Republic of Indonesia
Ministry of Public Works
Directorate General of Highways

Anti-Corruption Action Plan for EINRIP

Measure	Summary	Responsibility
A. INFORMATION DISCLOSURE		
Establishment of project website	The PMU is responsible for establishing a project website before the procurement of civil works contracts can commence. All information on the website will be provided in the relevant language (English and/or Indonesian). Project information to be disclosed on the website (and updated monthly) includes: o Project Management Manual o Annual procurement plans for MPW Jakarta and each province o Tender documents for all procurement o Notification of details of contracts awarded (company, value of contract, scope and location of services) o Summary audit findings approved by the 6-monthly meetings between MOF, MPW and AusAID o Monthly Project Progress Report (progress of civil works on each sub-project) o Quarterly Financial Monitoring Reports (expenditure on each sub-project) o Information on the EINRIP complaints handling mechanism, including post, telephone, fax and email contact details in both the MPW Directorate of Planning and the MPW Inspectorate General's Office. o Information on any AusAID complaints handling mechanism, including contact details. o In relation to anonymous complaints, the website must include the following statement: "If you prefer to remain anonymous, you may wish to make use of a free email service (such as Hotmail or Yahoo) to create an email account using a pseudonym. This way, we will be able to correspond with you as necessary, to seek clarification or additional information. This would be helpful for us in pursuing your allegation." o Quarterly status report on complaints handling (numbers received and actioned	PMU (initial set-up and ongoing maintenance of information)

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	only) o Report on sanctions imposed on contractors or consultants under Section E of this ACAP.	
Dissemination of project information	The Project Manager for each civil works contract is responsible for making project information available to communities in the project area before commencement of civil works. As a minimum, the Project Manager must establish a noticeboard outside each District Office in the project area containing the name of the contractor, brief description of works, value of contract, percentage completion and percentage of contract paid (updated monthly), details of complaints handling mechanisms (MPW and AusAID) and EINRIP website address. The monthly project progress reports will be made available to civil society and media at the provincial and district levels on request. All information on the project website will also be made available upon request to interested persons/organisations.	PMU, Project Manager
E-procurement	MPW's Semi E-Procurement system will be used for all procurement. Prior to the commencement of procurement under EINRIP, MPW will ensure that the following enhancements to the Semi E-Procurement system are in place: o Automated email notification to all registered bidders of the availability of any additional document relating to the particular procurement exercise; o Automated acknowledgement of receipt of email notification to all registered bidders of the availability of documents; o The list of companies that registered for bidding must be kept confidential; o "Registration for Prequalification" in the e-procurement system shall be re-named "Registration of Interest", and the contents revised to avoid implying	MPW Pusat Pengolahan Data, PMU, Provincial MPW offices

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	prequalification necessarily takes place; and o An English translation of the official Guideline for Users shall be provided on the e-procurement site. Where sub-national procurement committees are unable to upload tender documents to the Semi E-Procurement system, the PMU will do this for them. When using the Semi E-Procurement system, all bids are to be submitted in hard copy. If full transaction-based e-procurement becomes possible under Indonesian law, it will be implemented for EINRIP, with AusAID's prior approval and provided that the system complies with the requirements of "E-bidding Requirements for MDB Loans, Grants and Credits" dated May 2005. For all procurement exercises, tender documents will also be available in hard copy.	
B. OVERSIGHT & MONITORING		
Strengthened supervision of civil works	The MDB/FIDIC Harmonised Contract will be used for all civil works, with the role of Engineer being filled by the Team Leader of the RSC. MPW will take all necessary actions to appoint the Engineer for each contract. MPW will provide details of all arrangements in relation to the delegation of the authority of the FIDIC Engineer (under the MDB/FIDIC Harmonised Contract) to AusAID for NOL. No subsequent changes can be made to these arrangements without AusAID's prior written approval.	MPW

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	The Team Leader, as the Engineer, will delegate necessary authorities to each Chief Supervision Engineer, including responsibility for authorising payment certificates (clauses 14.2, 14.6 of the MDB/FIDIC contract). Civil works will not commence until the RSC is mobilised and a Chief Supervision Engineer appointed. The PMSC will be responsible for monitoring the RSC's performance. This will include monitoring the adequacy of supervision of environmental requirements. The evaluation process for the RSC contract and AusAID's NOL will give weight to the following: ▪ the adequacy of remuneration of field staff (to reduce incentive for collusion); ▪ qualifications, experience and background of the person(s) nominated as Chief Supervision Engineer(s). The PMU, supported by the PMSC, will provide a mobilisation briefing to key RSC staff and Chief Supervision Engineers on: (i) the role of the FIDIC Engineer; (ii) the role of field supervisors; (iii) responsibilities of head office; (iv) the EINRIP ACAP, including terms of audits, sanctions etc. Comprehensive training to all RSC staff will be provided by the RSC.	
Ad hoc third party advice	AusAID will be able to draw on the World Bank's External Supervision Team (see SRIP ACAP) to advise on and identify the risks of fraud and corruption at an early stage. AusAID will be able to draw on this team on an ad hoc, troubleshooting basis.	AusAID

C. MITIGATION OF FRAUD & COLLUSION RISKS		
Strengthen efficiency and accountability of procurement process for consultant contracts	MPW will work with an external Procurement Agent engaged by AusAID to support the MPW procurement committee in the selection process for following contracts: o Project Management Support Consultant (PMSC); o Regional Supervision Consultants (RSC) and o Procurement Advisory Services (PAS) (All of these procurement exercises will be exempt from AIPRD eligibility criteria.) The role of the Procurement Agent is to support the MPW procurement committee by providing procurement services at key points in the selection process, including providing recommendations to the Committee on shortlisting and technical evaluation. In the event of a difference of opinion between the Procurement Agent and the MPW procurement committee in relation to the recommendation for (i) shortlisting or (ii) which firm should be selected for award, the parties will seek to resolve the difference holding the principles of a timely and accountable procurement process paramount. The Heads of Procurement Committees will be held responsible by the Minister of Public Works for their procurement decisions.	AusAID, MPW
Strengthen capacity of provincial procurement committees to undertake procurement of civil works contractors	MPW will engage a consultant to provide Procurement Advisory services. The Procurement Advisory Services will be selected using the Procurement Agent. The Procurement Advisors will provide the following services to provincial MPW offices in relation to EINRIP civil works procurement: o Develop and oversee implementation of measures/protocols to avoid fraud and collusion in tender processes, including at the shortlisting stage; o Attend bid opening for all procurement exercises and retain in a safe place a	MPW, Inspectorate General, PAS

	sealed copy of all technical and financial proposals received. If the Adviser is unable to attend bid openings for any reason, they are to appoint a Public Notary (Notaris) to discharge their functions; o Implement a monitoring system to identify collusive trends, including monitoring implementation of the integrity pact for each procurement exercise; o Develop and implement processes to avoid delays; o Provide assistance with the progressive implementation of e-procurement in the provinces; o Work with MPW on reviewing and implementing improvements to the procurement system; and o Provide procurement training and capacity building. In addition, the Procurement Advisors will assist procurement committees with quality control before tender documents are submitted to AusAID for no objection.	
Anti-corruption measures to be included in all procurement exercises	The following will apply to all EINRIP procurement: o Each Annual Procurement Plan for EINRIP must be approved by AusAID before any procurement can commence. Any subsequent amendments to the Plan must receive AusAID's prior written approval. o All tender notifications must be advertised in national newspapers readily available in the province in which procurement is being undertaken, and in relevant provincial newspapers, on the MPW Semi E-Procurement system, on the EINRIP website, UNDB on-line and dg Market websites. o No pre-bid conferences will be held, except with AusAID's prior written approval. o Specific contract conditions for EINRIP will be agreed in advance between AusAID and DGH. If the contract is translated, the English version will take precedence; o A bidder cannot be excluded from bidding on the basis of past performance unless there is evidence of due process in relation to the performance complaint and AusAID has provided prior written approval to the exclusion of the bidder. o MPW must keep strictly confidential the list of companies that have registered	MPW

	for bidding until bid opening. o There will be no pre-qualification of bidders. Post-qualification criteria will be agreed between AusAID and DGH before procurement commences. o An integrity pact in the form of 'Form 2' Chapter V of Presidential Decree 80/2003 will be signed by the Project Manager and each member of the procurement committee before the tender advertisement is placed. o An integrity pact in the form of 'Form 2' Chapter V of Presidential Decree 80/2003 will be signed by each bidder and submitted with their bid. o The request for NOL to contract award will include copies of 'Form 2' Chapter V of Presidential Decree 80/2003 signed by relevant parties. o Representatives from relevant local civil society organisations will be invited to each bid opening, At least seven days advance notification regarding the date and location of bid opening will be provided. o The Project Management Manual will include/specify requirements to ensure procurement exercises are conducted in a timely manner and sanctions for breach of these requirements. AusAID and MPW will ensure that the deadlines are adhered to on all procurement exercises. o The "long-list" (list of all bids received) and reasons for any bid being declared non-responsive will be provided to AusAID as part of the NOL process. The following will apply to all EINRIP civil works procurement: o AIPRD eligibility criteria will apply to all civil works procurement o The harmonised MDB/FIDIC Conditions of Contract, March 2006, will be used for all civil works procurement. o AusAID will conduct prior review for all procurement. o The Project Manager for each contract must submit the draft owner's estimate to the PMU for review of its accuracy at least 14 days before the bid document is issued. The bid document must not be issued without PMU approval of the owner's estimate. The owner's estimate will be provided to all bidders. The following will apply to all EINRIP procurement of consultancy services: o ICB conditions apply to procurement of all consultancy services;	

	o Shortlisting criteria must be developed and submitted to AusAID for NOL before the invitation for expressions of interest is advertised.	
Strengthened financial and procurement capacity of provincial Project Implementation Units	Each PIU/Satker will include a qualified procurement specialist and a financial management specialist whose duties will include ensuring adequate record keeping for audit purposes. The Project Management Manual will include a financial management action plan setting out, among other things, internal controls and strengthened payment validation procedures, as well as development of and training in EINRIP Financial Management. The financial management action plan will also specify the broad financial parameters for EINRIP, including: o Categories of eligible expenditure; and o Requirements for Contractors, such as setting up a separate account that is only permitted to hold EINRIP funds and is auditable by the independent auditor. MPW will conduct training of project staff in procurement and financial management, including the requirements of this ACAP.	PMU
Improved financial and technical project audits	AusAID will engage a private sector accounting firm as the independent auditor for EINRIP. The independent auditor will undertake external project audits with a focus on: o Detecting corruption and collusion in procurement processes (including sample audits of procurement processes) and during contract implementation; o Detecting non-compliance with key financial management requirements, with a focus on the process for validating payments to contractors; o Detecting misappropriation of funds.	AusAID & MPW

	The independent auditor will also conduct annual audits of the special purpose project financial statements. AusAID will consult MPW on the scope of services for the independent audit contractor. AusAID will engage a firm to conduct sample technical audits during civil works implementation to examine the quality and effectiveness of implementation, including environmental aspects. MPW will impose available sanctions on contractors based on the outcomes of technical audits. AusAID reserves the right to withhold loan payments relating to a particular sub-project where adequate measures are not taken to avoid poor quality works. As far as possible, audits will be scheduled so that the results can be used to improve the remainder of the works, and the results of technical audit shall be taken into consideration by the persons evaluating each package for Provisional Handover. The criteria and timeframe of the technical and financial audits will be described in the PMM.	
Government to government communications protocol in relation to corruption cases.	Once every 6 months there will be a meeting between MPW (Secretary General), Ministry of Finance (Director General, Treasury) and AusAID (Minister Counsellor) to discuss key audit report findings including those relating to fraud and corruption. The meeting will review the actions already taken in response to those findings and require further actions as necessary, including: ▪ a change to EINRIP procedures; ▪ disciplinary action against contractor/consultant and/or Government officials involved; referral of case for investigation/ prosecution by the Independent Auditor and/or relevant Government agency	AusAID, MPW, Ministry of Finance

D. COMPLAINTS HANDLING		
Enhanced complaints handling procedures	Regulation of the Minister for Public Works No.323/PRT/M/2005 "Concerning a Mechanism for Handling the Information from the Public relating to Public Works" will be implemented for EINRIP with the following enhancements: o Complaints may be submitted by post, telephone, fax or email to either the MPW Directorate of Planning (PMU) or the MPW Inspectorate General. The party the complaint is submitted to is responsible for handling the complaint. o Anonymous complaints are permitted. o The identity of informants will be kept confidential. MPW will implement procedures to ensure this requirement is strictly enforced. o All complaints will be responded to within 7 days of receipt. o Complaints will be referred in a timely manner to the independent audit firm or relevant Government of Indonesia agencies for investigation and prosecution as appropriate. o Complaints deemed possible serious infringements may be further investigated by AusAID. o The status of all complaints will be recorded and consolidated into a monthly report by the Inspectorate General. This report will be provided to AusAID via the PMU and the Director General.. In addition, AusAID may establish a complaints handling mechanism to deal with complaints that are submitted directly to AusAID. In general, these complaints will be referred back to MPW for investigation and follow up.	MPW Inspectorate General's Office and the Director General for Highways
E. SANCTIONS & REMEDIES		
Sanctions for companies	As a condition of loan effectiveness, MPW must develop guidelines satisfactory to	MPW Inspectorate General and Director General of

	AusAID setting out the sanctions that will be applied to consultants and contractors found to be involved in corrupt conduct associated with the project. These will include: ▪ Where evidence of fraud, collusion or corruption is found, MPW will immediately terminate the contract and may impose additional sanctions such as claiming forfeiture of the Performance Security, and/or blacklisting of the company. ▪ Cases where evidence of corruption is found and sanctions are imposed may be publicised on the EINRIP website.	Highways
Sanctions for public officials	As a condition of loan effectiveness, MPW must develop guidelines satisfactory to AusAID setting out the sanctions that will be applied to public officials found to be involved in corrupt conduct associated with the project. The sanctions will include relieving the officer of his/her duties on EINRIP during the investigation period.	MPW
Suspension of sub-projects	The project may be suspended in any geographic location where corruption cases are not dealt with effectively.	MPW, AusAID
Misprocurement	AusAID will not declare misprocurement without first sharing and discussing all information with MPW's Inspectorate General (IG). It is understood that Minister for Public Works may forward the information to the Police (in the case of ordinary crime) or to the Attorney General (in the case of corruption).	IG, AusAID, MPW