would be logical to expect that challenges pertaining to the industry in general would also need to be addressed in the CSF. The issues of corruption, collusion and other malpractices therefore remain a challenge. This study is an attempt to shed more light on any undesirable practices thereby allowing project management to improve systems and procedures which can reduce the occurrence of such incidences and improve the competitive environment of the contracting arrangements.

Field visits were carried to the provinces of Siem Reap, Battambang, Kandal and Kampong Cham for the purpose of holding discussions and interviews with provincial staff, commune councils, contractors and other stakeholders. The field survey focussed on issues relating to the five stages of prequalification of local contractors, tendering procedures, contracts management, work supervision and inspection and payment of completed works.

Through the interviews it was revealed that incidences of collusion and other corrupt practices have taken place in the programme. Collusion is alleged to take place with, and without, the involvement of government staff in several provinces. Some contractors claim that these practices have been motivated by the desire to avoid extreme underbidding during tenders and to manipulate the distribution of works among contractors. The 2009 emphasis on making bidding open to all contractors from all provinces to participate in any of the tenders seems to have reduced the incidences of collusion for the 2009 and 2010 bidding cycles. Furthermore several contractors admitted that payments are made to government staff during the tendering process, during the implementation of works contracts and when payments for completed works are processed.

It was also acknowledged by several contractors that the current competitive environment in which bids are offered at substantially lower prices than the original cost estimates encourage the practice of reducing the quantities of completed works and compromising on quality.

The findings also suggest that the actual levels of corruption are lower in the CSF than what is generally perceived in the construction industry in Cambodia. A worst case scenario estimates that the cost of bribes can amount to 10 percent of the total value of a single contract. The cost of collusion during tender is estimated at an additional 2 percent.

Key recommendations include encouraging an increased participation from local construction firms and builders. It is believed that the construction industry in Cambodia holds a substantial number of potential candidates which are currently not involved in the programme. Increasing the number of prequalified contractors will have a positive effect on the competitive environment in the programme. Equally, further measures should be installed to facilitate the participation of contractors in individual tenders. By increasing the number of prequalified contractors, the CSF prequalification system can also take on the role as the main classification procedure in the country for small-scale contractors.

Increased registration of contractors, higher participation in individual tenders and less collusion during tenders can be facilitated through the introduction of computerised systems with web based input portals. The CSF has successfully taken use of IT technology for its contracts register. Extending this usage to other components of the contracts management system will further improve efficiency and reduce collusion.

Work supervision can be strengthened and the programme is already addressing such challenges through the introduction of private consultants. It is important that the new systems encourage professional integrity among these consultants and that they are held accountable for the quality of works under their supervision.

The procedures for payment of works need to be streamlined. It is therefore suggested that a process audit is carried out looking at the effectiveness of the current system. The same concerns should be given to the payment arrangements currently being installed for the services of private consultants engaged in design and work supervision.

The central management has proven to be effective in the further development of implementation arrangements, building local capacity and ensuring compliance to the systems and procedures in the CSF. The programme is still undergoing changes and is adopting to new performance requirements. This process needs to continue and as part of the new challenges adequate resources and attention should be given to improving the systems and procedures thereby (i) addressing the issues of corruption highlighted in this report and (ii) building a competitive environment in which small contractors operate. Due to the weak policy and regulatory framework in which the construction industry currently operates, priority should be given to installing up-front measures which effectively limit corrupt practices taking place. Combined with this, it is important to install clearer lines of authority and accountability among programme staff, thereby facilitating the use of disciplinary action when required.

This report also contains a working paper of key findings and practical recommendations on feasible mechanisms which can be introduced to promote genuine competition and reduce collusion amongst the contractors involved in the CSF. The working paper is meant to be a stand alone document for guidance to programme management and stakeholders during further discussions on improving programme implementation arrangements which may strengthen competition during tenders, reduce corrupt practices and improve the overall quality of works produced in the CSF.

2 Introduction

2.1 General

In most countries, public works and the construction industry in general are commonly considered to be among the most corrupt sectors alongside with the defence industry and extractive industries. The reasons given for this perception is often based on the combination of large expenditures and the fact that corrupt practices are easier to hide in these sectors. Lack of good governance systems, institutional capacity constraints and lack of accountability in public procurement tends to increase the opportunities for corrupt practices and strengthen the drivers of corrupt behaviour.

Many places, it has become the practice that the contractor who wins a construction project needs to pay a certain portion of the contract price as a condition of being awarded the work. There are also practices of "facilitation" payments, in which officials expect to receive a payment when a signature is needed or a decision needs to be approved. This is sometimes called a "sweetener", because it is deemed to put people in a good mood and thereby speed up the approval or decision. If the money is not paid, services slow down or may be deferred indefinitely, justified as a delay caused by bureaucratic procedures. Corruption may also take place during work supervision using bribes to persuade supervision staff to ignore poor quality works and fail to check the quantities of the works. All these payments could have been spent on other work, servicing the beneficiaries for whom the funds were originally intended.

In the current environment in the construction industry in Cambodia, there is a need to address the issue of corruption. It serves no purpose to deny its occurrence as there is a strong perception of its existence and also its perceived levels. The local news media repeatedly reveals cases of corruption in Cambodian society. Just recently the Cambodia Daily published an article mentioning that in the latest global corruption barometer, launched on 9 December 2010, Transparency International reported that 84 percent of Cambodians surveyed in July reported paying a service provider a bribe in the past 12 months.¹ Of the 86 countries surveyed, only Liberia and Uganda scored higher, and only marginally.²

The management of the CSF recognises these concerns and the related risk to its programme and hence commissioned this Study. Similar to other government agencies operating in the construction sector it has developed management systems and procedures which attempts to reduce the extent of corruption. Procedures have therefore been introduced specifically to counter such illicit practices and to avoid a situation in which corruption is commonplace but rather the unfortunate exceptions in an otherwise sound and efficient service delivery mechanism.

Any project or programme is dependant on sound management systems in order to effectively deliver its intended outputs. Significant efforts have been made to build practical and effective implementation arrangements for the CSF. As part of this, serious efforts have been made to maintain high levels of transparency and accountability. This is important because the CSF is one of the government's main programmes for developing good governance at sub-national level. As such it is much more than just another development project. The CSF is a significant part of the framework for local development at commune level. Tremendous efforts have been invested in the creation of these local government institutions. The CSF is an important part of the combined efforts to build sufficient capacity at this level of government service to function and become an effective channel for public service delivery.

¹ http://www.transparency.org/policy_research/surveys_indices/gcb/2010

² The Cambodia Daily, 10 December, 2010, New Probes Announced by Graft Czar, by Van Roen and Zsombor Peter

It is therefore also important to ensure not only that these bold objectives are achieved, but also that this system of local governance is perceived as effective and reliable. In turn this will build confidence in the programme from within as well as in the view of external partners and in particular its financiers.

2.2 Purpose of assignment

The Royal Government of Cambodia has received a grant from the World Bank to support the implementation of the Rural Investment and Local Governance Project (RILGP). The National Committee for Sub-national Democratic Development Secretariat, being the implementing agent for RILGP, has applied part of these funds to conduct a study of small contractors involved in civil works funded by CSF.

The Terms of Reference (ToR) identify the objective of this study as follows:

“to examine and then make recommendations on how to promote and increase genuine collusion-free competition amongst the CSF pre-qualified contractors, while keeping in mind the limitations in the contractors’ capacity as well as the constraints and risks they face in the business environment and the CSF implementation arrangements which include procurement, environmental and social safeguards.”

The ToR recognise that genuine competition among the contractors is at times limited and it is perceived that collusive practices take place between various stakeholders in bidding for CSF infrastructure projects. It is also acknowledged that there are skills limitations in bidding and estimating among the contractors with the result that bids are not necessarily based on a detailed analysis of costs but instead prepared on the basis of current pricing in the market and the budget estimates. Finally, the ToR recognise that frequent cases of bids with price offerings significantly lower than the budget estimates pose a risk to timely completion of works at the prescribed quantities and quality of work.

The CSF has prepared a comprehensive Project Implementation Manual (PIM) in which all contracts management procedures are described in detail. This Manual, together with technical manuals, drawings and works specifications provide detailed guidance in the preparation of cost estimates for selected sub-projects. As such, the manual forms a key reference for the study and the final recommendations of this study assess the viability and effectiveness of some of these working arrangements.

As part of this assignment a review has been made of the present mechanisms in place, current procurement procedures and contracts management practices while at the same time taking into consideration the prevailing environment in which it operates. The study seeks to improve the understanding of the effectiveness of the current procedures and identify potential improvements which in turn may result in reduced collusive practices and thus improve the competitive environment of the programme. The ToR also recognise that there are skills limitations among the contractors and other staff involved in the programme. To address these issues, this assignment includes the following outputs:

- a mapping of collusion and other corrupt practices allegedly taking place in the CSF,
- a paper on practical recommendations to promote competition and reduce collusion,
- recommendations to strengthen current procurement and contracts management arrangements,
- draft training material which in turn may have an impact on the extent of collusion and corrupt practices, including topics such as how to improve quality of bid proposals and improve quality of works.

The outputs of the study are described in several documents produced during this assignment, including an inception report, a brief report on the findings from the field studies and interviews, a workshop presentation, a paper on practical measures to promote genuine competition and draft training materials - on which basis this final report has been prepared.

2.3 How to read this report

It should be pointed out that the purpose of this study is not to identify specific or attributable incidences of corrupt practices, but rather to gain a better understanding of which mechanisms are actually taking place. Furthermore, it is important to bear in mind that the survey carried out as part of the study only covered a limited portion of the programme and talked to a relatively small group of programme stakeholders in some of the provinces. For this reason it would be incorrect to extrapolate from the findings and claim that the described practices are regular incidences taking place all the time and all over the country.

The implementation arrangements in the CSF are continuously being improved to cater for the evolving environment in which the programme operates. For this reason, the systems and procedures in the CSF Project Implementation Manual (PIM) and other guidelines are living documents reviewed and revised to deal with new challenges and changes to the programme setting. The revised guidelines need to address all malpractices whether they only occur in some places or everywhere.

This study and its discussions and findings will hopefully contribute to further improvement of implementation arrangements and procedures. The CSF management is now preparing new phases of technical and capital assistance from some of its core donors. This study may also be used as an input for the design of such future assistance.

The findings presented in this report are based on an extensive review of the management arrangements in the CSF and the replies to questions posed during interviews and discussions with programme staff and contractors. The findings from the interviews with the contractors presented in Chapter 5 should be treated as statements by contractors, as they are made on the basis of their experience and how they perceive the prevailing systems and procedures are implemented. With the exception of some of the anecdotal information presented, the descriptions provided on how the CSF operates are based on similar statements obtained from several sources.

Furthermore, it should be acknowledged that the field interviews were carried out with prior assurances that the specific sources of information would be kept confidential. No records have been kept of who actually said what so it would be difficult to trace any of the statements back to any particular person interviewed. The contractors who were interviewed were briefed on the purpose of the study, essentially being part of a process to improve systems and procedures with a particular emphasis on trying to reduce collusion and other corrupt practices. Therefore, the statements made by the contractors should not be treated as allegations against management but instead should be accepted as their perception of the current situation.

It is also worth mentioning that the responses received seemed to show distinct differences in practices in the various provinces visited. This implies that the information presented does not necessarily apply to all four provinces visited or anywhere else.

The field survey only covered a small portion of the programme both geographically as well as in relation to the number of contractors involved in the CSF and the number of contracts being let. Therefore some caution needs to be applied in terms of generalising the results of

the survey and claiming that practices described by the contractors take place in all provinces. Finally, the survey did not cover smaller and more remote provinces where the construction industry is less developed and where government capacity may be more limited.

2.4 Study methods and approach

Initially, the consultant built up a general knowledge of the programme through discussions with programme staff and advisers at headquarters, studying various programme related documents, manuals, guidelines, correspondence, subject reference literature and also visiting the programme web site and information database. This allowed the consultant to build up an overall understanding of the framework in which the programme operates, its institutional arrangements and the roles and responsibilities of the various stakeholders.

During the period from 21 October until 10 November 2010, the main focus of the study was to explore the actual situation on the ground in the provinces and the communes where the construction works take place. A field survey was organised for this purpose which included extensive discussions and interviews with the programme stakeholders in the provinces as well as in some of the communes.

During the course of the field survey, the consultant discovered discrepancies between certain statements and the prevailing systems and procedures. In such cases, efforts were made to seek clarity during the interviews and to obtain an understanding of the reasons for the differences. Every effort has been made to avoid citing any misconceptions expressed by the persons interviewed. For this reason, the consultant has taken great efforts to build a proper understanding of the prescribed systems and procedures.

During the initial field visits more time was spent with programme staff to obtain a clear picture of how the system and procedures are actually applied in the provinces, districts and at commune council level. Once the consultant had acquired a firm understanding of how the system is operated, more time and emphasis was given to interviews of contractors.

As anticipated, most programme management staff were hesitant to engage in an open and frank discussions about collusive or other corrupt practices in the programme. During the time spent with programme staff, the discussions focussed on (i) establishing a full picture of the actual routines and procedures applied in the prequalification and tendering process in each of the provinces, (ii) obtaining general observations from the programme management on how procedures could be improved and (iii) their observations on the comments and issues raised by the World Bank during their prior and post reviews. This proved to be an important source of information on work procedures, roles and responsibilities of various staff members and how the system actually works in practice.

The findings from the field survey were presented to the programme management in a field survey report on 7 December 2010.

Based on the information collected during field survey as well as the earlier stages of the assignment, a mapping exercise was carried out to explore the risk of corrupt practices in the various stages of works planning, design and implementation. This exercise is presented in Chapter 4.

A workshop with programme stakeholders from central level as well as the provinces was organised on 13 December 2010 during which the findings of the consultant was presented and discussed. Comments received during the workshop as well as on the Inception Report, the Field Survey Report and the draft of this report are incorporated in this final report.

3 Project description

3.1 The Commune Sangkat Fund

The CSF is a fiscal transfer system from the national budget used by elected Commune and Sangkat councils to finance administrative activities of the councils and for development activities. The development component of the CSF is financed by about 50% from domestic revenue and 50% from external donor assistance, to which the major contribution is from the World Bank through the RILGP. Most of the development interventions are used for capital investments in small-scale local infrastructure, consisting of roads, small-scale irrigation schemes, rural water supply, school buildings and other miscellaneous outputs at an average size of US\$ 10,000 – 15,000 per sub-project.³

The total allocation to the CSF in 2010 is 148 billion Riel (US\$ 36 million) of which two thirds are used for capital investments⁴. The remaining third is meant to be used for administrative purposes.

3.2 Programme framework

Being a government programme (as opposed to a conventional setup in an externally funded project) the CSF is governed by a series of legal instruments including the laws on the Administration and Management of Commune/Sangkat, Establishment of the National Committee for the Management of Decentralisation and Deconcentration Reform and notably the Sub-Decree on the Establishment of the C/S Fund⁵. Without spending any further time on the contents of these and other related laws and decrees, it is worth mentioning that the programme has a framework firmly established by the government and the detailed implementation arrangements need to operate within this.

The procurement of works, goods and services in the CSF needs to comply with the procedures as defined in the Ministry of Economy and Finance Procurement Manual and the financial manual developed for Externally Financed Projects/Programs in Cambodia.

As the World Bank provides support to the programme⁶, the works also needs to comply with a series of procedures and guidelines prescribed by the Bank. These include guidelines on procurement, environmental and social safeguards, highland people safeguards, good governance and public disclosure. The programme accounts are also subject to routine financial and technical audits and post reviews.

All of these concerns have been accommodated in various manuals prepared for the CSF such as its Project Implementation Manual, technical manuals, standards drawings and work specifications, contract documents, Financial and Administration Manuals and others. The production of this guidance literature has been a continuous process with regular updates and revisions, responding to the challenges and requirements emanating from the implementation of programme activities.

³ Ref. Project Implementation Database

⁴ Annex 1 of MEF Letter #6160 MEF.LF dated 14th October 2009, Summary of Commune Sangkat Fund 2010

⁵ Ref. Decision on Promulgating of the Second Revision of the C/S Fund Project Implementation Manual, signed by H.E. Sar Kheng, Chairman of National Committee for the Management of Decentralization and Deconcentration Reform, included in the CSF Project Implementation Manual

⁶ Through the RILGP, the World Bank reimburses the costs of eligible infrastructure development projects implemented by the CSF.

The programme has developed a comprehensive contracts management system, purpose-designed for the specific type and size of development works carried out at commune level. It has been designed as a government programme, with the intention of being a permanent facility of the government.

The CSF is well established with a large programme of works activities covering the entire country. It is now operating across the entire country covering all 23 provinces and the capital, servicing all 1,621 Communes and Sangkats.

The contracting arrangements and procedures are expected to address basic requirements for accountability, transparency and fairness. These are essential design features meant to foster competitiveness in terms of obtaining timely and good quality works at the best possible prices in the market. These are basic principles which seems to have been given great emphasis during the process of developing the contracting system.

As the CSF is not of a limited duration, this system has evolved over time based on the experience acquired during its implementation. The programme has been operating since 2002, and with the technical assistance provided, it has managed to adjust to the evolving challenges and requirements. The result is that today, there is a well thought out contracts management system with good reporting and high levels of transparency.

Still, the issues of corruption, collusion and other malpractices remain a challenge. Any system put in place relies on the good intentions and diligence of the staff in charge and the ability to counter new ways and methods of cheating the system. This study attempts to shed more light on the undesirable practices thereby allowing project management to improve the systems and procedures in order to reduce the occurrence of such incidences.

It is also important to bear in mind that the system put in place is very comprehensive with an extensive set of procedures and working arrangements that have been documented in various manuals. Any changes to the existing system need to be carefully thought out before decided upon as it may affect other current systems and procedures. Equally, it should be acknowledged that any changes made, need to be applied across the programme and require substantial efforts to ensure that all parties understand and know how the revised procedures are meant to operate.

3.3 Procurement process

All commune/sangkats are allocated a budget from the CSF every year. Identification of works projects is carried out through an annual planning exercise which also includes planning of development works funded through other sources. The detailed design and costs of sub-projects are estimated by technical staff provided from the province – referred to as technical assistants from the Technical Support Units at province level.

The overall management of the programme in the field is presently vested with the Executive Committee of the PRDC. The Provincial/Municipal Local Administration Unit (P/M LAU) carries the responsibility of general oversight of the programme, reporting and monitoring. Provincial and District Facilitation Teams assists the communes in adhering to the prescribed systems and procedures.

Tenders are announced two weeks in advance of bid closure by the communes with key information about the works posted at public notice boards at the commune and the

ExCom/PRDC. Tenders are also recorded in the Project Implementation Database, (PID) which can be accessed by the public through a web-based portal.⁷

Works contracts are normally to an estimated amount equivalent to the annual allocation for development works to each of the communes so there is only one round of bidding each year. Bids from prequalified contractors are submitted to the Commune and Sangkat Councils. Bids are evaluated by procurement committees established out of the commune councils. Technical Support Officials (TSO) at provincial level assist the councils in this process however the final decision on the bid evaluation is made by the council procurement committee. The whole process is monitored and recorded by the Provincial and Municipal Local Administration Units (P/M LAU) and Advisors. Key data on contractors, bid prices and awards are recorded in the Project Implementation Database (PID).

Contracting cycle

Work funded by the CSF is essentially based on the annual allocations which each of the communes receive. Before the tendering process commence, the programme carries out an annual prequalification exercise, during which it establishes which contractors are eligible to participate in the works. This exercise takes place in advance of the current financial year. At the same time, the potential sub-projects are identified and screened and designs and cost estimates are prepared. Bidding for works can start when the fund allocations for the communes have been announced. By the time new budget allocations are released the prequalification and design of projects have been completed and the bid competitions can commence. Ideally, bid evaluations take place at the end of the rainy season, thereby allowing contract award and contractor mobilisation to take place at the beginning of the dry season which is the ideal period for carrying out civil works. Due to the limited size of the contracts, it is possible to complete works before the next rainy season.

Unspent allocations at the end of the financial year can be rolled over to the next financial year.

As the WB is a major financier of the programme, the prequalification of the contractors, bidding documents and evaluation of bids are subject to prior review by the Bank before contracts are awarded. This process obviously adds to the time required to carry out the prequalification and tender process.

Contracts are awarded by the Communes and Sangkats to the lowest responsive bid from the prequalified contractors. The contracts are signed by the C/S Chief and the contractor. The Commune then needs to inform the P/M LAU of the details of the contract (using a standard contract information form), who then enters the information in the contracts register – which is part of the PID. A Project Management Committee is established at the project site.

The communes need to appoint a Technical Supervisor for the supervision and inspection of works carried out by the contractors. The communes also appoint one of the members of the Project Management Committee for the village as a Project Owner's Representative to carry out regular monitoring of the works on behalf of the C/S Chief.

Payment of works is initiated by progress reports prepared by the Technical Supervisors. The procedures do not allow for any advance payment to contractors or service providers (only community based organisations can receive an advance).⁸ The contracts allow for two interim payments and one final payment after the prescribed six month defects liability period. The first interim payment covering 40 percent of the contract value can be processed when 50 percent of the works are complete. A second payment of 40 percent is allowed on completion of all works under the contract, leaving 20 percent as retention money.

Payments are approved by the C/S Chief after holding a public meeting with the Project Management Committee at the project site where the works are once again reviewed and evaluated. This meeting also allows the public to question the findings in the progress report prepared by the Technical Supervisor. Minutes of this meeting are prepared by the C/S Clerk.

⁷ See: <http://db.ncdd.gov.kh/pid>

⁸ See PIM Section 3.13.5. Certifying of Works and Approval of Payment

If agreement is reached during the meeting to pay the contractor, the C/S issues a Certificate of Payment to the Contractor.

The minutes of the meeting and the Payment Order is sent to the Province/Municipality Treasury. Payments to the contractor are made by the Provincial Treasury. If the payment is delayed more than one month, the contractor is entitled interest at the rate of 2 percent of the payment due for each month and each subsequent calendar month. In practice, this facility is seldom claimed by the contractors.

Although rarely used, there is also a mechanism in place for late performance of works in which 0.1 percent can be deducted from the payment for each day the work is delayed beyond the agreed completion date. The reduction is up to a maximum of 10 percent. If the delays are caused by an unusual event, the contractor can apply for an extension of time.

The contractor is responsible for maintaining the works during the defects liability period. Performance standards are included in the PIM for the most common maintenance activities. The final inspection and approval of works is carried out applying the same process as for the interim payments.

3.4 Prequalification and blacklisting

The prequalification process applied by the programme is essentially a yearly process of certifying local contractors as eligible to participate in bidding for any works under the programme. As such it is therefore not a prequalification process in its original sense whereby contractors are required to qualify for a single tender. Once a contractor has been deemed qualified, he/she is eligible to bid for all tenders announced in the programme during the following financial year until the next annual prequalification exercise is carried out.

The contractors are classified as Class 1, 2 and/or 3 contractors depending on the type of works they wish to bid for (Class 1: general construction, Class 2: earthworks, Class 3: specialist contractors). Once prequalified in one province, they are eligible for works in all provinces. This in effect registration process is carried out on an annual basis and all contractors need to renew their prequalification status each year. There are currently 962 prequalified contractors.

The prequalification process is set out in detail in the PIM. The final decision on prequalification is vested with the provincial and municipal governor who heads a prequalification sub-committee who evaluates the technical capacity of the contractors. This committee is made up of members from the ExCom/PRDC, the TSU, a representative of the P/M LAU, a representative from the C/S councils and other members as approved by the Governor. The TSU carries out the actual technical evaluation of the contractors (Class 1, 2 and/or 3).

The Project Implementation Database maintains records of all the prequalified contractors, their participation in individual tenders, payment records of individual contracts and the planned and actual duration of their contracts.

According to the PIM, blacklisting should be used as a sanction against contractors when they refuse to sign a contract agreement, withdraw a bid after tender closure, fail to observe the conditions of a contract, produces poor quality works or engage in collusive or corrupt practices. The final decision on blacklisting lies with the provincial governors.

4 Mapping the stages

Worldwide, corruption can occur at various stages of project preparation and works implementation. Mapping of such practices are commonly carried out by analysing key activities through the project cycle starting at the stages of planning and design, the tender process and works implementation to the final stages of inspection and audit. Furthermore, it is important to acknowledge the overall policy and regulatory framework in which infrastructure development programmes need to operate within.

This chapter is an attempt to carry out a mapping of the perceived risks of collusion and corrupt practices in the CSF based on the findings of the field survey carried out as part of the study. The grouping of the issues described can be discussed and possibly further refined as some of the issues may belong under several of the headings.

4.1 Regulatory framework

The policy and regulatory framework in which any construction industry operates has a major effect on governance and the associated risk of corruption in public works programmes. These can be active policy decisions or a result of the lack of or a less developed regulatory framework. The overall regulatory framework is also important to bear in mind as some of its short-comings are often beyond the means of action at the level of programmes and projects.

In some countries, active policy decisions have been made to favour certain stakeholders in the industry such as State Owned Enterprises or they can be informal decisions which promote and give preferential status or monopolies to certain private entrepreneurs to do business with the government. In the case of rural infrastructure works in Cambodia, this does not seem to be the case. The general picture provided from the major programmes dealing with rural infrastructure works, including the CSF, is that they rely on a large number of private businesses carrying out the works. Although there may be some barriers for entering into the market of government or donor funded rural infrastructure works, there seems to be a reasonably fair chance for private enterprises to participate in such programmes

A larger challenge for this sector has been the lack of, or short-comings of, the regulatory framework in the construction industry in general as well as in relation to public works contracts. The reason for this situation is to a large extent a result of the young history of the private construction industry in the country having only recently transformed from a system in the past in which most government services were provided by state agencies into today's system where most public works is carried out through private contractors. It should also be noted that the redevelopment of a private sector only started some 25 years ago. An attempt to build up a country-wide regulatory framework for procurement for public works has essentially taken place during the last 10 to 15 years.⁹

In this void a number of rural development programmes, including the CSF, were required to build a regulatory framework in which it could effectively operate. The Project Implementation Manual and the elaborative financial and technical guidelines and regulations of the CSF are today a testament to the great efforts made by the programme and the Government to create a uniform and functional framework in which rural development at the lowest level of the Government structure, i.e. at the commune level, can take place in a structured and uniform manner. Due credit should also be given to the fact that these systems

⁹ A good indicator of progress in this field has been the financial and administrative guidelines recently prepared by the Ministry of Economy and Finance including documents such as their Procurement Manual and the financial manual developed for Externally Financed Projects/Programs in Cambodia.

and procedures has been developed over an extensive period of time during which the political system in which the programme operates has changed dramatically - in particular in relation to the creation of commune level administrations. With substantial inputs of technical assistance, the programme has adopted its systems and procedures to address the new requirements resulting from these changes. It is also important to note that these systems and procedures are still being further developed with new components being added with the ultimate goal of achieving a full and functional system which can be applied across the board for all development works carried out in the communes.

Still, it is important to bear in mind that limitations still exist in the regulatory framework. In respect of collusion and other corrupt practices in relation to public works contracts there are still a number of challenges which needs to be dealt with. Some development initiatives are already underway to address these, however in the meantime before these result in concrete changes, they need to be acknowledged as existing shortcomings which increase the risks of corrupt practices. Some examples where regulations and policies still need strengthening are as follows:

- Inconsistent, unclear or inconsistently applied procurement regulations
- Transparency in the applied procurement
- Non existent or ineffective performance audit arrangements
- Unsustainable arrangements for enforcement of procurement regulations
- Lack of professional bodies to uphold standards of integrity and quality
- Lack of arbitration mechanism
- Incomplete complaints mechanism
- Weak public disclosure and redress system
- Pressure from groups who stand to benefit from the shortages in the system

Inconsistent, unclear or inconsistently applied procurement regulations

A major challenge in the CSF has been to achieve consistency in the application of the procurement procedures in all the 1,621 Communes and Sangkats involved in the programme. This is attempted through the creation of extensive support organisations at province and district levels providing advice to the commune authorities on the prevailing procedures and how in effect they need to implemented. To a large extent, the programme appears to be successful in these efforts considering the large audience of staff who needs to be proficient in the systems and procedures, however audit reports point out that further efforts are required to improve compliance.¹⁰

There is however an external challenge to the CSF as other programmes operating in the same field in Cambodia do not necessarily apply the same procedures. Although serious efforts have been made to streamline and standardise procedures there is still a long way to achieve consistency among all the programmes. For those who do not belong to the key staff in each of these programmes the situation may seem confusing and this contributes to uncertainty as regards to what are the exact procedures. To the defence of the CSF, most of its systems and procedures are published in manuals which are accessible to the public through the NCDD web site. Still, these are comprehensive manuals and may as such seem daunting for outsiders to absorb.

It is not only outsiders such as the general public and private contractors among which the multitude of systems cause confusion. It is also a challenge for government staff dealing with several programmes to keep track of the prevailing systems in each of the programmes.

¹⁰ Ref. Process Audit on Implementation of C/S Fund Projects, Leighton Williams, February 2010

As compared to many other rural development programmes, a major advantage of the CSF is that it covers the entire country and as such sets standards on a country basis. It is also recognised as a regular programme of the Government with no time limitations as set in most other development projects. For these reasons, it is also worthwhile to spend more time and efforts to build up sustainable systems and procedures as there is a better chance in this case that they are applied in the long run and not only during the limited duration of a project.

Transparency in the applied procurement

Transparency is improving in public works programmes in the country and particular credit should be given to the efforts of the CSF where all public works contracts and their respective progress of works is now recorded in a web-based contracts register available to the public. Furthermore, works contracts are widely advertised in the public media such as newspapers, TV and radio. Still, more can be done in terms of advance notice of works and also improving access to information pertaining to the contents of works in the contracts

Equally, there is scope for improvements in the prequalification system and how it is applied. Allegations of unjust treatment of applications for pre-qualification prevail and this needs to be considered as an indication that higher levels of transparency may benefit the system.

Performance audit arrangements

At the moment, the performance audit regulations are in effect driven by demand from the donors providing external financial or technical assistance to the programme. The WB carries out (i) regular prior reviews of sample tenders, the bidding documents and the prequalification process and (ii) an annual post reviews of the procurement. Equally, technical and financial audits are carried out using external consultants. In addition, RILGP-AF Grant proceeds have been used by the RGC to perform technical audits of the construction works.

The WB only deals with the part of the programme expenditure which is included in the RILGP-AF Financing Agreement. Activities financed by the Bank are governed by a comprehensive set of procedures and guidelines. On the other hand, it is less clear what remedial action is taken by the Government in relation to cases which indicate or suggest that corrupt practices have taken place. The programme has established provincial accountability working groups, which is a new initiative to build up a system for dealing with cases of corruption and misuse of public funds. This facility is still in its infancy and will need further development before it becomes an effective component in an in-house performance audit mechanism.

There is no doubt that the external audits and WB reviews have an impact on compliance to agreed systems and procedures, however, the long-term solution would be to have similar procedures of similar quality and with the same level of independence on a permanent basis within NCDD which are not triggered or managed by external funding agencies.

The CSF needs a more effective internal technical audit mechanism. At the moment, this function is left with the same authorities who in effect are responsible for supervision and overall management of the programme and to some extent with the technical assistance team.¹¹ This arrangement compromises the integrity of the audit. The PIM provides guidelines on how internal audits are carried out in the CSF, however, there is considerable scope for strengthening these. In their current form, there are no directions in terms of their frequency. Equally, it would be useful to establish appropriate guidelines on how to address any shortcomings discovered during the conduct of an audit.

¹¹ The full membership of the technical audit committee is decided by ExCom, however prescribing one member each from ExCom, TSU (for infrastructure projects) and P/M LAU, as per PIM Part 4.

Unsustainable arrangements for enforcement of procurement regulations

The achievements related to building sound and effective systems and procedures for procurement of works in the CSF can to a large extent be ascribed to the extensive technical assistance provided to establish and further perfect these systems on a continuous basis. The same technical assistance has also been an important instrument in ensuring compliance to the systems and procedures through training and on-the-job guidance and advisory support.

It is believed that there is still further potential for development of the systems and there is also a need for further support to the programme in securing compliance to the procedures. Technical assistance is currently predominantly provided from the UNDP and there is currently great uncertainty as regards to the continued support from the UNDP in funding this technical input. If it is discontinued, there is a need to establish alternative arrangements in order to maintain this support mechanism.

Lack of professional bodies to uphold standards of integrity and quality

Cambodia still lacks strong professional bodies which, as part of their *raison d'être*, attempt to uphold certain level of professional standards and quality in the conduct of civil works which also includes issues relating to integrity and ethical standards. This includes professional associations and guilds for technical staff, consultants as well as contractors.

For comparison, in many countries, certification of technical staff, consultants and contractors are carried out by these professional bodies, and their systems set certain performance standards, both technical and ethical, to entry and maintaining these certifications. Engaging in corrupt practices is not only illegal, and unethical, but also unprofessional. The prospect of being debarred from practising as an engineer or contractor serves as a powerful deterrent in many countries. For such incentives to work, however, there must be a strong sense of what is meant by professional standards and secondly there needs to be a strong professional body with the independence and integrity to enforce such standards.

Professional associations can also act as an advocate to improve the environment in which they work, and also contribute to procedures and working arrangements promoting higher quality and ethical standards of work, good governance and enforcing compliance to such systems and procedures.

Lack of arbitration mechanism

Arbitration and other formal procedures for dispute resolution are still in their infancy in construction industry in Cambodia. In most cases, disputes are resolved through informal channels or arrangements set up on an ad-hoc basis.

Formal systems of arbitration used for larger contracts are likely to be inappropriate for the small size contracts common in the CSF. There is however a need to establish a mechanism with an independent adjudicator which can be relied on in cases when serious disputes arise between the contractors and the client and its representatives. Its absence will certainly increase the risk of disputes being settled through corrupt practices.

Incomplete complaints mechanism

The complaint mechanism is still under development. A comprehensive set of procedures has been established for social and environmental safeguards as well as for securing the interests of minorities which raises awareness of such issues in the programme. Even with an effective framework of this nature, there is still a need for an effective complaints mechanism to deal with issues which were not identified during the project preparation stage.

At the moment, procedures have been established for how the public can file complaints, however, how they are dealt with and standard guidelines for compensation and redress are still required.

Contractors involved in the programme also require a process in which their complaints can be dealt with in a transparent manner without being a threat to their business. Contractors do file complaints through the existing complaints system, however they feel that such action seldom results in any change.

Weak public disclosure and redress system

Public disclosure is a new component in the CSF which has not been common in many past rural development programmes in Cambodia. Sign boards explain the main features of the sub-projects. Equally, the programme implements procedures for community involvement in the planning as well as the works implementation stages of the subprojects. This has clearly increased the amount of information provided to local communities about the development projects for which they are the targeted beneficiaries.

Still, local communities are in a weak position to point out deficiencies and they have limited means of action to complain when irregularities occur. Again, the system for redress and dealing with complaints need further attention.

Pressure from groups who stand to benefit from the shortages in the system

Corrupt practises are often entrenched in an organisation to the extent that they are perceived as general practice. This may be in relation to simple transactions such as the demand for “tea money” for issuing clearances and permits or more significant amounts during the tender process.

In Cambodia it is a common perception that government staff need to engage in such practices due to their low government salaries. Furthermore there is often a perception that their offices are so entrenched in such practices that in order to do business with government there is no other way than engaging in corrupt practices.

Both in Cambodia and elsewhere, the reasons for corruption are many and there is no quick solution for dealing with these. However, it is clear that an individual’s preparedness to engage in such practices is clearly linked to the risk of being disciplined. This risk can easily be assessed on the basis of existing legal framework and how it is practiced. It is a commonly held position that strengthening of the legal framework and stronger enforcement would have an impact on the current situation.

People who work in the programme, be it government staff or contractors, also need a system in which they can file complaints about corrupt practices to an independent body without running the risk of being victimised.

4.2 Project planning and design

The risk of collusion and other corrupt practices during the planning and design phase occur when guidelines for project identification and preparation are weak and work practices deviate from the principles of applying objective criteria for project selection and prioritisation based on the needs of the identified beneficiaries and cost-effectiveness of chosen projects and designs.

In general, these risks obviously increase when there are no guidelines for how planning and implementation should take place. Such a situation would also invite influential people to take decisions which may favour them financially and not necessarily provide the intended benefits. The absence of standard technical designs, work specifications and reliable cost norms increases the risk of corruption.

The PIM clearly defines what activities can be funded through the CSF, allowing a clearly defined portion of the funds for development of basic infrastructure services such as local roads and bridges servicing local markets, health centres, schools, water supply schemes including wells, ponds, reservoirs and piped water schemes, irrigation systems, drainage and sanitation, electricity supply schemes, markets, schools, health and community buildings, waste disposal infrastructure and schemes for environmental protection and natural resource management. These guidelines also identify infrastructure which cannot be funded under the CSF. The PIM also provides regulations allowing for a certain portion of the funds to be used for general management and administrative costs incurred by the communes - which are also well defined in the guidelines.

This situation is not uncommon to developing countries and also not unknown to Cambodia. However, in the case of the CSF, with its comprehensive procedures for selection and design of infrastructure, based on a bottom-up planning process in which the programme beneficiaries are clearly identified and involved in the entire project cycle, it would be fair to claim that the risks of corruption at this stage of the project cycle are minimal. Although local priorities may in some cases be skewed in favour of the more privileged, the overall impression is that the extensive procedures put in place for the conduct of planning and prioritisation have a noticeable effect in terms of selection of development initiatives which serves the intended beneficiaries of the programme.

Besides the well-defined planning process, it is important to bear in mind that the CSF covers all Communes and Sangkats in the entire country. Budgets are distributed in a manner that all Communes and Sangkats receive a fair share of the annual allocations with a bias in favour of the poorer areas. Need for this type of development support is regarded as high everywhere in the country and it is hard to find projects which do not serve the intentions of the programme.

Equally, the programme has developed an extensive set of standard designs for various types of small-scale infrastructure which reflect commonly used levels of quality and functionality and which have also proven their effectiveness in the prevailing conditions and environment. It is also evident from the infrastructure being built that these are of no excessive standards but relate to the demand for basic services required in the Communes and Sangkats. Furthermore, the cost estimates produced for the chosen infrastructure and designs are generally competitive to other programmes within the country and outside. There is certainly scope for improvement, however, such concerns are more related to improving general skills levels among technical staff and contractors to further improve quality of works, and not related to reducing levels of corruption.

As compared to some of the other stages in the project cycle, the risk of corruption having a significant impact at this stage is generally perceived as low. This risk is also perceived as low in comparison to other projects in Cambodia and elsewhere which do not have equally extensive and elaborate planning procedures.

High	
Medium	
Low	◀ Low

4.3 Programme management

Management capacity is a combination of both the human resources allocated for this purpose as well as the tools provided for this staff to carry out the various activities related to

managing the programme. It includes the institutions at central level as well as management at province, district and commune levels. It also includes the capacity of the contractors involved in the programme to manage the civil works in a timely and efficient manner.

Common risks related to management of any public procurement are as follows:

- Poorly defined systems and procedures for procurement, accounting and financial management procedures
- Lack of knowledge of prevailing procurement, accounting and financial management procedures
- Levels of competence in basic principles of procurement limits the understanding and perception of what is right and wrong
- Complicated and tedious processes for certification and approvals increase the risk of resorting to corruption to short-cut elaborate and time consuming procedures
- Low capacity among contractors in terms of skills and organisation of works
- Lack of capacity to supervise works
- Poor work motivation among government staff
- Poor work motivation among contractors due to reasons such as to low bid prices, late payments or too much pressure to pay bribes
- Contractors barred from prequalification
- Poor monitoring and evaluation procedures

The CSF has a firmly established institutional framework within government with detailed and well described implementation arrangements. The procurement of works, goods and services in the CSF complies with the procedures as defined in the Ministry of Economy and Finance Procurement Manual and the financial manual developed for Externally Financed Projects/Programs in Cambodia. As the World Bank provides support to the programme, the works also need to comply with a series of procedures and guidelines prescribed by the Bank.

All of these concerns have been accommodated in various manuals prepared for the CSF such as its Project Implementation Manual, technical manuals, standards drawings and work specifications, contract documents, Financial and Administration Manuals and others. Extensive training has been provided in the use of the procedures. The CSF also has a strong management unit (NCDD-S/Project Support Team) at National level which provides continuous guidance and support to the province support units and the communes. Furthermore, there is a team of 200 advisers supporting the CSF with technical and managerial advisory support. These guidelines and established procedures together with the support mechanisms in place ensure consistency in the implementation of the programme and compliance to established procedures.

Still there is scope for further improvements of procedures and working arrangements. Several procedures can be further streamlined and shortened and others can be carried out more effectively and more transparent if computerised systems were introduced.

Capacity is limited among the predominantly small-scale contractors involved in the programme, however, the works are simple and require limited technical skills which the contractors do actually possess. Works are carried out to reasonably good quality and generally delivered within time. Equally, the contractors seem highly motivated in carrying out the contracts awarded to them through the CSF. The general impression is that the contractors would be able to and are also prepared to carry out far more works than what is currently available through the programme. Contractors' motivation and commitment is also manifested through the fact that a significant number of them have participated in the programme for several years.

It is believed that there are more contractors in the private sector who could join the programme although the barriers limiting wider participation are unknown.¹² Further measures to increase transparency in the prequalification process could contribute to higher participation from the private sector.

Strengthening the procedures for quality control and technical audits can improve work outputs.

Technical staff certainly possess the necessary skills to supervise the works. The type of works is well known to them and most possess extensive experience from working in the sector for 10 years or more. The issue of low salaries and allowances for government management, administrative and technical staff is generally perceived as a significant factor which contributes to poor motivation and the practice of bribe taking. This issue is to an extent beyond the control of the programme as it is also a general public service issue. Still, the CSF is at present addressing the issue through more use of private consultants on a pilot basis to carry out technical work such as project design and supervision.

Further strengthening of quality control and audit procedures, improving transparency in the prequalification and tender exercises and streamlining payment procedures may contribute to shaping a more conducive environment in which the contractors can conduct their business, and reduce pressures to pay bribes.

Again in comparison to other stages in the project cycle, the risk level at this stage is generally perceived as low. This risk is also perceived as low in comparison to other projects which have not defined their management procedures in such great detail as in the CSF.

High	
Medium	
Low	◀ Low

4.4 Prequalification and tender

General experience shows that these two stages are often where the risks of corruption are high. Accounts of bid rigging are not unknown in rural infrastructure programmes in Cambodia. Equally, contractors complain that it is difficult to gain access to works in certain other public works programmes or that they have been unjustly disqualified during tenders

There are a number of other illicit practices known to take place during tenders. The following are the ones which are perceived as being a risk in the CSF:

- Barring contractor participation in tenders (i) during prequalification and (ii) during bid submission
- Collusion among contractors with, or without, the involvement of government staff for the purpose of price fixing and distribution of contracts
- Allowing incompetent firms to participate
- Contractors registered under several names and thereby submitting more than one bid
- Rigging of cost estimates
- Inflating works quantities
- Submitting bid prices significantly lower than budget estimates with the intention of performing works at low quality or not delivering specified volumes of works

¹² In urban centres such as Battambang, it is believed that the number of prequalified contractors can at least be doubled.

The extent of collusion seems to have been drastically curtailed through the decision to open all bids in the programme to all contractors prequalified in the CSF. This means that a contractor registered in Koh Kong is now eligible to submit bids for works in Rattanakiri.

The fairness and transparency of the prequalification and tender exercises can be further improved through the introduction of more computerised systems. If applications for prequalification were submitted through a web-based portal, it would be possible to monitor the interest from potential contractors to join the programme. This would also allow for better monitoring of the practices of each of the provinces in accepting new applicants. Furthermore, it would then be possible to audit the decisions to reject applicants. Collusion during tender can be very effectively eradicated through the introduction of an e-bidding system. E-bidding would also eradicate any practice of unjustly rejected bids.

The practice of contractors submitting several bids using separate company names can be countered through closer control and audit of the prequalification exercise. If cases are discovered, the new anti-corruption regulations should be activated.

Hopefully, practices such as rigging cost estimates and inflating works quantities during project design can be eliminated through the introduction of private consultants for design of works. Equally, poor quality works resulting from too low bid prices need to be countered by strengthening work supervision. With stricter enforcement of quality and proper surveying of completed works, these practices will eventually diminish.

Based on the findings from the field survey as well as information contained in the post reviews, the risk of collusion and other corrupt practices is perceived as high at this stage. This risk level is also perceived as high in other projects in Cambodia.

High	◀ High
Medium	
Low	

4.5 Works implementation

The practice of bribes being paid during works implementation is probably perceived by the general public as the most common form of corruption in the construction industry – in Cambodia and everywhere else. Levels of corruption are generally perceived as higher in public works as there is often a weak relationship between the owners/beneficiaries of the works and the staff in charge of management and supervision. In general, common problems related to corruption include:

- Works not completed on budget,
- Contractors inflate claims by including quantities of work not carried out
- Contractors use poor quality materials
- Poor quality construction
- Inadequate work supervision both in terms of quality control and control of volumes of work
- Lack of quality assurance procedures or enforcement of these
- Poor management of work supervision and lack of logistical support
- Poor audit procedures

The ownership issue has been addressed by the CSF by identifying the Commune and Sangkats as the Client of the works and also involving the Commune, the beneficiaries and the general public in the process of inspection and approval of works carried out by the contractors.

As regards to completing works on budget, the CSF shows remarkably good fiscal discipline. As compared to other projects in Cambodia and elsewhere, the contracts in the CSF are completed within the allocated budgets and not exceeding the total value mentioned in the contracts. This can be explained by the fact that most works projects are planned and designed on the basis of the available budget allocated to each of the communes. The budget available to each commune is small so the communes try to identify a project which exhausts the entire allocation in one single works contract. Contractors are familiar with this situation and realise that there is no scope for additional claims. If bid prices are substantially lower than the budget estimate, the commune can adjust the volume of work in the contract so that the entire budget is exhausted.

The level of staff wages is perceived as a problem in the CSF and it is generally believed that this impacts on the quality of supervision. There is a need to establish an arrangement in which supervision and site visits are encouraged, in which there is a clear incentive for the staff to ensure high quality work outputs.

Lack of supervision also allows contractors more leeway in terms of compromising on quality and quantities of works. There is also a general opinion that in cases where bids are awarded at prices substantially below the estimated budget, the contractors resort to cutting corners and do not deliver the quality and volumes of work specified in the contract.

The CSF has developed an extensive set of manuals and guidelines which clearly defines construction designs and standards. These are important and valuable tools forming part of the quality assurance system of the programme. The type of works involved in the CSF consist of simple designs which are well known to the technical staff and contractors as they follow standard practice in relation to this type of works in Cambodia.

There are also clear procedures on how quality of works should be controlled, its frequency and with what tools and methods. Still, with shortcomings in staff motivation these efforts are compromised. There is also scope for further improvements through training of technical staff and contractors in how quality of works can be improved.

It is important to note that there is no automatic link between quality of works and corruption. Corruption may also take place within a programme which displays high quality work outputs. For this reason the two need to be handled separately. The issue of quality of works and the quality of supervision is now being seriously addressed by the programme through the pilot introduction of private consultants for work supervision.

Furthermore, the programme has introduced a complaints mechanism which can be and is already in use for reporting cases of corruption. This and other means of addressing corruption clearly shows that government is addressing the issue. The CSF management is also intent on improving the existing complaints mechanism.

Internal audit mechanisms are still weak and needs to be strengthened. One possible approach would be to extend the role of the private consultants into this field. Strengthening the audit function will also add to the pressure and motivation of the newly introduced private consultants for works supervision to carry out their work to the required professional standards.

Although lower than in other projects, most of the allegations in the CSF relating to bribes relates to the works implementation stage so the risk level at this stage is perceived as high. The risk level is also perceived as high at this stage in other projects in Cambodia.

High	◀ High
Medium	
Low	

4.6 Payment of works

Here again, general perceptions of corruption are high. It is common belief that government staff withhold substantial part of payments due to the contractors for completed works and services. The perception is also that it is at this stage the largest bribes are paid. Interestingly the field study findings show that this general impression is incorrect. The practices described by the contractors indicate that payments do occur, however they are small compared to other bribes being paid.

Risks of corruption at this stage of the project cycle are related to the following scenarios:

- Facilitation payments for processing claims
- Facilitation payments to obtain permits and when paying fees and taxes
- Government revenue from taxes, fees and permits are not accounted for,
- Royalties on quarry products not paid or omitted from government accounts.

The negative implications directly affecting the project would be that:

- Contractors slow down works while waiting for payments,
- Contractors are less motivated to produce high quality works,
- Contractors are encouraged to pay bribes to keep system running.

According to the contractors, payments are carried out within reasonable time and therefore do not pose any major problems to their cash flow. Still they do complain that the system is too tedious and there are too many minor details which may delay the processing of payments. Often documents are not correctly filled in or there are minor errors in the supporting documents which require rectification before payments are approved. Contractors often bring the commune staff with them to the Provincial Treasury in case there are any errors or missing information to be provided.

Many contractors also complained about the system of issuing cheques which need to be cashed at the Provincial branches of the Cambodia National Bank. This added to the time it took to obtain payments and this final step in the process of securing due payments was another test of their patience as several contractors complained about the slow service at this Bank.

The recommended remedial actions would be to:

- Reduce red tape and streamline procedures to reduce transaction costs and time and works inputs to process payments
- Introduce procedures which avoid/reduce the need for person to person interactions
- Reduce the number of approvals, signatures and stamps required thereby clarifying lines of responsibilities among government staff
- Introduce one-stop arrangements for payments and issue of permits
- Introduce time-limits on payment processes
- Introduce computerised systems for payments, such as wire transfers instead of the use of cash and cheques.

It should be noted that the procedures at the Provincial Treasury and the National Bank is only the last step in a long process for the contractors in claiming payments for completed works. Before they reach this far, they have (i) mobilised the TSOs to carry out an inspection and to produce a progress report on completed works (ii) participated in surveying of quantities of completed works, (iii) attended a public meeting during which the decision to approve works were discussed and (iv) obtained the payment order issued by commune authorities. Be reminded that this process needs to take place for each of the three payments

normally processed for each contract. Altogether this is a long and patience testing process which may deter potential contractors from doing business with the CSF. It is certainly long enough to tempt certain contractors to pay bribes in order to speed up the process.

The issue of streamlining payment procedures is also essential for the development of effective payment procedures for the services of local consultants engaged to carry out design and supervision of works. It is important that these consultants are paid promptly for their services and equally reimbursed in a timely manner for the expenses they incur avoiding to create a situation with a prevailing impression that they need to pay bribes in order to receive their payments without unreasonable delays.

Despite the fact that bribes are smaller at this stage they do take place. Furthermore it is claimed that this is the standard way of doing business so the risk level at this stage is perceived as high. The risk level is also perceived as high at this stage in other projects in Cambodia.

High	◀ High
Medium	
Low	

4.7 Overall risks

The inherent nature and size of the programme also carries a risk factor. The CSF is a large scale programme which in terms of annual turnover, competes among the largest in the country. Furthermore, the programme has a geographical spread which most probably is beyond any comparable development programme in the country. Remember that this programme involves all 1,621 Communes and Sangkats in the country.

Another important feature is the total number of staff involved in the programme. It is estimated that a total of at least 1,500 government staff at central, province and district levels provides work inputs to the CSF. In each of the communes there are at least two persons involved, i.e. the Commune Clerk and the Council Chairman. In addition, there are roughly 200 advisors engaged in the CSF. This totals up to more than 5,300 staff members and advisors from the public sector.

Even if one considers that the probability that any one of these staff members would engage in corrupt practices as very small, the accumulated risk of corruption among the entire work force would from a statistical point of view become significant. Expressed in plain English, this implies that even if each and all of the staff members would be considered as generally honest persons there is bound to be some bad cases amongst this large group of people.

Equally, considering the large number of transactions taking place in the programme, with more than 1,800 contracts awarded each year and with more than 900 contractors involved, the chances of individual cases where something goes wrong at some stage of the project cycle is not insignificant.

Considering these numbers, and the perceived levels of corruption in the programme it seems as if the programme has fared pretty well.

5 Results of the field survey

5.1 The field studies

The field visits were carried out from 21 October to 10 November 2010, covering the provinces of Kandal, Siem Reap, Battambang and Kampong Cham. Siem Reap was selected as a study province since a recent post review carried out by the World Bank identified comparatively high incidences of perceived cases of collusion. Battambang was chosen due to the fact that the number of prequalified contractors has recently decreased when compared with other provinces where the trend has been a gradual increase. Kandal was selected due to its proximity to Phnom Penh, allowing for a quick update of the setup of operations in the field. Kampong Cham was included since it has the highest number of prequalified contractors among the 23 provinces and the capital.

Interviews were carried out with programme stakeholders in the provinces, including:

- prequalified contractors
- Commune and Sangkat Councillors, Village Chiefs and Commune/Sangkat Clerks,
- Treasury and Local Finance staff,
- Department of Local Administration and Provincial and District Facilitators,
- PRDC Ex-Com,
- Technical Support Officers and
- NCCD-S advisors.

The research subjects covered factors required for fair and full competition, such as availability of information and the cost of collecting information from various sources, and the perception of the risk of collusion and other corrupt practices taking place in the programme.

This chapter is a presentation of the immediate findings from the discussions with the above mentioned stakeholders during field visits to the provinces. These findings were discussed with programme management during a workshop organised in Phnom Penh on 13 December 2010. A more comprehensive analysis, discussion and recommendations of the results of the field work are found in Chapters 6 and 7.

Before the field interviews commenced, a set of questionnaires were developed by the consultant. One set of questions were prepared for the programme staff and a separate set of questions for the contractors. The questions were further modified during the discussions and interviews.

The questionnaires were developed in advance of any attempts to explore issues of collusion and corrupt practices in the programme. Therefore, several questions were initially formulated as a means of starting a discussion on these topics without really knowing how and to what extent such practices are taking place. Equally, the interviews were conducted to a large extent with the purpose of exploring how collusive and corrupt practices take place in the programme. For this reason the answers given were also not in strict quantitative formats, i.e. with no clear “yes” or “no” answers or with quantifiable replies which could be aggregated into tables. On this basis, the findings presented are of a more descriptive basis attempting to give a picture of some of the practices which have or are taking place.

The questionnaire for contractors was also translated into the Khmer language to facilitate the interpretation. The final versions of the questionnaires are attached as Annex 1 to this report.

5.2 Interview methods

Several interview techniques were applied depending on the staff met. Questions posed to government staff focused more on the procedures and the flow of activities in relation to prequalification, tendering and contract supervision and to establish the actual work activities and time involved at each step of the process. As part of this, questions related to collusion and corrupt practices were posed, however with very limited response. Still, the programme staff in the provinces proved to be an important source of information on work procedures, roles and responsibilities of various staff members and how the system actually works in practice.

Interviews with government staff were organised both on an individual basis as well as in groups. The group sessions seemed to be more effective as compared to interviews with individuals, as long as the groups were organised according to their profession, function and rank. Having separate sessions with the technical staff allowed for in-depth discussions on technical issues relation to quality assurance, work supervision, technical design, work methods and other engineering issues. P/LAU staff was an important source of information on community mobilisation, planning, project selection and oversight of works.

Equally, management staff was a valuable source of information on more general issues regarding overall effectiveness of the programme and its systems and procedures. It was noticed that staff was prepared to engage in more open and frank discussions in the absence of their superiors.

Initially, the interviews were carried out strictly adhering to the questionnaires. This proved to be an ineffective method of obtaining information relevant to the study. When strictly following the questionnaires less time and attention were allowed for assessing the answers to the questions. There were many questions to be answered and therefore the time allotted to each question and running through the entire questionnaire easily became the main concern when strictly following the questionnaire.

Instead it proved to be more efficient to use the main topics in the questionnaire as a guideline for the interviews and only rely on the detailed questions as a checklist when discussions on particular topics were concluded.

Various persons interviewed tended to give more emphasis to certain questions and issues. By further exploring these, instead of rushing on to the next issues, provided more in-depth replies and more information. It also provided a more informal atmosphere in which more contentious issues could be explored in a relaxed manner. The less structured interviews also allowed more time to clarify the reasons and purpose for carrying out the study. Essentially, the best interviews, yielding the best results, were the ones during which sufficient time was allowed for elaborating and telling the full story. This implied that much more time was required for each of the interviews.¹³

Sufficient time was also required to build up a trust relationship with the contractors during which it was made clear that there was no intention of sanctioning them as individuals for any collusive or corrupt practices. Due to the increased time required to interview each of the

¹³ The interviews with the contractors would take on average from 2 to 4 hours, depending on how much information they were prepared to provide. In addition, some time was spent on travelling to the chosen meeting locations such as work sites or their office premises.

contractors, additional days were added to the field surveys in order to conduct sufficient interviews.

All interviews with contractors were carried out in strict confidentiality in order to allow them to speak freely without having to worry about any repercussions resulting from their statements. For this reason the interviews were held at premises outside the government offices. Equally, these interviews were conducted on an individual basis.

Contractors were selected for interviews after reviewing their records in the CSF Project Implementation Database, thereby obtaining a variety of firms in terms of size, class¹⁴ and level of involvement in the programme. At the start of the interviews, the contractors were thoroughly briefed on the purpose of the survey, stressing that the intention of the interview was not to pursue any individual cases of collusion or corrupt practices but instead establish a general picture based on sample interviews. Furthermore, they were assured that the report of the consultant would present the information in a way so that it would not be possible to trace individual cases or incidences.

5.3 Interpretation

The consultant decided to recruit interpreters¹⁵ who possessed extensive experience with contracts management for infrastructure works. This allowed the interpreters to quickly gain a proper understanding of the relevant systems and procedures applied in the CSF in the prequalification, tendering and contracts management process. As the interpreters were fully conversant in contracts management for civil works it was easier for them to understand the questions and have these translated using the correct terms in the Khmer language. Equally, the interpreters therefore fully understood the answers provided and were in a position to easily translate into English using the correct contracts management terms.

All interviews were organised in a manner so that government staff and contractors received the questions in the Khmer language. Only interviews with technical assistance staff were conducted in English. It is fully acknowledged that some of the government staff are proficient in English as several have worked for donor-funded projects for the past 10 to 15 years. However, it appeared that they were more comfortable participating in the discussions when using their native language. The questions were therefore first posed in English, and thereafter having the question translated into Khmer. The replies were given in Khmer which again needed to be translated back into English. At times additional control questions were required to ensure that an answer was actually provided to the original question and that information was not lost or skewed during translation.

The need for translations caused the interviews to take longer time than if they were carried out in one language only. For this reason, some of the interviews were carried out in its entirety in the presence only of the interpreter. This was done for two reasons, one being the fact that the interviews could then be conducted much faster and secondly to explore whether the results would be different if the discussions were held in the absence of a foreign consultant. As it turned out the interviews carried out without the presence of the international consultant did not result in any different outputs except being faster to conduct.

¹⁴ Contractors are pre-qualified as Class 1, 2 or 3 contractors depending on their skills and experience. Class 1 contractors are eligible to bid for building works, Class 2 deals with earthworks such as roads, dams and ponds, and Class 3 covers special works, commonly referring to well construction.

¹⁵ During the first two days of the field visits interpretation was provided by Mr. Douk Narin. Interpretation during the rest of the field visits was carried out by Mr. Pen Sonath. Both are civil engineers with extensive experience in contracts management.

5.4 Prequalification

The contractors first obtained information about the business opportunities in the CSF from various sources including the Provincial Departments of Rural Development, the Governors office, at the commune councils, newspapers, other contracting firms, the Internet as well as through announcements on TV and the radio.

Most contractors did not find the prequalification process difficult but to some extent tedious in terms of completing the entire process and also having to repeat the entire process each year. Still, they felt that it was not difficult to retain their prequalification.

Most of the contractors interviewed were not registered with the Ministry of Land Management Urban Planning and Construction. When asked, the general response was that (i) this was not required by the CSF and other clients they currently worked for and (ii) it was an expensive process (costing up to US\$ 4,000). Equally, not all contractors were registered with the Province tax office at the time of tender. Some contractors would only pay the patent tax when securing a contract for the CSF.

The general impression was that contractors who owned their equipment were more confident in obtaining their desired Class certification (in practice this means Class 2 works involving road works). The practice and criteria for prequalifying applicants relying on rented equipment seemed to be more unclear and there seemed to be some inconsistency in the practices. Some contractors acknowledged that they needed to provide evidence that they had access to rented equipment, however several interviewed contractors with prior experience in rural road works had been denied Class 2 certification.

All contractors had prepared their prequalification application themselves. All confirmed that this registration process was free of charge and they were not expected to pay any formal or informal fees to prequalify. In one of the provinces, it was claimed that a great number of contractors had been created solely for the purpose of doing business with the CSF. It was also alleged that the province office would accept contractors who obviously were not qualified against a fee.

During the field survey, it was observed that in one province the recent pre-qualification process had resulted in some contractors losing their Class 2 certification. Considering the fact that most of the projects now consist of road works, which require Class 2 certification, the decision to only grant a contractor prequalification as a Class 1 or 3 Contractor in effect bars the company from participating in the programme.

All contractors were aware of the fact that there was a blacklist of contracting firms, however, they did not see this mechanism as a threat to their business. The general position was that as long as they delivered their work to good standards and on time, the blacklist did not worry them.

5.5 Bid preparation

Information about tenders is obtained in the same manner as the information about the yearly pre-qualification process. In addition, the provincial office is required by the PIM to call prequalified contractors to participate in a general information meeting during which work procedures were explained, bid schedules announced as well as addressing any problems encountered during the same exercise in the previous year.

In general, the contractors did not feel that there was a shortage of advance information pertaining to the tender announcements. Some contractors did suggest that it would be useful

with more prior notice of bid announcements. Equally, it was suggested that the bid announcements should be uploaded to the web at an earlier stage. One contractor also suggested that the detailed cost estimates for the works should be posted on the web.

Bid documents are distributed free of charge from the TSU. They are also available at the communes, however, the communes normally charge the contractors the costs of photocopying the documents (5,000 – 10,000 Riel). Some contractors had started downloading the bid invitations from the project web site, however many contractors are not proficient in the use of computers and the Internet and still continue to rely on obtaining bid documents at the province office.

Some contractors complained that at times it was difficult to obtain bid documents at the province office. They were told that the office had run out of copies and they were instead referred to the commune. Contractors found this behaviour tedious as it was more difficult to find the right people in the communes and required more time spent on travel to the various communes.

Several contractors appreciated the new arrangement in which the bid invitations were posted on the programme web site. This clearly facilitated their access to works, as all the documents required for submitting bids in any province were now readily available and at no cost. This greatly facilitated their participation in tenders in other provinces.

Some contractors suggested that the technical drawings describing the works in each of the contracts were made available on the project web site. According to the PIM, the contractors are not required to review these before submitting a bid and as a result contractors have submitted bids for works without seeing the details of the works. Equally, contractors have submitted bids for works in other provinces solely on the basis of the bid invitation without having seen the technical drawings or visited the project sites.

All the contractors interviewed confirmed that they as the owners of the company prepare the bids themselves. None of the firms engaged staff to assist them in preparing bid proposals. Some contractors stressed that the preparation of tenders was too important to be left to others.

5.6 Participation in tenders

Most contractors felt that the bidding procedures for works under the CSF were much easier than the tender procedures in other projects. The amount of information required in the CSF bids is less than in other projects and the tender and contract award procedures were perceived as faster and more efficient. Then again, the contractors also acknowledged that the works contracts in the CSF were smaller compared to contracts let in other programmes and therefore it made sense to limit the amount of information required in the bids.

Some of the contractors interviewed carried out works in several districts and also in other provinces. There are however several contractors who chose to limit their operations to the current area where they do business, arguing that there was sufficient business opportunities in the vicinity of their base and there was no need to seek additional work elsewhere.

One contractor had been encouraged by other contractors to participate in a tender in a province where there was a shortage of contractors. He had been requested to submit bids solely for the purpose of securing that the tender had sufficient bidders. He had declined on the basis that he was not interested in doing business in such a far-away location, upon which he was assured that he did not need to carry out the works. In case he was awarded a contract, he could then assign it to one of the local firms.

Although most contractors were happy with the decision to open the tendering to prequalified contractors from anywhere in

the country, they also realised that this decision would lead to new challenges. The first and most important issue which was highlighted was the fact that the government authorities would feel more secure doing business with a contractor who lived in the vicinity of where the projects were located. It was easier for a contractor from far away to abandon works as compared to a local contractor who based his/her business on repeat works in the vicinity of his/her base. If a local contractor wanted to obtain future works contracts with his/her current client agencies it was important to deliver on time and completing works. Outside contracting firms would perhaps not be equally concerned with such commitments and maintaining good relations with their clients.

Some contractors also pointed out that it was still more difficult to do business in other provinces as they did not have a prior business relationship with those government authorities and it took additional efforts in mobilising equipment and establishing new material supply lines including buying laterite gravel from local quarries.

Several contractors admitted that collusive practices had been and are still taking place in the programme. The reported incidences of collusion very much followed the practices described in other civil works programmes. Most contractors however believed that the level of collusion had significantly dropped after the decision to allow tenders from contractors prequalified in other provinces.

Most contractors who were prepared to talk about collusive practices were more willing to describe such activities taking place in other public works programmes they knew of or in which they had participated. Although such accounts are not related to the CSF, it is noted that these programmes are managed by the same authorities and give an impression that collusion is commonplace in public works programmes in the country.

Incidences of collusion known to the contractors normally start out with a meeting after the TSOs have prepared the detailed cost estimates of the sub-projects (i.e. the engineer's estimate) has been prepared. These meetings are convened with or without the participation of government staff. Some of these meeting are allegedly organised by government staff. In cases where staff from the government side is not present, they will still be informed about the setup as the group of contractors will be expected to provide a substantial bribe as part of the collusion scheme. During this meeting the details of the collusion will be agreed, such as determining who will be awarded which contracts and at what prices. As there may not necessarily be sufficient work for all parties, contractors who are not awarded works are compensated in cash for complying with the scheme.

Not all contractors in a district or province need to be part of this scheme. Essentially, it needs the participation of sufficient numbers of the major players who expect a major share of the works. The group also needs to be large enough to be able to control who arrives at the day of tender submission and be strong enough as a group to dissuade other potential bidders to participate in the tender.

One contractor explained that in other projects bidders, who did not participate in the collusion scheme or who were not accepted in on the deal, would have their bids disqualified on reasons such as insufficient documentation or that their bids were incomplete. In this sense, the prequalification system applied in the CSF contributed to a more fair and transparent bidding process since there bidders were not required to provide information about their qualifications when tendering for works.

During the day of the tender meeting, the colluding contractors need to ensure that no other contractors submit bids thereby dislodging their scheme. Contractors arriving at the place of bidding who were not party to the scheme are offered a bribe in order to abstain from submitting their tenders. Some contractors also claimed that threats had been made to those who did not agree to cooperate.

Still, some contractors object to participating in these schemes. Some contractors believe that they can stand on their own and do not have to rely on collusive arrangements in order to secure sufficient contracts. Secondly, and probably equally important, many of these contractors feel that they actually benefit more from not being part of the collusion as they expect to win more work simply by abiding to the official rules and by offering competitive prices. These firms seem to be among the comparatively larger ones, who possess their own equipment and seems to be able to do business at very competitive prices.

5.7 Paying government officials

Questions relating to payment of bribes to government officials received a mixed response from the contractors. Some respondents chose to provide the politically correct response that: *“they never during their entire business career had been required to resort to such practices, nor had any official at any time given them the impression that they were expected to provide such payments”*. This response was often given together with a statement that as long as works were delivered on time to the correct quality there was no need to pay any bribes. Others admitted that they would at the most pay for meals during the progress meetings arranged in the communes during which the construction committees were requested to provide their concurrence to certifying works.

The contractors, who admit that collusive and other corrupt practices do take place, described a picture which was independently confirmed during other interviews. These contractors would describe specific incidences, which without any encouragement from the interviewers, were also described during other separate interviews. These included accounts of specific meetings arranged to organise collusion also with the active involvement of government staff. These contractors would also be quite frank about the amounts being paid at the various stages of the contract.

The general impression given was that the arranged tenders would involve a significant amount of money to be paid to the provincial programme management. Normally this would be a one time event. In addition, there was tea money to be paid for processing payments and similarly for inspection of works when payments were due. These payments were however small compared to the one time payment amount agreed for a collusion scheme.

When contractors refused to participate in collusive practices or accepting to pay bribes, they would receive worse treatment from the client’s representatives. Many contractors claimed that it was not possible to do business with government without paying them. If they refused, payments would be delayed under various excuses such as non-availability of funds so payments needed to be delayed or they were busy processing other works. Equally, the works would be subject to stricter quality controls and on this basis the contractor would not receive the required certification of completed works. Several contractors claimed that if payments were not provided, they and their family would be repeatedly harassed by government staff arriving at the work site and at their home to collect money.

5.8 Tender evaluation and contract award

No contractors said they had to pay any bribes at the time of contract award. Some contractors did however admit that when collusion schemes were arranged it was common practice to offer a payment to the TSU. This amount would be in the order of 1 to 3 million Riel for each contract.

In many cases the prices offered during tenders are considerably lower than the engineer's estimate. In cases where there are leftover funds in the budget due to low bid prices, the Council together with the advice from province authorities may decide to increase the works in the final contract offered, applying the same unit rates as offered in the lowest bid. The contractor would then be offered additional works if he/she agrees to pay an additional bribe. Some contractors quoted this bribe to an amount of US\$ 500 - 700.¹⁶

5.9 Work supervision

There are mixed views as regards to the performance of the Technical Support Officials (TSO) and the frequency of site inspections. Some contractors claimed that they had a good working relationship with the technical supervision staff and that they visited the work sites on a regular basis.

Others claimed that the supervisory staff only visited the work sites when works had been completed and were due for payment. Some of the TSOs confirmed that due to a high workload and the recent withdrawal of allowances, their site visits were limited to when inspection of works for payment was due.

During discussions on how contractors can afford to pay substantial bribes, it was admitted that the manipulation of quantities of works reported can compensate for these payments. When prices offered are very competitive, i.e. substantially less than the engineer's estimate, some contractors also believed that such works contracts could only be completed if the carried out quantities of works were reduced.

Some contractors raised the issue of privatising the role and functions of the Technical Support Unit. In the on-going pilot scheme, consultants are now hired to prepare designs and supervise works. Some contractors feared that since it is the same persons in charge of design and supervision, the collusive practices may continue. These consultants will have an "incentive" to inflate the estimates and for this reason the contractors recommended that separate consultants were engaged for estimating costs and providing work supervision.

Contractors confirmed that Dynamic Cone Penetrometers (DCP) have been introduced as part of the quality control process as a means of controlling resulting density from compaction works. Several contractors expressed discontent as regards to how and when the DCPs were used. The contractors claimed that the DCPs were only brought on site when works had already been completed. If the tests carried out using the DCPs indicated that the compaction was substandard, this would in principle imply that the work should be redone, which would incur substantial costs to the contractor. The contractors pointed out that such cases could easily lead to resolving the issue of quality by resorting to bribes. None of the contractors possess such testing equipment themselves so they have limited means to check the quality of compaction before the final inspection carried out by the client.

A similar scenario was described for the quality testing of concrete where impact hammers are used to test the strength of concrete. The checks are carried out after works have been completed at which stage no one wants to rectify works and thereby creating a new source of corruption.¹⁷

¹⁶ Remark: Obviously this amount would depend on the volume of additional works on offer.

¹⁷ As most of the sub projects in the current programme consist of construction or improvement of rural roads, the use of the DCPs is a more common quality control measure.

5.10 Certification and payment of works

The standard contract in the CSF allows for one interim payment when 50 percent of works have been completed, a second payment when all works are complete and a final payment after the defects liability period. Most contractors will request payment at all three stages of the contract. Before any payments are made, the TSOs need to prepare a progress report to the Commune Council after which a public meeting is held at the work site where the project construction committee need to endorse the recommendation of the TSO that works have been carried out. The council clerk then needs to prepare a payment order for the Province Treasury which on this basis will issue a cheque to the contractor. The cheque can only be cashed at the National Bank.

The contractors claim that very little money is required to facilitate the certification of works and obtaining the local approvals of completed works. The contractor is always present during the works certification and the public meeting during which final approval is given for which payment is claimed. At the most, the contractors say that they would offer lunch for the participants during the site meeting.

A large proportion of the contractors admitted to having to pay “tea money” for the processing of payments at the province treasury. The amounts are not large, however, it seems as if this is a regular practice. If these payments are not made, the contractors would have to wait for a longer period before the cheques were issued.

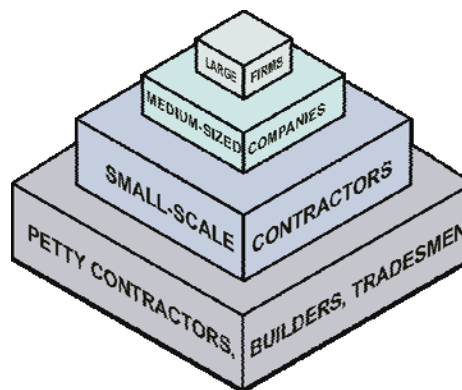
A number of contractors complain that if there are mistakes in the payment order issued by the commune clerk, the documents need to be returned to the council and new forms need to be prepared with the obligatory signatures and council stamps. For this reason, the commune clerk or chief would accompany the contractor when visiting the council treasury to collect the cheque.

Equally, the contractors complained that the cheques have to be cashed by the National Bank. This is always a very time consuming exercise as compared to having the same service carried out at a commercial bank.

6 Findings and Observations

6.1 Prequalification

The private construction industry in worldwide is characterised by a multitude of private entrepreneurs ranging in size, skills and experience. The distribution of large, medium-sized and small contracts follows the same patterns in most countries. Large contracting firms are normally relatively few in numbers, often based in urban areas. Medium and small-scale contractors are found in larger numbers, some with a permanent presence in the rural areas. The construction industry also consists of a great number of smaller business entities such as local builders, plumbers, electricians, carpenters, masons, etc. Although these smaller businesses, sometimes referred to as petty contractors, are not formally registered as contractors, they constitute a significant part of the local construction industry.



In the past, formal recognition has only been provided to the larger firms through the certification process currently managed by the Ministry of Land Management Urban Planning and Construction, (MLMUPC). This certification system is similar to processes used in other countries based on a system which classifies contractors according to their size and skills. Unfortunately, the current costs of registering with the MLMUPC are considered too high for many small entrepreneurs and as a result this system does not cover the smaller firms and local builders. As a result, there has been very limited information on the capacity and performance of smaller contractors.

Despite this, the smaller firms form an important role in the construction industry. Although these firms are small, they represent a considerable implementation capacity due to the very large numbers of companies. More important, they are based in the rural areas where local infrastructure development is required and they are interested in doing business with local authorities. The CSF is clearly a testament to how such small-scale entrepreneurs can play an important role as a vehicle to promote local development.

A key lesson learnt from the many years of the CSF is that it is important to recognise the significance of the local private sector as a key stakeholder during the implementation of the infrastructure works. The systems and procedures developed for the effective involvement of local construction industry in the civil works is clear evidence of this. These outputs are significant contributions to building an enabling environment in which local businesses can operate and prosper.¹⁸

The prequalification process developed in the CSF should be regarded as a valuable output in terms of organising the private construction industry in Cambodia and extending formal recognition to all the small-scale construction companies and local builders in the country.

The prequalification process in the CSF should also be recognised as a valuable development asset because it reduces the amount of paperwork required in the tender process. This is a great innovative feature in the system. Instead of having to document past experience and

¹⁸ With a budget of US\$ 36 million in 2010 of which two thirds are allocated to development projects or activities, (most of which are civil works contracts) the CSF provides local small-scale construction firms with a significant amount of market prospects.

current capacity during each tender, the CSF carries out a review of the contractors assessing these qualities of each firm during the prequalification stage as a one-time exercise. Once the contractors have completed this exercise, they can participate in tenders anywhere in the country where CSF funded works take place without having to repeatedly prove their eligibility and competence. Not only does this simplify the work of bidders, it also streamlines and simplifies the work of tender evaluators. It also improves the level of transparency and sense of fairness in bid evaluations as discussions on eligibility and competence of the contractors have already been sorted out during a separate exercise before the tender process begins. This way, the issue of competence of bidders have been delinked from the decision on to whom any particular contract should be awarded.

In an environment where there is limited knowledge and understanding of the basic principles of tendering and the enforcement of fair and transparent practices, it is believed that the pre-qualification system developed for the CSF makes a significant contribution in terms of assessing the capacity of small contractors in a uniform manner. Small contractors and local commune administrations do not possess the same experience and understanding of the rules and regulations pertaining to works procurement as compared to what is normally found among staff in specialised public works agencies and among larger construction firms. The pre-qualification system in the CSF addresses this short-coming.

This system is not only of great use for the CSF. It also has a great potential for being used by other rural infrastructure works projects in the country. Rural development is still in great demand in Cambodia. Indicators related to access to all-weather roads, schools, health facilities, potable water and other basic services clearly show that there is still a large demand for improvements. For this reason, there is a continued demand for rural infrastructure works which in turn provides a long-term demand and market for local small-scale construction firms. Rural infrastructure development is carried out by a multitude of foreign and domestic agencies, NGOs as well as private sector organisations. The prequalification system in the CSF can also be used by these players to facilitate their efforts in identifying local firms with adequate capacity to carry out their works programmes.¹⁹

Another great feature of the CSF prequalification system is that the information is available to the general public through the web based Project Implementation Database which includes the contractor register with valuable information on the past experience and performance of the contractors.

The challenge is now how to market the system to other projects and programmes. If more projects start using the system this will also motivate more local contractors and builders to apply for a prequalification status which again will have a several positive effects:

- (i) It will improve the quality of the database itself and information on the local construction industry and the availability of local firms.
- (ii) An up-to-date information system on the availability, skills and capacity of local contractor may facilitate implementation and the effectiveness of rural infrastructure projects in general.
- (iii) Improved knowledge of the local industry may promote further use of local resources instead of relying on larger firms from far away locations.
- (iv) It will further improve local contractors' access to markets and improve their business opportunities.

¹⁹ The procurement system of the CSF, including its prequalification process, is already in use by the District Initiative Project, the IFAD Rural Poverty Reduction Programme, Democratisation and Decentralisation Local Government Project (EU and UNDP), the *Inter Commune/Sangkat Cooperation Project (EU)* and the *National Resources Management and Livelihood Project (DfID and DANIDA)*.

- (v) The database can improve the general knowledge of the construction industry and its capacity, skills and development challenges and
- (vi) facilitate further development of local industries and economies.

In order for this process to take place, it is however important to ensure that the registers of prequalified contractors in each of the provinces are all-inclusive and that any hidden barriers to participation by individual contractors are reduced to a minimum.

This aim can to a certain extent be addressed by reassessing the procedures for certifying the contractors by (i) expanding the mandate and purpose of the prequalification process carried out in the provinces, and (ii) establishing some oversight mechanism for ensuring a wide participation in the prequalification.

In terms of expanding the purpose of the prequalification, the general advertisement and briefing provided through public channels and to contractors should give emphasis to the fact that the system is open for all to make use of. Contractors should also be informed that the prequalification is an acknowledgement provided by the government that they possess certain skills and capacity and as such, it is an important reference of past performance which can also be used in relation to obtaining works from other clients.

It is believed that there is still scope for involving more local contractors in the scheme and additional measures can be taken to promote increased participation from the private sector. Considering the numbers of prequalified contractors in certain provinces with the level of private sector activities in the same areas, it is probably possible to include more local firms in the scheme. Equally, there is a need to establish an improved oversight mechanism for the promotion of the scheme and also for dealing with complaints when contractors encounter problems in obtaining or maintaining their prequalification status. Such measures would also contribute to the perceived integrity and effectiveness of the system and increase its attractiveness to other potential users.

Applying for prequalification through the Internet

A further improvement to the current procedures would be to computerise the system for applying for a prequalification and place it in an Internet based portal. It will allow improved access for contractor to register their interest in joining the programme as the required information and application forms would be available on a continuous basis on a web site. This may break down hidden barriers currently in place which may be reducing the number of applicants. Although the contractors would apply through a web portal, this does not give automatic certification. The evaluation process would still remain unchanged and follow current practice. Still the added advantage is that more transparency is added to the application stage, which in turn allows improved monitoring of who and how many applicants are received and the results of the evaluation.

In 2010, the programme has prequalified 962 contractors. This results in an average of 40 contractors in each of the provinces and municipalities. Some provinces have managed to prequalify more contractors and some of the remote provinces still struggle with limited numbers of contracting firms. Kampong Cham Province has the largest number of prequalified contractors with 149 contractors registered in the PID while in Stung Treng there are still only 10 prequalified contractors.

If one divides the total number of communes with the number of Communes and Sangkats the result is that each contractor needs to bid on 1.7 contracts in order to at least receive one bid for each contract (assuming there is on average one contract in each commune). In order to secure the minimum required three bids for each of the contracts this entails that each contractor needs to submit on average 5 bids. To ensure good competition and competitive prices in an environment free of collusion it would be good to reach a situation in which on average say seven bids were received for each contract. This requires each contractor to submit bid proposals for roughly 12 works contracts.

This goal can be reached through several methods and measures should be taken to pursue each of these. One solution is obviously to increase the number of prequalified contractors with the type of skills required for the typical works being carried out in the CSF. This can be done by making the procedures for prequalification more accessible although still maintaining required standards on skills and experience. Establishing a web-portal for applications from contractors to prequalify which is available on a continuous basis may facilitate increased participation in the programme. Equally, by providing more guidance to the public on who is eligible may help to recruit new contractors.

Secondly, if bidding procedures are streamlined and made easier, this may also encourage already prequalified contractors to bid for more works. The recommendations to place all information pertaining to the individual works projects on the NCDD website would contribute to this goal. This will most probably encourage more contractors to participate in provinces where they currently do not operate.

Finally, it is believed that if payment procedures are streamlined so that the amount of time and effort spent on chasing individual payments is reduced, this may encourage contractors to do more business with the programme.

6.2 E-bidding

Electronic bidding systems or e-bidding has already been used in the private sector for more than 10 years. In recent years, these systems are also replacing traditional paper based procurement procedures in the public sector. More and more public works agencies now conduct their tenders through e-bidding. It has also been introduced in a number of developing countries including large scale rural infrastructure development programmes with similar features as the CSF with its wide geographical coverage and numerous implementation units.²⁰

Electronic bidding is very efficient in reducing errors and work involved in submitting a bid and reviewing bid proposals. Electronic bid forms ensure that bids are complete and contain all required information. These systems can also ensure that the bidders receive all relevant information pertaining to the works and confirm that the bidders have received this. Experience show that the use of electronic bids encourages increased bidder responses.

The e-procurement platform can be designed so that it distributes automatic email notifications to all prequalified contractors. Contractors can receive announcement of works and information on where the individual projects are posted on the website. In turn the e-bidding system allows the contractors to submit bids electronically in a secure environment. The system can be designed so that they are secure enough to avoid that bids are tampered with or omitted during the bid opening session.

The contractor digitally signs and submits a bid via the Internet so no paper is required. As the bids are entered into the system by the contractors this results in a much quicker data entry procedure which provides more timely and accurate information in the Project Implementation Database. It also reduces the need for extensive data entry and processing staff.

²⁰ The Prime Minister's Rural Road Programme (PMGSY) in India, which covers the entire country, has decided to carry out all tenders through e-bidding. At present roughly half of the states already use such a system and the rest are in the process of introducing electronic procurement platforms. Similar to the CSF, they have also established a web-based database for monitoring progress of all contracts. See <http://pmsgy.nic.in/> and <http://pmsgytenders.gov.in/>

A major concern in relation to the procurement process in the CSF has been the ability to control the extent of collusion during tenders. E-bidding when correctly applied eliminates this risk.²¹ Bidders do not need to physically appear at the venue of bid submission and the name of the bidders and the number of participants can be kept confidential until bid opening.

In principle, e-tendering systems are no different from other forms of e-commerce which is already in use in Cambodia (i.e. buying goods and services from the Internet). A major impediment to its introduction is not the complexity of the system but rather the fear of the unknown by managers and decision makers. However, this may not necessarily be the case in the CSF with its demonstrated affinity to introducing computerised systems for information management.

The CSF already posts bid documents on the internet so half the job of implementing an e-bidding system is already done. Information on all the prequalified contractors already exists in a web-based information system so the remaining step to introduce e-bidding is therefore not an inconceivable leap.

Introducing an e-bidding system in the CSF is also attractive since it can create additional publicity to the programme for taking the lead in embracing new and innovative technology which also is known to reduce collusive practices.

In a procurement system such as in the CSF, with its large numbers of contracts, an e-bidding system has an added advantage in terms reducing and streamlining work relating to documentation of the bidding process and storing information for monitoring and audit purposes. Currently this is a large task carried out by the P/LAU.

E-bidding, like any Internet based system allows for inputs from any location where an internet connection is available. Therefore the bidders may submit their application from any location within or outside the provinces where the works are located. The data entry is organised the same way as other e-commerce such as buying an electronic air ticket. A data entry form is used to submit the necessary information in the bid proposal. This data is automatically checked for mistakes and to ensure it contains all the necessary information. Each prequalified contractor is given a unique digital signature and uses this as his/her identity and as a method of signing the bid.

The current practice of opening and awarding bids in the districts can still be retained. Instead of opening sealed enveloped containing the bids, a computer operator is given access to the computer files containing the submitted bids at the prescribed time of opening. The received bids can be displayed on a large monitor or with an overhead projector.

At the same time as opening the bids, which would then already be in the system, the results of the bid competition can be quickly displayed, thus further rationalising the data entry work required for monitoring and evaluation. As the CSF always selects the lowest bid, the system can arrange the ranking of the bids automatically.

It is acknowledged that many contractors are not computer literate, however, the system is not more complicated than purchasing an e-ticket for air travel. In general, contractors are very excited about electronic bidding. There may be some government staff and contractors who will be hesitant to change and initially feel uncomfortable with a computerised system. Equally, some consultations may be required with MEF on the use of an electronic system.

²¹ This statement assumes that sufficient contractors are eligible to bid and that sufficient numbers of contractors show interest in submitting tenders. It is therefore important that a decision to introduce e-bidding is done as part of an action plan which also includes other measures to promote competitiveness in the CSF procurement system.

Training will be required for government staff and contractors in operating the system. Contractors who are not familiar with the use of computers will need to employ someone who can assist them in the data entry so training needs to be provided to both the contractor and his/her staff. The CSF, being a large programme, would need to introduce the system in a staged manner, gradually increasing its coverage of districts and provinces.

6.3 The cost of doing business

The Terms of Reference for this assignment ask for an estimate of the cost of collusion and other corrupt practices in the CSF. The following section summaries the bribe taking practices as described by interviewed contractors during the field survey. A more detailed description of these practices is found in Chapter 5.

(i) Prequalification

Some contractors claim that firms have paid money to obtain their prequalification. This does not seem to be consistent practice as it was only in one province, of four surveyed,²² where it was claimed to take place, essentially involving firms which under normal circumstances would be deemed unqualified to carry out works under the CSF due to lack of prior experience. The amount of these payments were claimed to be in the order of US\$ 400-500 per prequalification, or an average of US\$ 450.

(ii) Costs of Collusion

Payments relating to collusion during tenders are mainly used to compensate contractors who have not been allocated any contracts and thus persuade them to participate in a given collusive scheme among the contractors. In return for the payment, the contractor is expected to refrain from submitting bids. These payments are allegedly in the order of US\$ 100 to 200 to each contractor who are requested not to submit any bids.

(iii) Cost of contracts

In other rural infrastructure programmes in Cambodia, it is alleged that contractors are expected to pay 15 to 20 percent of the contract as a bribe to government staff.²³ This was a common figure quoted by several contractors who have participated in other rural development programmes. In the CSF, contractors alleged that amounts in the order of US\$ 300 to US\$ 500 were paid as an overall fee to government staff, or an average of US\$ 400. In addition, they estimate that an amount of US\$ 250 was expected by the commune councils.

(iv) Site inspection

In addition, there were expenses relating to lunches at the work site during the works inspections and payment approval meetings, phone cards and other small compensations to be paid to TSU staff at the time of site visits. This was estimated to a value of US\$ 100 for each contract.

(v) Payment of works

Payments to Provincial Treasury staff seem to vary between US\$ 20 and US\$ 40 for the processing of each payment. The standard contract used in the CSF allows for three payments, the first covering 40 percent of the works when the contractors have completed 50 percent of all works, another 40 percent when all works are completed and a final retention

²² The four provinces visited during the field survey was Siem Reap, Battambang, Kandal and Kampong Cham

²³ Some contractors claimed that there were instances where these bribes would amount to 50 percent of the contract value in other projects.

repayment releasing the remaining 20 percent after the six month defects liability period. According to the contractors, each of these payments requires the same amount of “tea money” to be paid to speed up the process.

(vi) Patent tax

Contractors also claimed that they had to pay more for the obtaining their patent licences than what was stated in the receipt for these documents. This would be approximately US\$ 50.

Summary

The following table summarises the costs described above and also attempts to estimate what the total cost of corruption would be in a worst case scenario in a single civil works contract.

Event or purpose for which bribe is paid		Amount, \$
(i)	Prequalification	450.00
(ii)	Tender collusion ^a	300.00
(iii)	Payment for each contract to province	400.00
	Payment to commune council	250.00
(iv)	Site inspection	100.00
(v)	Payment for processing claims ^b	90.00
(vi)	Payment of patent tax	50.00
Total		US\$ 1,640.00
Average size of contract ^c		13,000
Percentage informal payments		13%

Notes: a) Estimate that on average two potential bidders are paid to abstain at a cost of US\$ 150 each.

b) Estimate an average of US\$ 30 for each claim and 3 claims for each contract

c) The average size of contract is derived from the total budget of US\$ 24 million in 2010 available for development projects of which civil works are the vast majority (two thirds of the total allocation of US\$ 36 million) and the average size contract in 2010 in the PID

Analysis

The figures included in the table above relate to a perceived situation in which the contractors are expected to pay up on all the occasions mentioned above. This worst case scenario includes a situation in which the contractors would only be awarded one single contract against which the costs of the bribes can be recuperated. It is however common practice that contractors are awarded several contracts and such expenses can therefore be distributed across several contracts. If a contractor is awarded three contracts to the same average value the cost of corruption would amount to 10 percent of the contract value. Most probably this figure is more correct because it is the contractors who try to obtain several works contracts who pay off smaller firms expecting to win less work.

The situation is probably a far more mixed picture in which not all these payments are required and there may be contacts with very limited amounts of bribes involved. The impression given also indicates that a number of contractors do not support such practices and are not prepared to pay on all these occasions. There is also reasonable evidence to claim that many tenders are conducted without collusion and therefore without the involvement of bribes. On the other hand, there may be situations and practices which the survey in the four provinces did not reveal.

The table above describes the maximum level of bribes in an individual contract and not the perceived level across the entire programme. There may be a wide range in the amounts from province to province, and therefore these figures cannot be extrapolated to the entire country. The extent of corruption in the programme is hard to assess on the basis of the limited sample of interviews conducted. For the sake of establishing a probable range for the costs of corruption and collusive practices, the following scenarios has been calculated based on the table above. If it is assumed that only 20 percent of the contractors are engaged in such

practices then overall annual costs of corruption would amount to US\$ 480,000 or 2 percent of the total annual allocation made available for civil works. For comparison, if 60 percent of the contracts are subject to these practices the cost of corruption would amount to US\$ 1,440,000 or 6 percent of the annual allocation.²⁴

Compared to the impression given by the contractors as regards to corruption levels in other projects in Cambodia the resulting total figure from the table above indicates a lower level of bribes being paid in the CSF. As this is a worst case scenario, the average amount is probably less. This conclusion also correlates with the general opinions of contractors that other programmes and projects are burdened with higher corruption levels than the CSF. Several contractors pointed out that works contracts in the CSF are comparatively small and therefore there is less room for paying bribes.

This opinion also makes sense, considering the reasonable cost estimates applied in the CSF and the fact that very few successful bids exceed the original budget estimates in any significant manner. Costs of works, resulting from the tenders, therefore seem to be competitive with limited room for paying excessive bribes. It is also interesting to note that many contractors claim that levels of corruption were less in the past and that the level has gradually risen. Such statements also indicate that corrupt practices have not developed to its fullest extent yet. On the other hand, it does indicate that continued vigilance is required to counter a negative trend.

It is also a concern that many contractors claim that the general picture described is the “standard way of doing business” when operating as a contractor in public works schemes in Cambodia. It is alleged that if a contractor resists these pressures, it just becomes too difficult to do business with the government, resulting in too strict enforcement of quality standards, closer supervision of works quantities and delayed approvals and payments.

6.4 Cost of collusion

Collusion carries a cost beyond the money being paid to contractors to abstain from participating in a tender (ref. previous section). The motive behind tender collusion is not only to take control of who is awarded the contracts, but it is also a means of manipulating the price levels in the works contracts, attempting to obtain a higher price than what would be achieved in a free and competitive environment. In many infrastructure programmes this can amount to substantial price increases, at times estimated to up to 100 percent add-ons to the real cost of the works.

In the CSF, there are certain in-built features which clearly limit the increase of costs resulting from collusive practices. The fact that cost estimates and the size of the works contracts are carefully designed to match the available budgets in each of the Communes and Sangkats is in itself an effective limiting factor to the extent to which prices can be inflated.

Still, it is acknowledged that collusive practices can still lead to inflated prices in the CSF. There are alleged incidences of cost estimates being inflated as part of collusive practices which in turn encourage price escalations to take place when contractors collude during the tender stage.

On the other hand, the type and nature of the works also have a limiting effect on the extent of price inflation resulting from collusive practices. Some 70 to 80 percent of the works carried out in the CSF consist of improvement of rural roads and the standard cost norms for such

²⁴ Based on the 2010 budget in which US\$ 24 million is available for civil works and that the average cost of corruption in a single contract is 10 percent.

works are well known and do not vary much. The average costs are well known to all parties and the variations due to different ground conditions are limited. Although there are significant variations in the cost of gravel, the cost of this work activity is primarily dependent on the transport distance from the gravel quarries to the work sites. The CSF has established clear cost norms on the basis of hauling distances and for this reason it is difficult to significantly inflate such cost estimates. It should also be noted that the cost estimates for gravel works are competitive when compared to other programmes in which the perceived levels of collusion are minimal.

The fact that many contractors claim that they are not prepared to participate in collusive practices during tenders also indicate that the practice is limited in extent. Equally, the fact that contractors from outside provinces now participate in the tenders also reduces the extent of such practices and in turn reduces the overall cost of collusive practices. Prices have become more competitive as a result of higher participation of contractors from outside provinces and this trend is likely a result of less collusion.

The additional cost of collusion depends on (i) the frequency at which such schemes are practiced and (ii) the amount to which the resulting contract prices are inflated. Some programme staff estimate that collusion currently takes place in 20 percent of all tenders. If the prices are inflated by 20 percent as a result of collusion in these tenders, this will amount to US\$ 960,000 as an additional cost to the overall programme.²⁵ Although the basis for this calculation carries a high degree of uncertainty, it clearly shows that even with these low numbers the costs of collusion may be substantial.

However, it is important to bear in mind that this does not need to be an additional cost over and above the calculations on bribes described in the previous section. The collusion and part of the “increased profit” resulting from such price increases is used for recuperating the costs of the bribes which are allegedly being paid. For this reason, it is incorrect to claim that the costs related to price increases resulting from collusion during cost estimate preparation and tender is fully in addition to the bribes being paid. It may certainly increase the total figure, however, as some of it is returned as part of the bribes, only a certain portion can be added to the total figure.

Calculating the costs of collusion to a single contract is difficult as there are many factors which influence the prices offered by the contractors. When collusion takes place it may be argued that it also allows contractors to charge prices which allow them to carry out works to full quantities and proper quality with reasonable provisions for all costs related to the works, also including costs related to depreciation of equipment and standard overheads relating to risks. Collusion may also counter the practice of submitting very low prices which result in so tight budgets that the contractors resort to cutting corners by producing low quality works. On the other hand, a worst case scenario would be that both practices take place.

Still, it is possible to examine the bid prices of contractors who claim that they do not engage in collusion and compare these with tenders where there is a higher probability of collusion taking place. In the CSF, the tenders in which the lowest price offered is close to the budget estimates carry a higher probability of collusion. Therefore, one could compare the budget estimate with the bids offered by contractors who claim that they prefer to operate independently of any collusive schemes.

When making this comparison, it is however important to avoid using price samples in which prices are substantially lower than the estimated costs, as these bids are most probably motivated by intentions to compromise on quality during works implementation. Among the contractors interviewed it is noticed that they seem to be able to carry out the works at a

²⁵ Using the 2010 budget allocation of US\$ 24 million for capital investment works

discount of 20 to 30 percent as compared to the budget estimates. A conservative assessment would therefore suggest that the programme could achieve a price discount of 20 percent if collusion was avoided.

This figure needs to be linked to the bribe paying practices described earlier. Several contractors claimed that when collusion does take place, bribes need to be paid to the government staff to secure their tacit approval. It is claimed that this is done in the form of the one time payment offered for each contract as described in the previous chapter. Still, the logical approach would be to deduct the total amount of bribes paid from the additional income derived from engaging in collusive practices. The estimated bribes constitute 10 percent of the contract value thereby leaving a 10 percent balance in additional income from the collusion. If the frequency of collusion is as described above, this would amount to an additional cost of US\$ 480,000 to the programme, adding another 2 percent to the total picture.

6.5 Poor quality works

Contractors as well as programme staff have raised concerns regarding bids with prices substantially lower than the budget estimates. It is claimed that the only way the contractors can make a profit with such low prices is by performing low quality works and not delivering the full quantities of work. Recent technical audits have documented several cases of substandard works. Furthermore, contractors claim that bribes are offered when inspection reveals that works do not measure up to standards.

This form of corruption incurs costs both in terms of bribes being paid as well as the cost of the works which in effect have not been delivered. Once again, it is difficult to quantify the cost of poor quality works resulting from corrupt practices. Although the extent of poor quality works can be estimated, it is difficult to differentiate between the cases motivated by bribes and other cases which only result from poor supervision.

Poor quality work is not necessarily a result of corruption. In many cases, it can be attributed to poor supervision. The reasons for poor supervision are many. It can be lacking skills and experience among individual supervisors, insufficient site visits, poor supervision procedures, such as not being present at site when a certain work activity or output require inspection, lack of quality control equipment, lack of incentives for supervisors to visit site and inspect works, high workloads leading to insufficient visits at each site, lack of authority to enforce quality, lack of transport, etc. Some of these problems are also known to the CSF and many of them are currently being addressed through ways and means to improve the quality of supervision.

Significant measures are currently being taken to address these issues through the newly introduced pilot schemes in which private engineering consultants are being hired to take charge of work supervision. The involvement of private consultants have advantages such as improved remuneration for the supervisory staff, ability to hire and fire and also securing higher skills and experience levels among the staff. The immediate result expected from this system is also higher levels of accountability in the work supervision.

DCPs

Dynamic Cone Penetrometers (DCP) are used for testing quality of compaction of earthworks and gravel surface layers. There are accounts of this equipment being used as a means of extorting bribes from the contractors in situations when the results of quality tests indicate insufficient quality of works.

The use of this equipment needs to be arranged so that it provides guidance to the contractors on how compaction works need to be organised, thereby reducing the number of incidences of low quality results.

DCPs are commonly used to test the effect of compaction applied to soils of various texture and quality. The engineering features of soils vary significantly and therefore the methods and organisation of compaction works need to be adjusted accordingly in order to achieve prescribed soil densities and strength in road pavements. Equally, compaction equipment comes in different types and sizes and with varying levels of performance. Therefore, it is often useful to monitor the effect of the compaction works as works progress. The DCPs provide a quick and inexpensive method for testing the results of compaction works. At the completion of earthworks, they are also used to establish whether full quality standards have been achieved in the works performed by the contractors.

Local small contractors do not have access to such testing equipment so arrangements should be made so such testing equipment is available during the compaction works. Larger contractors carrying out more contracts should be encouraged to purchase their own DCPs.

Experience from other infrastructure projects in Cambodia also indicate that there is a lack of knowledge of the basic theories of soil mechanics and as a result there is a limited understanding of the basic principles of how various types of soils behave when compaction works are carried out. This applies for both the TSOs as well as the contractors. Therefore, it is recommended that training workshops are conducted in basic soil mechanics and appropriate compaction methods for rural road works.

Improving capacity in the CSF to properly carry out compaction works will lead to better quality works. A great majority of the works in the CSF consists of road improvement works and the performance of compaction works is therefore a key determinant of overall quality of completed works in the CSF as a whole. Better compaction works would also lead to lesser incidences in which bribes are demanded or offered as a compensation for insufficient quality during final inspection.

The final conclusion is that better quality works from improved supervision will reduce the opportunities to demand bribes as well as reducing incidences in which contractors are tempted to offer a bribe. Equally, in an environment where supervision staff are more concerned with their professional integrity and in which they are held responsible for poor quality works will have a positive impact on limiting corrupt practices which lead to poor quality works.

6.6 Unreasonably low bids

As part of the study an analysis was carried out on the performance of bids with prices substantially lower than the budget estimates. Unreasonably low bids are commonly defined as bids which are substantially lower in price than the original cost estimate prepared during the design of a works project. The main concern with unreasonably low bids is whether the contractor will be able to complete the works in a timely fashion to the prescribed quantities and quality standards as detailed in the contract. A worst case scenario is that the contractor abandons the work site after completing only a portion of the works²⁶.

²⁶ In 2008/09 when there were drastic price increases in fuel and cost of building materials, there was also an increase in cases where contractors were forced to abandon works contracts.

Underbidding can be a clear strategy used by some contractors to win a bid competition. Although this practice may seem as if the contractor is aiming for a business endeavour which will lead to loss of profit, this may not necessarily be the case. While the submitted rates may be insufficient to cover the cost of the works, this can be compensated through several mechanisms. In general, the three most common practices are (i) inflating the claimed quantities of work on the bill items with the low unit rates, resulting in budget overruns, (ii) by increasing the quantities of work on other bill items which are not undervalued or actually overpriced or (iii) simply carrying out less work than required by the contract or at a lower quality. In the CSF, options (i) and (ii) are difficult to pursue due to the nature of the contracts²⁷ and the arrangements applied for measuring and controlling the quantities in the contract, leaving option (iii) as the most probable recourse. This process can work with, or without, the tacit support of work supervisors and other parties involved in the approval of works.

Detailed budget estimates are prepared for all infrastructure works projects during the planning and design stage, also referred to as the Engineer's Estimate. This cost estimate is used for budgeting purposes before launching any physical works activities. During bid competitions this cost estimate is often used as a basis for assessing whether prices offered by contractors are high or low.

Some projects regard the budget estimates as confidential information which is not released to the bidders. The problem with such practice is that it is difficult to ensure that this information remains a secret and is not disclosed to some "preferred" bidders. For this reason it is common practice, also in the CSF, to provide the budget estimates as part of the tender information thereby ensuring that it is known to everybody and not only some of the participants in a tender.

The determination of unreasonable low bids is often based entirely on a comparison with the cost estimate. Therefore, it is also necessary to assess the accuracy and quality of the original cost estimates and assess whether these are based on realistic unit prices, inputs of equipment, materials, labour and other costs. If bids are consistently lower than the estimated costs, this may indicate that the original estimates are too high.

The CSF has established cost norms for estimating and budgeting purposes. This is good as it limits attempts of price rigging and also contributes to consistency in quality of cost estimates used in project designs and for planning purposes. The cost norms also form an important basis for monitoring and control of the budgeting works carried out by provincial technical staff. The cost norms and how they are applied are well defined in the PIM. They are up to date and take into account important parameters relating to the cost of operating construction equipment such as the prevailing cost of fuel.²⁸ The resulting unit rates applied in cost estimates also seem to reflect current costs of civil works in Cambodia.

The Project Implementation Database provides details of all bids received and compares these with the Engineer's Estimates. Some of these bids are up to 60 percent lower than the estimated costs. The PID provides further information on the extent of under-bidding and the outcome of these bids, i.e. whether contracts were signed at these low prices and how they performed. The study looked into such cases to see how those sub-projects have performed. In very few cases the contractors have not honoured these bids and decided not to sign contracts with the communes.

The issue of bids with prices substantially lower than the budget estimates were raised during the discussions with contractors. Some of the contractors interviewed were among the

²⁷ CSF contracts are in effect Lump Sum contracts which in practice limits the room for claiming for additional works. In addition, there is a common practice to package works contracts estimated at a total cost equivalent to the total annual budget allocation provided to each commune. Contractors are aware of this budgetary limitation and thus realize that there are no funds available to pay for claims exceeding the total contract value.

²⁸ The use and efficiency of cost norms can easily be compromised if these are not updated on a regular basis.

companies which had offered bid prices lower than the estimated cost of the works and on this basis they had been successful in winning tender competitions. During the contractor interviews questions were asked pertaining to their ability to still deliver the works as prescribed in the contracts at the low prices quoted. Several contractors responded that the budget estimates were often prepared on the basis of standard cost norms which did not necessarily reflect the exact working arrangements of the individual contractors. It was pointed out that some contractors can provide more competitive bids because they have an added market advantage through their ownership of gravel quarries in close vicinity to the work sites. These contractors do not have to rely on supplies of gravel from sources owned by a third party which means that they do not need to pay for such materials beyond the costs of extraction works. Contractors who did not own their gravel quarries were dependent on buying the gravel from other suppliers and this would result in a substantial increase of the costs of gravel supply. When the TSOs prepared costs estimates for works projects, these were based on prevailing rates for gravel, its extraction and transport costs as well as the price of buying this material. Contractors who owned their own quarries would therefore at times be able to provide very competitive prices, in particular when their quarries were close to the work sites. It should also be noted that several quarry owners do not sell gravel to other contractors and will only use their quarries for the purpose of delivering materials for the contracts they have been awarded. As transport distances from the nearest gravel sources vary considerably ranging from 10 to 70 km, the related costs of works may vary considerably.

It was however acknowledged by several contractors that the current competitive environment in which bids are offered at substantially lower prices than the original cost estimates encourage the practice of reducing the quantities of completed works and compromising on quality.

In the current regulations in the CSF there are no limitations on the prices which the bidders may offer. Contractors are free to offer prices at any level above or below the estimated cost of the works.²⁹ Current procedures dictate that the procurement committees must accept the lowest responsive bids. There used to be a mechanism for disqualifying very low bids³⁰, but this was removed from the current guidelines of January 2009.

Suggestions have been made to cap the bid prices. Such systems are actually practised by public works agencies in some countries to avoid situations in which contractors abandon works before completion of contracts or as a measure to avoid contractors delivering low quality outputs. Essentially the bid rules would then set a maximum and minimum range in comparison to the budgeted estimate of the works. If a bidder offers prices above or below this range, the bid proposal is rejected.

The disadvantage with a price cap system is that there is a considerable risk that the competitive environment is compromised. A second and equally important aspect is the simple argument that contractors are regarded as in a better position to calculate the actual costs of works as compared to the engineers preparing the original estimate.

Introducing a minimum cap, i.e. limiting the extent to which bidders can offer prices below the budget estimate, also carries a certain risk related to the ability to manipulate prices. Procedures which places limits on prices offered can easily be misused as a means of disqualifying contractors who decide not to participate in collusion attempts and instead prefer to offer discounts which they believe they can honour during works implementation.

²⁹ The World Bank does not allow for price caps for the reasons that it limits competition.

³⁰ Ref. 2005 version of Project Implementation Manual

Some programme staff argue that the increased competition resulting from the decision to open up the tenders to all prequalified contractors in the country will lead to more underbidding and increase the risk of contractors performing low quality works or abandoning works half way through the contract. So far there is no indication that contractors abandon works as a result of submitting low bid prices. There is however documented incidences of poor quality works and works delivered at lower volumes than what is prescribed in the contracts.

However the solution is not necessarily to introduce minimum levels on the prices offered during tenders. Poor quality works is a direct result of poor supervision. The solution to such problems is to strengthen the supervision arrangements.

Obviously, it would be advisable to give more attention to under-priced bids during the monitoring and supervision of the works implementation. It would be useful if the PID would identify and flag such potential problem contracts thus facilitating closer follow-up.

The best approach to avoid extreme underbidding is to enforce strict work supervision and quantity surveying of completed works thereby leaving no room for shortcuts. If contractors are given the general impression that it is not possible to obtain cost savings by delivering low quality works or reducing the quantities of work performed, the temptation to engage in such schemes will decrease. When it is clear that the supervision will insist on full quantities of works at proper levels of quality, then they will also take this into account when preparing bids.

Admittedly, there may still be cases where a bidder offers a too low price which in turn appears to be difficult to honour, either resulting in refusal to sign a contract or fail to mobilize to site or that works are abandoned during the contract. This is a risk, however, at present there are few cases of this taking place.³¹ There is therefore no justification for installing additional measures to deal with such incidences.

Unreasonably high bids

Incidences of unreasonably high bids are only a problem if all the bids received in a tender contain very high prices. This is a common result of collusion among contractors in other projects – in particular when cartels have been established. However, reviews of the bid opening reports seem to indicate that there are very few incidences of tenders in which the bids are unreasonably high and even fewer instances of the lowest bid being higher than the budget estimate. The reason for this is probably the fact that the contractors know the budget limitations in the communes and the fact that the estimated costs of works is usually equivalent to the funds available for any given contract. If all bids are substantially higher than the available budget, all parties know that the commune can reject all bids and retender.³²

With this prevailing situation there does not seem to be any perceived need for maximum caps on received bids.

Bids very close to the estimated costs

Although some attention and concern have been raised in relation to bids significantly lower than the budget estimates, there is most probably a higher risk of malpractices in the events when tenders consist of bids with very limited price variations and when the lowest bid is very close to the budget estimate. When prices offered vary little from the original estimate there are obvious reasons to suspect that the bids have not been prepared independently of

³¹ Ref. Project Implementation Database

³² If the lowest price offer is slightly above the budget allocation available, the commune also has the option to reduce the quantities of work in the contract thereby allowing for a smaller works project to be implemented.

each other and that free competition has been curtailed. The evidence for this is commonly seen in tenders with more participants where it is more likely that full competitive forces have been free to take place. The spread in prices offered are then larger between the lowest and highest bids.

The problem is that these indicators are not a clear determinant of collusion taking place. By simple chance, there may be tenders taking place in which all bid prices offered are close to each other. For this reason it is often difficult to pinpoint that a specific tender has been manipulated and in turn it is difficult to argue in favour of declaring mis-procurement.

Still, if this is a consistent tendency in all tenders in a province or district there is good reason to raise the alarms and carry out an in-depth investigation.

The solution to this problem is therefore to install an environment in which the potential bidders are unknown to each other and ensure wide participation in the tender. The recent decision to allow bidders from all provinces to participate in the tender supports such measures. E-bidding may further contribute to an environment in which potential bidders are unknown to each other and also encourage wider participation in the tenders.

6.7 Business portfolio

A large portion of the contractors have worked with the programme for a long time, often citing periods up to 7 or 8 years.

Most contractors are involved in other business operations in addition to the CSF. This can be other civil works contracts for other private or government clients as well as completely different business activities. Among the contractors interviewed, most of these had other sources of income and were not entirely dependent on the income deriving from doing business with the CSF.

Some contractors have also been carrying out civil works for clients in the private sector. It is interesting to note that several mentioned that doing business with private clients were not necessarily easier than working for government. Some contractors described problems of obtaining payments from private clients. The contractors complained that some of these clients were persons with strong political ties and regarded locally as “influentially strong people” and as such these clients would be difficult to negotiate with and they were not always prepared to follow through on their commitments to the contractors.

Several of the contractors mentioned that works they have carried out for other rural development programmes involved larger contracts of a value up to US\$ 100,000.

It is also interesting to note that a number of contractors have been involved in rural infrastructure works since the early 1990s. A significant number of the contractors interviewed had participated in training programmes provided by other donors and development agencies. This clearly shows that investments in training provided in past projects have had a long-term effect not only benefiting the project which delivered the training.³³

³³ The ILO recently carried out a study on how small-scale contractors who participated in their training programmes have performed after the completion of these projects (EIIP – Capacity Building for Contracting Institutional Assessment and Contractor Tracing Cambodia Contractor’s Tracing Study, July 2008). This study was part of a larger survey, also including a number of countries in Africa. The result is interesting as the performance of contractors in Cambodia were much more positive than elsewhere. The Cambodia study is published on the ILO website, see: http://www.ilo.org/asia/whatwedo/projects/lang--en/docName--WCMS_107691/index.htm

7 Recommendations

7.1 General

There are no single quick-fix solution for limit collusion and other corrupt practices. This is also generally accepted knowledge and as a result programme implementation arrangements normally contain a series of procedures which attempt to limit such illicit activities. As demonstrated in the earlier section on mapping where corrupt practices may be taking place, it is clear that a number of measures are required at various stages to counter such malpractice. Equally, there is a demand for various actions to be taken at policy level in order to improve the current environment.

Measures recommended should not be seen in isolation. Each and every single action will not have the desired effect if only one or very few are implemented. The full effect of implementing the recommendations will only be achieved if they are all addressed and treated as a concerted effort to deal with the issue of corruption. As a matter of fact some of the actions recommended will only be effective if other measures are also implemented.

7.2 Prequalification

Further efforts should be made to encourage a wider participation from local construction firms and builders. It is believed that the construction industry in Cambodia holds a substantial number of potential candidates which are currently not involved in the CSF. Increasing the number of prequalified contractors will have a positive effect on the competitive environment in the programme.

Programme management should prepare a clear guideline on the typical profile of potential participants from the private sector thereby clarifying the required minimum requirements for prequalification. This is useful as an internal guidance within the programme and equally essential for the potentially interested parties from the local construction industries. This information can be posted on the NCDD website thus making it available to the public on a permanent basis.

There is still limited transparency in the process of prequalifying contractors. It is recognised that this exercise is monitored on a regular basis as part of the reviews carried out by the Bank, however at present there only information available as regards to the contractors who have been prequalified and the type of works these firms have been deemed eligible to perform. There is no information as regards to firms who have applied and not been accepted into the programme. It would also be useful to have a continuous facility in which contractors can apply for prequalification.

It is therefore suggested that the application for prequalification is carried out through a web portal. This would allow programme management to monitor the number of applicants and also give the opportunity to have a second look at all the rejected applicants. This control mechanism could be included as part of the audit process. Furthermore, such a facility would be useful for monitoring the results of publicity measures and specific activities to increase recruitment of contractors to the programme.

Finally, it is suggested that a specific complaints mechanism is installed which can be used by contractors who feel that they have been unjustly assessed with the result that they have not been given the type of prequalification they applied for.

Although the above indicates scope for improvement, it should be acknowledged that the arrangements for prequalification developed in the CSF is a great achievement in terms of mapping and carrying out a performance assessment of small contractors in the country. In

effect, the government has established a classification system for small contractors. This is an important asset in itself and through further improvements it may achieve additional recognition from other programmes. Increasing the participation from local contractors will also improve the perceived integrity of the system which in turn may lead to wider usage of the system by other programmes and projects.

7.3 Tender information

Equally, further measures should be installed to facilitate the participation of contractors in individual tenders. This can be done immediately by posting all information available in relation to the individual works contracts on the NCCD website. The recent initiative to post some of the mandatory bidding documents on the web has proven to eradicate some of the hidden barriers to participation in tenders. Posting additional information pertaining to each of the works project such as the detailed cost estimates and technical drawings may further facilitate the work of contractors when preparing bids. Again, this may reduce barriers and lead to more bids being submitted by the contractors as they would not need to rely on government staff to obtain such information.

7.4 Tender participation

It is strongly recommended that the programme management continue to encourage participation of bidders from all provinces in order to increase the number of bids received on each individual tender. To ensure good competition and competitive prices in an environment free of collusion it would be good to reach a situation in which more bids are received for each contract.

This can be done by making the procedures for prequalification more accessible. Establishing a web-portal for applications from contractors to prequalify which is available on a continuous basis may facilitate increased participation in the programme. Equally, by providing more guidance to the public on who is eligible may help to recruit new contractors.

Secondly, if bidding procedures are streamlined and made easier, this may also encourage contractors to bid for more works. The recommendations to place all information pertaining to the individual works projects on the NCDD website would contribute to this goal. This will most probably encourage more contractors to participate in provinces where they currently do not operate.

7.5 Bidding procedures

The CSF has developed impressive computerised reporting and monitoring tools which presents key data such as the performance of contractors and progress of works. This information is made public through an Internet based portal. Recently, the programme decided to post key bid documents on the NCDD website - a measure which was well received by contractors and which has prompted requests to place more information relating to the tenders on the web.

A major concern in relation to the procurement process in the CSF has been the ability to limit the extent of collusion during tenders. Following up on the recent success of uploading bid documents on the web, it is recommended that the entire bidding process is placed on the Internet and accessed through an electronic bidding system.

E-bidding when correctly applied can have a substantial impact on the extent of collusive practices during tenders. Electronic bid platforms not only simplify work related to preparing and submitting tenders, it can also can improve announcement of works, increases the

security of bids, rationalises data entry work and improves accuracy and timeliness in the reporting and monitoring system. In programmes such as the CSF, with a large number of contracts regularly being processed, e-systems have an added advantage as they effectively handle large amounts of information.

7.6 Work supervision

The current arrangements for work supervision can still be further improved. While recognising the good infrastructure works being provided in the Communes and Sangkats, there is still scope for improvement of quality and further enforcement of quantities of works. The issue of quality control and work supervision is also related to collusive and corrupt practices. Occasions when sub-standard work is discovered creates opportunities of bribe paying. Rather than rectifying works contractors may be encouraged to pay a bribe to achieve the necessary approvals required for releasing payments.

Effective measures to reduce such incidences can be carried out at several stages. First of all, it is important that contractors organise their work in a manner which results in very limited incidences of defects at the time of inspection. Contractors therefore need to be well aware of the standards required so that they themselves can install effective quality assurance measures during the course of works implementation. This would include the use of common quality testing methods during the works and not only after works are deemed as completed.

Staff in charge of work inspection also need to be in a position in which the temptation to receive a bribe in return for ignoring sub-standard works is discouraged. Technical staff should be held responsible for the enforcement of good quality works and this should be a pre-requisite for maintaining their good professional reputation. When works are discovered to be sub-standard during spot-checks and technical audits, the supervision needs to be held accountable – not only the contractors. For cases where considerable deficiencies are discovered, it is useful to establish standards procedures for disciplinary action.

Current shortcomings in the present work supervision arrangements are recognised by programme management and for this reasons piloting works are currently ongoing in which private consultants are being involved in the design and supervision of works. The involvement of private consultant will not on its own provide any magic solutions to the above mentioned issues. Still, there is a need to install specific measures to deal which addresses deal with enforcement of work standards and eliminates corruption in this context.

7.7 Payment procedures

The current payment procedures are too elaborate and time consuming. Due to the numerous work activities required, checks and counterchecks, stamps and signatures and supporting documents, the process takes an inordinate amount of time and effort, which is not justified when considering the actual amount in each of the payment claims and the frequency of payments in the programme. Elaborate systems requiring un-necessary amounts of detailed information makes the system extra prone to delays and places unnecessary workloads on accounting staff as well as the contractors.³⁴

The current practice of contractors having to appear at the Provincial Treasury to (i) assist in processing of payments and (ii) receiving the payment in the form of a cheque is an antiquated system which needs to be replaced. Procedures need to be improved so there is no need for the presence of the contractors during final processing of payments. Equally,

³⁴ Similar recommendations were made in the Final Report of the Commune/Sangkat Budget Execution Study, May 2008

modern systems of electronic transfers to the contractors' bank accounts should be introduced as soon as possible.

It is therefore suggested that a process audit is carried out looking at the effectiveness of the current payment procedures with the intentions to streamline current practices and reduce red tape. The same concerns should be given to the payment arrangements currently being installed for the services of local consultants engaged in design and work supervision.

If payment procedures are streamlined reducing the amount of time contractors need to spend on chasing individual payments may encourage currently involved and potentially new contractors to do more business with the programme.

7.8 Programme management

There is a need to maintain a strong support unit at central level for overall management and support of the activities at province, district and commune level. The central management has proven to be an effective tool for building local capacity, ensuring compliance to the systems and procedures and achieving uniformity in the implementation arrangements in the CSF.

The programme is still undergoing changes and is still adopting to new performance requirements. This is a process which will still continue over the next 5 years. There is currently new development processes taking place to strengthen district level government and the CSF will need to adapt to these changes taking place.

7.9 Training

Training is often an effective means of providing up-front quality assurance. When training is provided on specific subjects directly related to the work situation of the trainees, it can have a significant effect on work performance. Secondly, provided training sends a clear message that the performance of certain activities is not satisfactory and with the training organised, management seeks to improve the situation.

In relation to the topics discussed in this study, it is recommended that short training sessions are organised for contractors and technical staff in (i) cost estimating and (ii) basic soil mechanics and compaction works.

Estimating cost of works

Experience from most rural infrastructure programmes, including the ones in Cambodia, is that both engineers and contractors possess limited capacity in cost estimating. With very few exceptions, costs are based on earlier bid prices and prevailing market prices. Road works constitutes a majority of the works in the CSF. The works are carried out using a substantial amount of equipment, and it is important for technical staff and contractors to be able to calculate the true costs of using this equipment. Most engineers as well as the contractors do not know how to calculate the true costs of operating construction equipment and would benefit from training in estimating costs of such work activities.

A majority of the contractors participating in the CSF are relatively small business operations which are directly managed by the owners. Most of them have no formal technical training, nor do they employ any staff with formal technical training. Many have emerged as small-scale contractors from once having operated as builders. They have gradually acquired the necessary basic skills to prepare simple bid proposals and execute the works, however, these skills have been acquired during the course of their work and not as a result of some formal technical training.

There is very limited feedback from the works they carry out on the actual true costs of their operations, which in turn leaves them with limited information on which they can base their quoted prices in bid proposals. The end result is therefore that prevailing market rates, perceived price levels acceptable to the client and price competitiveness in relation to competing bidders (if there is no collusion) form the basis for the bid proposals.

Experience from other contractor development programmes in Cambodia and elsewhere is that training in unit price calculations are always well received by both government technical staff as well as contractors. Contractors greatly appreciate this type of training and also acknowledge that such skills are useful in relation to their business operations in general.

Basic soil mechanics

For earthworks and gravel (laterite) surfacing works, the most common problem is related to obtaining sufficient levels of compaction. Compaction works require expensive equipment and establishing the optimal performance is often difficult as contractors have limited means of testing the quality of carried out works. Soil features vary from one location to another and behave differently when they are compacted. The theories behind the compaction technology are taught at university level for engineers, however, most small-scale contractors do not possess this knowledge.

Improving the understanding of how soils react to compaction and the optimal methods of achieving the prescribed quality standards will enable the contractors to work more efficiently, which in turn may motivate them to do a better job. Improved knowledge of compaction technology and soil mechanics also improve their understanding of why certain work methods are applied and prescribed by the supervision staff.

Annex 1

QUESTIONNAIRE for programme staff and other stakeholders

Interview sample:

- Provincial advisors
- Commune and Sangkat Councillors, Village Chiefs, Commune/Sangkat Clerks,
- Government staff, (i.e. Ministry of Economy and Finance - Treasury and Local Finance, Ministry of Interior, Department of Local Administration),
- PRDC Ex-Com and TSU staff, Provincial and District Facilitators), and
- NCCD-S advisors and civil society groups.

Current Standard Designs and Engineering Estimates

Do you think that the current design standards are appropriate?

Should they improve the design standards? Do they result in good quality works which the villagers are happy with?

Are the estimates appropriate? Are they updated at sufficiently appropriate intervals?

Do all parties understand how they are applied?

Are these estimates comparable to prices applied by other programmes?

Are the quantities in the BoQ reliable or do they often require changes during the course of a contract?

What are the mechanisms used for adjusting quantities?

Submission of Bids

Do you feel that the process of preparation and submission of bids to the CSF is more tedious than for other projects and programmes?

Do you have any suggestions to how the procedures can be simplified?

Do you have any suggestions on how the system can be improved in terms of increasing competition, reducing collusion and other corrupt practices?

Do you have any suggestions on how to increase the number of bidders participating in a tender?

Are there any restrictions on the participation of prequalified contractors from other provinces?

Do contractors from other provinces bid for work here?

Would it be useful to get more bidders from other provinces?

Unreasonably low bids

Do you feel that unreasonably low bids are a common/major problem?

How is this issue dealt with, applying current procedures?

Is there a need to improve the procedures dealing with this issue?

How can the procedures be improved to address this issue?

Number of contractors participating in a tender

Do you feel that there are sufficient contractors prequalified in this province?

Do you feel that there are sufficient bidders to each of the contracts?

What specific measures can be carried out to prequalify more contractors?

What specific measures can be put in place to increase number of bidders to each contract?

Are you related to any of the contractors doing business with the CSF?

To your knowledge, do the contractors discuss prices among themselves before submitting their bids?

Do you know of any incidences where contractors have been restricted from submitting a bid or “encouraged” not to submit a bid?

Have contractors offered you money or gifts at any stage of the tendering exercise?

Works Implementation

Do you feel that there is sufficient technical supervision of the works?

Do you feel that the Technical Supervisor is competent in inspecting the works?

Are there checklists developed for the work inspection?

Do the Technical Supervisors visit the work sites at sufficiently frequent intervals?

Are the Technical Supervisors present at crucial works activities, such as during pouring of concrete?

Are there any practical reasons (such as lack of transport) which may limit the technical staff from carrying out sufficient visits?

Is it easy or difficult to obtain agreement on payment to the contractors during the site inspection meetings?

What kind of projects have you carried out using the CSF funds? Roads, culverts, buildings, wells?

Are the contractors doing a good job and are they using good quality materials?

Have you been offered money when measuring and approving works?

Do you think that the Commune Chief / Technical Supervisor / Facilitators / Commune's Representative / Treasury staff are receiving any payments from the contractors? How much?

Is the Provincial Treasury paying on time?

Have you ever had to use CSF funds to pay contractors for interest on late payments?

General Comments

Do you have any comments relating to the project planning process, designs, type of projects, prequalification process, tendering procedures, contracts management, reporting and monitoring which could improve the efficiency of the programme?

Do you think that the procedures in the CSF should also apply for other projects and programmes?

Do you feel that all stakeholders sufficiently understand the prescribed procedures for planning, prequalification, tendering and contracts management?

If not, what can be done to improve the understanding?

Do you have any suggestions to programme management on how the system can improve and thereby reduce the corruption and collusive practices?

Are there any specific procedures or practices which invite to collusion or corruption?

At what particular stages in the prequalification, tendering and works implementation process do you think there is a higher risk of corruption?

Any other observations or information you wish to share with us?

QUESTIONNAIRE for contractors

Interview sample:

- Contractors who are currently doing work for CSF
- Class 1, 2 and 3 contractors
- Contractors who operate for the CSF in more than one province
- Contractors who have been unsuccessful in winning tenders
- Contractors who have made complaints
- Blacklisted contracting firms

Prequalification

How did you get to know this programme and its business opportunities?

How long have you worked with this programme?

Do you use the web site? Does it contain any useful information for your business?

Was it difficult to join this programme, i.e. did the registration process cause problems for you? Is it difficult to maintain your pre-qualification?

Are you registered with the Ministry of Construction?

Did you employ/engage anyone to assist you in pre-qualification?

Does it cost money to register and obtain/maintain the pre-qualification status?

Did you have to pay money to obtain the application form?

Did the programme send anyone to verify the ownership of your equipment?

Once you have prequalified, is it easier to renew the prequalification status?

When re-qualifying, do you need to pay money in order for the performance assessment to be completed? - How much?

Are you related to anyone in the Commune Council or in the provincial administration?

Do you feel that the prequalification system is too tedious/costly?

Do you think that the system in place may discourage the participation of other contractors?

Do you have any suggestions to how the prequalification system can be improved?

Blacklist

There is a black-list of contractors. Do you know who is on this list and the specific reasons they are there?

Do you know on what basis firms are blacklisted?

Has the black-list ever been perceived as a threat to your business?

How can contractors get their names off the black list?

Is it possible to pay in order to get your name removed from the black list?

Participation in Tenders

How do you obtain information on new tenders in this programme?

Is it difficult to obtain this information?

Have you encountered any difficulties in participating in tenders after you were prequalified?

Are all the bid documents freely available to you (i) in this province and (ii) other provinces?

Do you need to pay a fee in order to receive the bidding documents? How much?

How do you obtain information about tenders in other provinces?

Do you bid for work in other provinces?

If not, can you explain why?

Do you feel that it may be difficult to submit bids for work in other provinces, in general or specifically on works funded out of the CSF?

What do you perceive as possible obstacles to participating in tenders in other provinces?

Do you feel a certain level of obligation to individuals when you win a bid competition?

Bid Preparation

Who in your company prepares your bid proposals?

Do you employ an engineer? Full-time or on a part-time basis?

How do you calculate your unit prices?

Do you think the cost estimates used by Government are appropriate?

Estimates include 10% for overheads and profit. Is this sufficient?

If not, how do you cover overhead costs and sufficient profit?

Do you employ/engage anyone to assist you in calculating prices?

How much do you normally add as a profit margin? For unforeseen risks?

Do you feel that the preparation and submission of bids to the CSF is more tedious than for other projects and programmes?

Do you have any suggestions to how the procedures can be simplified?

Paying Government Officials

Are there any contracts you have carried out for government projects during which you did not have to pay a bribe?

At what stages of the bidding process or during contract implementation are you required to pay money to officials?

How much do you need to add to pay for expectations from government staff?

Nothing, 10% 20% 30% other amount _____

Is this amount more or less than what you need to pay on other works contracts?

When do you pay? Are any of these payments made up front?

What happens if you refuse to pay?

Does the government return the retention money when you have completed all works?

Do you have separate accounts for each of your contracts?

What are your current projections of profit on your ongoing contract(s) after taxes but including percentage paid to government officials?

Size of Contractor's Operation

How many projects do you bid for? Under CSF or others?

Is the CSF an important source of income for you? What percentage is CSF contracts in relation to your total annual turnover? Are the CSF contracts more profitable than other works you carry out?

Do you on any occasion meet with other construction companies?

Do you subcontract or assign works to other companies?

Do you operate several construction business with different registered names?

Submitting Bids

Do you have any contact with other construction companies at the time of submitting bids?

Do you discuss prices with other contractors?

Is there any cartel operating in your province (group of contractors who meet regularly to discuss and agree on prices)?

Do you rent equipment or do any other business with other construction firms?

Have you ever been encouraged by government staff or other contractors not to participate in bid competitions?

Have you been offered money for not submitting a bid proposal?

By other contractors or by government officials?

As a prequalified contractor, have you ever been stopped from submitting a bid proposal?

If so, why did this happen and what was the official explanation?

Did you challenge the decision? Could you complain and did you? Have you used the accountability boxes?

Once you have submitted a bid proposal, does it take long time before a decision is made on who is awarded a contract?

Does the government set any conditions for award of contract after the tender evaluation has decided that you have won the bid competition?

Do you need to pay anyone when signing the contract agreement?

Payment of Works

Do you need to pay the project staff in order to mobilise them to carry out measurement of work? How much?

Does the government staff measure in detail the quantities of works completed?

Do they carry out any quality control measures, i.e. DCP, camber board, measure thickness and width of gravel and earth layers or other methods?

Do you need to pay the project staff in order to process payments? How much?

Do you pay taxes on the income from the works? Is any part of the payment withheld for government tax purposes?

Does the government staff withhold any part of the payment as a condition for carrying out the payment? How much?

Do you think the current payment schedule is appropriate? Would you need more frequent payments?

Do you claim payment at the prescribed intervals or do you wait until more of the work is completed? Why?

Other Issues

Do you have any suggestions to programme management on how the system can improve and thereby reduce the corruption and collusive practices?

Do you have any suggestions to improvements which may attract more contractors to participate in the programme?

Are there any specific measures that you propose in order to reduce the amount of money you need to pay?

Posting more documents on the internet?

Any other information you want to provide us?